

# **1040 Checkmate?**

## **DOJ Dismisses Felony Tax Prosecution -- *With Prejudice* -- After PRA Defense Raised**

### **Evidence OMB Complicit In Income Tax Fraud**

### **DOJ & IRS Petitioned To Explain**

On May 12, 2006 in Peoria, Illinois, the attorney for the U.S. Department of Justice (DOJ) begged the court to dismiss all charges against IRS victim Robert Lawrence in federal District Court.

The motion for dismissal came on the heels of a surprise tactic by Lawrence's defense attorney Oscar Stilley.

The tactic threatened exposure of IRS's on-going efforts to defraud the public. The move put DOJ attorneys in a state of panic that left them with only one alternative: beg for [dismissal](#), *with prejudice*.

Stilley's tactic paid off. Sixty days earlier, the DOJ had indicted Lawrence on three counts of willful failure to file a 1040 form, and three felony counts of income tax evasion. The federal Judge dismissed all charges *with prejudice*, meaning the DOJ cannot charge Lawrence with those crimes again.

The trial was to have started on Monday morning, May 15<sup>th</sup>.

On Wednesday, May 10, Stilley mailed a set of documents to the DOJ in response to DOJ's discovery demands. The documents revealed to DOJ for the first time that Lawrence was basing his entire defense on an act of Congress, 44 U.S.C. 3500 – 3520, also known as the "Paperwork Reduction Act" (PRA).

In Section 3512 of the Act, titled "Public Protection," it says that no person shall be subject to any penalty for failing to comply with an agency's collection of information request (such as a 1040 form), if the request does not display a valid control number assigned by the Office of Management and Budget (OMB) *in accordance with the requirements of the Act*, or if the agency fails to inform the person who is to respond to the collection of information that he is not required to respond to the collection of information request unless it displays a valid control number.

In Section 3512 Congress went on to authorize that the protection provided by Section 3512 may be raised in the form of a complete defense at any time during an agency's *administrative* process (such as an IRS Tax Court or Collection and Due Process Hearing) or during a *judicial* proceeding (such as Lawrence's criminal trial).

In sum, the PRA requires that all government agencies display valid OMB control numbers and certain disclosures directly on all information collection forms that the public is requested to file. Lawrence's sole defense was he was not required to file an IRS Form 1040 because it displays an invalid OMB control number.

Government officials knew that if the case went to trial, it would expose the fraudulent, counterfeit 1040. They also must have known that a trial would expose the ongoing conspiracy between OMB and IRS to publish 1040 forms each year that those agencies knew were in violation of the

PRA. That would raise the issue that the Form 1040, with its invalid control number, is being used by the Government to cover up the underlying constitutional tort -- that is, the enforcement of a direct, *unapportioned* tax on the labor of every working man, women and child in America.

Any information collection form, such as IRS Form 1040, which lacks *bona fide* statutory authority or which conflicts with the Constitution, **cannot be issued an OMB control number**. If a control number were issued for such a form, the form would be invalid and of no force and effect.

Under the facts and circumstances of the last 24 years, it is safe to say that IRS Form 1040 is a fraudulent, counterfeit, bootleg form. Government officials responsible for this fraud should be investigated and face indictment for willfully making and sponsoring false instruments.

Caught between a rock and a hard place, the DOJ and IRS decided not to let the Lawrence case proceed because it would reveal one critical and damning fact:

### **The PRA law protects those that fail to file IRS bootleg Form 1040**

The DOJ knew that it stood a significant chance of losing the case, and if that happened, the press and others would quickly spread the word, and leave only fools to ever file a 1040 again. Oscar Stilley's pleadings and documents made these points quite clear:

- IRS Form 1040 violates the federal Paperwork Reduction Act (PRA) and is therefore a legally invalid form.
- Under the Public Protection clause of the PRA, no person can be penalized for failing to file a 1040 if the IRS fails to fully comply with the PRA.
- The PRA statutes explicitly provide that a PRA challenge is a complete defense and can be raised in any administrative or judicial proceeding.
- The IRS Individual Form 1040 has not and cannot comply with the requirements of the PRA because no existing statute authorizes the IRS to impose or collect the federal income tax from individuals. That lack of *bona fide* authority makes it impossible for IRS to avoid violating the PRA.

*We The People Foundation* has researched the facts, law and circumstances surrounding this case, and has determined that:

- A public trial would have opened a "Pandora's Box" of legal evidence and government testimony under oath that would establish the IRS 1040 form as both fraudulent and counterfeit.
- Oscar Stilley's PRA defense "checkmated" the DOJ and IRS
- The Office of Management and Budget (OMB) appears to have been complicit with IRS in deceiving the public and in helping perpetuate the 1040 fraud by promulgating federal regulations that negate the plain language of the PRA laws passed by Congress and by allowing the IRS to continually skirt the explicit requirements of those statutes

**Accordingly, *We The People Foundation* has petitioned the U.S. Attorney General, the IRS Commissioner, and Director of the OMB, requesting an official explanation of their conduct in Peoria.**

See the petition below. It includes links to all relevant statutes, regulations, court decisions, Federal Register publications, law review articles, Lawrence case pleadings, and the discovery documents sent by defense counsel Stilley to the DOJ.

[\[ start letter \]](#)

## **We The People Foundation For Constitutional Education, Inc.**

2458 Ridge Road, Queensbury, NY 12804  
Telephone: (518) 656-3578 Fax: (518) 656-9724

June 9, 2006

### **VIA CERTIFIED RETURN RECEIPT MAIL**

Hon. Alberto R. Gonzales  
Attorney General of the U.S.  
Dept. of Justice Rm. 4400  
950 Pennsylvania Ave. N.W.  
Washington, DC 20530-0001

Mr. Mark Everson, Commissioner  
Internal Revenue Service  
1111 Constitution Ave. NW  
Washington, DC 20224

**Re: Petition for Redress of Grievance – No requirement to file fraudulent 1040 Form.**

Gentlemen:

Please take notice of this Petition requesting a public explanation of your recent conduct in Peoria, Illinois, regarding the case of *U.S. v Robert Lawrence*.

What you did seems remarkable by virtue of its inconsistency.

1. On March 17, 2006 you had the Grand Jury indict Robert Lawrence on three counts of tax evasion and three counts of willful failure to file a personal income tax return.
2. However, on May 12, 2006, the Friday before the Monday start of the trial, you suddenly asked federal Judge Michael Mihm to dismiss all six counts *with prejudice*.

Indicting and then permanently dismissing without any court action occurs so rarely as to require the Department of Justice to post a public explanation in order to satisfy the public's curiosity about this strange working of justice. This Foundation decided to investigate the facts and circumstances of the Lawrence case because we found no such public notice in Peoria, on the DOJ website, or in any other public forum. We wanted to determine the probable *cause* of DOJ's remarkable act.

Our research has led us to conclude that:

1. The DOJ filed the criminal complaint against Lawrence because it intended to abuse Lawrence's rights under the constitution and law pursuant thereto.
2. The appearance of the Paperwork Reduction Act (PRA) in Lawrence's pleading sent a shock through the DOJ because Congress intended it to protect the public from IRS abuse, and the DOJ had no defense against it.
3. Even though the DOJ knew about the PRA in advance, its revelation virtually forced you and the DOJ attorney to dismiss rather than to lose the case and risk public awareness of the power of the PRA in protecting the public.
4. The DOJ therefore has little interest in justice in cases it prosecutes for the IRS, but wants only to obtain wrongful convictions of innocent people whom the IRS intends to abuse by misapplication of law.

Those are *our* conclusions. We want you to answer to the accuracy of those conclusions. Additionally, consider these questions about the power of the PRA.

1. Did the PRA force the DOJ to ask Judge Mihm to dismiss the Grand Jury's Lawrence indictment *with prejudice*?
2. Did the PRA force the DOJ to ask the Court to dismiss *all counts* in the indictment?
3. Did the PRA force the DOJ to dismiss a case it had worked for years putting together against Lawrence?
4. Did the PRA force the DOJ to dismiss the case against Lawrence on the last business day before the trial was to begin?
5. Did the PRA force the DOJ to dismiss the case with the requirement that it would never again attempt to prosecute Lawrence for those alleged crimes?

The Internet and wires were alive with such questions and rumors following DOJ's sudden and remarkable dismissal motion that was filed at 2 p.m. on May 12, 2006.

To determine cause and effect, and put the rumors to rest, we started our investigation by obtaining the [Docket Sheet](#) for *U.S. v Lawrence*, Case No. 06-cr-10019, U.S. District Court, Central District of Illinois (Peoria).

From the Docket Sheet we obtained and read copies of the [Indictment](#) and each of the Lawrence's pleadings including:

- [#04](#) First Motion for Bill of Particulars.
- [#07](#) Motion for Bill of Particulars *to be directed by the Court*.
- [#08](#) Motion to Continue April 13<sup>th</sup> arraignment pending responses to #04.
- [#09](#) Brief re #07 and #08.
- [#19](#) Proposed Voir Dire questions
- [#25](#) Notice of Expert Witnesses, and opposition to continuance.

From the Docket Sheet we obtained and read copies of each of the government's pleadings, including:

- [#10](#) Response to #4, #7 and #8
- [#12](#) Motion for Discovery
- [#15](#) Notice of Non-Disclosure
- [#17](#) Exhibit List
- [#18](#) Motion in Limine
- [#20](#) Motion to Continue Trial
- [#22](#) Notice of Expert Witnesses
- [#23](#) Notice of Filing Expert Resume
- [#24](#) Motion for Protective Order
- [#26](#) Proposed Voir Dire
- [#27](#) Motion to Dismiss *with Prejudice* Counts 1-6.

We obtained and read copies of the following documents that were not filed with the Court but were delivered to DOJ on May 11, 2006 by Lawrence's attorney (Oscar Stilley) in response to DOJ's discovery demands.

**[ed. note: Click here to [access ALL the defense documents](#) listed immediately below.]**

Form 1040 with OMB # 1545-0074 for years 1992 through 2005  
Form 1040A with OMB # 1545-0085 for years 1992 through 2004  
Form 1040A with OMB # 1545-0074 for year 2005  
Form 1040EZ with OMB # 1545-0675 for years 1992 through 2004  
Form 1040EZ with OMB # 1545-0074 for year 2005  
Form 1040ES with OMB # 1545-0087 for years 1992 through 2005  
Form 1040ES with OMB # 1545-0074 for year 2006  
Form 2555 with OMB # 1545-0067 for year 2004  
Form 2555 with OMB # 1545-0074 for year 2005  
Instructions for form 1040 for years 1999, 2000, 2001, 2004, 2005  
SF-83 Application for 1986  
83-I Application for 1998

We obtained and read copies of the following court decisions regarding the PRA:

*Dole v. United Steelworkers Of America Et Al.*, [494 U.S. 26](#) (1990)  
*United States v. Collins*, [920 F.2d 619](#) (10<sup>th</sup> Cir. 1990)  
*United States v. Dawes*, [951 F.2d 1189](#) (10<sup>th</sup> Cir. 1991)  
*Salberg v. United States*, [969 F.2d 379](#) (7<sup>th</sup> Cir. 1992)  
*United States v. Wunder*, [919 F.2d 34](#) (6<sup>th</sup> Cir. 1990)  
*United States v. Hicks*, [947 F.2d 1356](#) (9<sup>th</sup> Cir. 1991)  
*United States v. Hatch*, [919 F.2d 1394](#) (9<sup>th</sup> Cir. 1990)  
*United States v. Smith*, [866 F.2d 1092](#); (9<sup>th</sup> Cir. 1989)  
*United States v. Neff*, [954 F.2d 698](#) (11<sup>th</sup> Cir. 1992)  
*United States v. Holden*, [963 F.2d 1114](#) (8<sup>th</sup> Cir. 1992)

We obtained and read the following Law Review Article regarding the PRA:

**[49 ADMIN. L. REV. 111](#), *Paperwork Redux: The (Stronger) Paperwork Reduction Act Of 1995*, by Jeffrey S. Lubbers.**

We obtained and read a copy of each Notice of Proposed Rule Making and each Final Rule as published in the Federal Register by the Office of Management and Budget (OMB), who was designated in the PRA as the overseer of all collection information:

[47 FR 39515](#). Notice of proposed rulemaking 5 CFR Part 1320. Office of Management and Budget, Executive Office of the President. September 8, 1982.

[48 FR 13666](#). Final rule. 5 CFR Part 1320. Office of Management and Budget, Executive Office of the President. March 31, 1983

[52 FR 27768](#). Notice of proposed rulemaking. 5 CFR Part 1320. Office of Management and Budget, Executive Office of the President. July 23, 1987

[53 FR 16618](#). Final rule. 5 CFR Part 1320. Office of Management and Budget, Executive Office of the President. May 10, 1988

[60 FR 30441](#). Notice of proposed rulemaking. 5 CFR Part 1320. Office of Management and Budget, Executive Office of the President. June 8, 1995

[60 FR 44981](#). Final rule. 5 CFR Part 1320. Office of Management and Budget, Executive Office of the President. August 29, 1995

We obtained and read every section of the PRA including:

[44 USCS § 3501](#). Purpose

[44 USCS § 3502](#). Definitions

[44 USCS § 3503](#). Office of Information and Regulatory Affairs

[44 USCS § 3504](#). Authority and functions of Director

[44 USCS § 3505](#). Assignment of tasks and deadlines

[44 USCS § 3506](#). **Federal agency responsibilities**

[44 USCS § 3507](#). **Public information collection activities; submission to**

**Director; approval and delegation**

[44 USCS § 3508](#). Determination of necessity for information; hearing

[44 USCS § 3509](#). Designation of central collection agency

[44 USCS § 3510](#). Cooperation of agencies in making information available

[44 USCS § 3511](#). Establishment and operation of Government Information Locator Service

[44 USCS § 3512](#). **Public protection**

[44 USCS § 3513](#). Director review of agency activities; reporting; agency response

[44 USCS § 3514](#). Responsiveness to Congress

[44 USCS § 3515](#). Administrative powers

[44 USCS § 3516](#). Rules and regulations

[44 USCS § 3517](#). Consultation with other agencies and the public

[44 USCS § 3518](#). Effect on existing laws and regulations

[44 USCS § 3519](#). Access to information

[44 USCS § 3520](#). Establishment of task force on information collection

and

dissemination

[44 USCS § 3521](#). Authorization of appropriations

We obtained and read every section of 5 CFR Part 1320, which are OMB's regulations implementing the PRA:

|                                 |   |
|---------------------------------|---|
| <a href="#">Section 1320.1</a>  | Purpose   |
| <a href="#">Section 1320.2</a>  | Effect  |
| <a href="#">Section 1320.3</a>  | Definitions   |
| <a href="#">Section 1320.4</a>  | Coverage  |
| <a href="#">Section 1320.5</a>  | General Requirements  |
| <a href="#">Section 1320.6</a>  | <b>Public protection</b>  |
| <a href="#">Section 1320.7</a>  | Agency head and Senior Official responsibilities  |
| <a href="#">Section 1320.8</a>  | <b>Agency collection of information responsibilities</b>  |
| <a href="#">Section 1320.9</a>  | <b>Agency certifications for proposed collections of information</b>                                      |
| <a href="#">Section 1320.10</a> | Clearance of collections of information, other than those contained in proposed rules or in current rules |
| <a href="#">Section 1320.11</a> | Clearance of collections of information in proposed rules   |
| <a href="#">Section 1320.12</a> | Clearance of collections of information in current rules  |
| <a href="#">Section 1320.13</a> | Emergency processing  |
| <a href="#">Section 1320.14</a> | Public access   |
| <a href="#">Section 1320.15</a> | Independent regulatory agency override authority.   |

Based on our review of these documents, we believe the following:

1. The DOJ dismissed the indictment against Lawrence, *with prejudice*, upon DOJ's receipt from Lawrence's attorney (on May 11, the eve of the trial) of the documents Lawrence intended to enter into evidence.
2. The DOJ was *not* going to be able to keep the evidence from the jury because it did not have time to manipulate the Court before the trial began.
3. As the PRA explicitly authorized him to do, Lawrence intended to argue a PRA defense, based on the fact that the IRS form 1040 did not bear a **valid** control number assigned by the OMB Director *in accordance with the PRA*.
4. The DOJ concluded that the jury would acquit Lawrence based on his knowledge that the Court could not penalize him for failing to file a form 1040 because of the **invalid** control number.
5. The DOJ knew the jury would hear evidence that supported Lawrence, and that the evidence (the lack of a valid control number on the 1040, and the absence of other disclosure, use and approval requirements mandated by the PRA) would destroy the DOJ's case.
6. The DOJ realized that if the case went to trial, not only the jury, but the whole body politic would learn that no person has been required to file a 1040 because the form has never displayed a valid control number assigned by the OMB Director *in accordance with the PRA*.

From our research, we have also concluded that:

1. The IRS, with some cooperation by the OMB, at least since 1995, has knowingly violated the requirements of the PRA by failing to obtain and print a valid OMB control number on Form 1040 and other IRS forms.
2. The IRS follows the policy of unlawfully persecuting, penalizing, and prosecuting individuals for failure to file a 1040, rather than admitting that the 1040 serves as a "bootleg" form due to its violation of federal law by not bearing a valid OMB control number.

Examples of IRS violations of the PRA and its implementing regulations that invalidate Form 1040 include these:

1. IRS has continually violated PRA Section 3506(c)(1)(B)(iii). The section mandates that the 1040 form must inform the recipient of:
  - (I) the reasons the information is being collected;
  - (II) the way such information is to be used;
  - (III) an estimate, to the extent practicable, of the burden of the collection;
  - (IV) **whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory**; and
  - (V) the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a 1040 form unless it displays a valid control number (i.e., issued in accordance with the requirements of PRA).
2. IRS has continually violated of PRA Section 3507(a)(1)(C). The section mandates that the IRS shall *not* conduct or sponsor the collection of information via a 1040 unless in advance of the adoption or revision of the 1040 the IRS has submitted to OMB the proposed 1040 form along with **copies of pertinent statutory authority and regulations authorizing the IRS to collect the information on the 1040 form. The clearance packages that the IRS submits to the OMB make no mention of IRC Section 1, 61, 63, 6011, 6012, 6091, 7203 or any of the other sections federal judges alternately cite as “the” authority that authorizes IRS to collect information via the 1040.**
3. The IRS and OMB have continually violated PRA Section 3507(g) and 5 CFR Section 1320.8(b)(1). Those sections mandate that OMB control numbers **must expire after three years**, even if the IRS made no changes to its 1040 form during that time. Form 1040 has had the same OMB control number for 24 years. Under Section 3507(g), every OMB control number must expire every three years, or sooner. OMB approves a 1040 for only a three year period so as to ensure that at least once every three years the IRS reviews the 1040 form, publishes its review in the Federal Register, and seeks public input. Apparently, the IRS has not submitted a certification to OMB with an explanation of why it would be inappropriate for OMB to issue a control number with an expiration date.
4. The IRS has continually violated PRA Section 3512 ("Public Protection"). This section prohibits the IRS from penalizing any person for failing to file a "bootleg" 1040. The 1040 form falls into the "bootleg" class if it does not display a valid OMB control number and the disclaimer that no response is required without such a control number. The 1995 amendments strengthened this provision by making clear that IRS victims can invoke this protection "***in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.***" In spite of this, the IRS routinely penalizes and prosecutes people for failing to file the 1040 tax return. Although required by law, IRS never informs people about the bootleg nature of the 1040 form, nor the fact that its hapless victims have no legal obligation to file such bootleg forms.

Section 3512 of the PRA, titled "Public Protection" reads as follows:

(a) **Notwithstanding any other provision of law**, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this subchapter [44 USCS § 3501 et seq.] if--

(1) the collection of information does not display a valid control number assigned by the Director in accordance with this subchapter [44 USCS § § 3501 et seq.]; or

(2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.

(b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.

Because of the PRA's Public Protection clause, agencies have an incentive to make sure that all forms and related regulations bear valid, up-to-date, prominently legible OMB control numbers.

The instructions for OMB Form 83-I, which the IRS must use in submitting its request for approval of the 1040 form and an OMB control number, require each agency to submit with the form a "supporting statement" which is to "identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information." The supporting statement must also include information regarding the "burden" imposed upon the public as a result of the "collection of information."

Fortunately, Robert Lawrence knew his rights under the PRA, and DOJ attorneys knew the defense attorney had cornered them, and that they would not prevail on a Motion *In Limine* designed to keep Lawrence from effectively arguing a PRA defense. As I have stated, we believe this caused DOJ to dismiss the indictment against Lawrence.

As for nearly countless *other* individuals, they do not know their Rights or the IRS's and OMB's obligations under the PRA. As a result, the IRS and DOJ conspire at all levels, from senior executives to the lowliest agents and legal assistants, to prosecute, penalize, and victimize innocent Americans for failing to file a bootleg 1040, **even though their victims have no legal obligation to file it.**

The Peoria affair raises serious "abuse of federal power" concerns. We question not only the actions of IRS and DOJ since 1981, but also OMB's behavior as it appears to have willingly looked the other way rather than to require IRS to fully comply with the Law and to report the IRS's miscreant negligence to the U.S. Treasury Secretary and the President.

In addition, various federal judges and their law clerks who know the legal meaning of the phrase, "Notwithstanding any other provision of law," have blatantly ignored the clear and unambiguous meaning of the provisions of the PRA. Instead of heeding it and advancing its protections to the aid of IRS victims, they have waged complicit war against the People for willful failure to file a bootleg 1040 form under any of a variety of vague, confusing, circuitous, and questionable provisions of the Internal Revenue Code.

We believe, in accordance with the PRA and the circumstances of the Lawrence case dismissal that Americans have no obligation to file bootleg 1040 forms that are bootleg by virtue of bearing no current, valid OMB control number. We intend to so inform supporters of our Foundation, members of the *We The People Congress*, and of the general public, unless you respond to this Petition for Redress with some explanation other than the one I have propounded herein.

If you agree with our analysis, we direct you in the name of the People of the United States of America to order your minions to follow the law to the letter, lest they face criminal prosecution for violating numerous laws and the Constitution of the United States of America, not the least of which are their oaths of office. Accordingly, we expect that you will correct the IRS forms so they bear the proper OMB control numbers, accurately reflecting the underlining statutory authority upon which the OMB control number relies pursuant to the requirements of the Paperwork Reduction Act. Further we demand that you order IRS employees to immediately stop persecuting those who fail to file the **fraudulent, counterfeit** IRS 1040 form.

If we are mistaken in our analysis of the Lawrence case and its implications for the People of the United States of America who need not file bootleg IRS forms, please respond to this petition in a timely manner with a proper and complete explanation of our errors in fact or reasoning and a correct analysis.

Yours truly,

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Robert L. Schulz  
Chairman

Cc: Mr. Rob Portman, Director  
Office of Management and Budget  
725 17<sup>th</sup> St., N.W.  
Washington, DC 20503

**VIA CERTIFIED RETURN RECEIPT MAIL**

*[end letter]*

**FOR ADDITIONAL INFORMATION & LEGAL RESEARCH  
RELATED TO THE Paperwork Reduction Act:**

The Foundation would like to extend many thanks to researcher [Lindsey Springer](#) for his contributions regarding the PRA legal research and assistance with the Lawrence case, as well as defendant Bob Lawrence and his attorney [Oscar Stilley](#) for having the courage to rely on this research in the manner they did facing numerous felony income tax charges.

Springer's website featuring his current personal PRA/APA litigation and his explanatory video can be found be found at [www.PenaltyProtester.com](http://www.PenaltyProtester.com)

Please also review the extensive, ground-breaking income tax legal research (partially PRA related) made available from our website at no cost by the Foundation in 2004.

The body of work entitled, "[\*Analysis of the Federal Income Tax Law\*](#)" consists of hundreds of legal and historical documents in support of the argument that the operation and enforcement of the income tax system is illegal. The research report was included as Attachment #2 of a [Petition for Redress](#) to U.S. Government officials.

The work, authored by attorney Larry Becraft, was the subject of both state and federal litigation that began in June, 2004 and ended earlier this year.

Pursuant to the terms of the [settlement agreements](#) in those cases, the We The People Foundation's **unrestricted rights** to copy, publish and distribute the research was recognized.

Copies of the 400 MB research disk are available on the [WTP Foundation on-line store](#) for a nominal donation.