

Must the Government Release Life-Saving Technology? Withheld Energy and Medical Advances

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Premise. Some insider accounts claim that study of recovered material has produced, or could produce, advances in energy generation, materials, or medicine, and that classification keeps them from public use. If true, does any law require the government to release technology that could save many lives?

Key points

- No court can order the government to release classified technology because it would save lives: there is no general duty to protect (*DeShaney*) and no fundamental right of access to unapproved treatment (*Abigail Alliance*).
 - Partial levers exist: records statutes, Invention Secrecy Act compensation, Bayh-Dole march-in (never exercised), \$1498 government use, and Atomic Energy Act compulsory licensing for atomic energy inventions (42 U.S.C. §2183).
 - International instruments (ICESCR Art. 15(1)(b); ICCPR Art. 6 as read in General Comment 36) supply arguments for advocacy, not enforceable claims against the United States.
 - The realistic route is a statute with an inventory, a civilian benefit review, a presumption of release, and licensing terms ([Form D6-1](#)).
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1. Summary

Under current U.S. law, no court can order the government to release classified technology because it would save lives. The Due Process Clause imposes no general duty to protect or rescue (*DeShaney v. Winnebago County Department of Social Services*, 489 U.S. 189 (1989)), and there is no fundamental right of access to unapproved life-saving treatments (*Abigail Alliance for Better Access to Developmental Drugs v. von Eschenbach*, 495 F.3d 695 (D.C. Cir. 2007) (en banc)). In *Abigail Alliance*, the court also rejected arguments based on the common-law doctrines of necessity and self-defense and on the tort of intentionally preventing a person from giving necessary aid to another.

What exists are partial levers:

- **Records and declassification** (Issues A3, B1): the Records Collection, FOIA, and MDR can release information about technology, though technical data will be protected by Exemptions 1 and 3 (10 U.S.C. §130) and Restricted Data rules.
- **Patents and secrecy orders** (Issue E2): private inventors subject to Invention Secrecy Act orders can seek compensation (35 U.S.C. §183) and periodic review of orders; secrecy orders lapse after one year unless renewed (§181).
- **Federal funding and march-in**: for inventions made with federal funding by contractors, the Bayh-Dole Act gives agencies “march-in” rights to require licensing when necessary “to alleviate health or safety needs which are not reasonably satisfied” (35 U.S.C. §203(a)(2)). Agencies have never exercised march-in.
- **Government use**: 28 U.S.C. §1498 lets the government use any patented invention with compensation, so patents do not block government deployment.
- **Political and treaty arguments**: the right to enjoy the benefits of scientific progress (ICESCR Art. 15(1)(b); CESCR General Comment No. 25 (2020)) supports advocacy but is not enforceable against the United States, which has not ratified the ICESCR.

The realistic route is legislation: a statute requiring review of UAP-derived technology for civilian benefit, with a presumption of release for energy and medical applications after security review, and technology transfer mechanisms ([Form D6-1](#)).

2. Constitutional claims

- **No duty to protect.** *DeShaney*: the State’s failure to protect an individual against private violence does not violate due process. The state-created danger exception, recognized in most circuits, requires affirmative government action that creates or increases a specific danger to the plaintiff. Withholding a cure does not create the disease. Even affirmative false reassurance has been held insufficient where officials were balancing competing duties: the Second Circuit dismissed claims that EPA officials falsely told rescue workers the air at the World Trade Center site was safe, holding that “when agency officials decide how to reconcile competing governmental obligations in the face of disaster, only an intent to cause harm arbitrarily can shock the conscience in a way that justifies constitutional liability.” *Lombardi v. Whitman*, 485 F.3d 73 (2d Cir. 2007). Officials who withhold energy or medical technology for stated national-security reasons would invoke the same reasoning; a claim would need evidence of a purpose to harm, or of affirmative statements that induced specific people to forgo available treatment without any competing governmental interest.
- **No right of access to unapproved treatments.** *Abigail Alliance*, 495 F.3d at 697: no fundamental right “deeply rooted in this Nation’s history and tradition” of access to experimental drugs for the terminally ill (applying *Washington v. Glucksberg*, 521 U.S. 702 (1997)). The policy at issue needed only a rational basis. The court rejected analogies to necessity, self-defense, and interference with rescue (Restatement (Second) of Torts §326).

- **Takings and IP owners.** Inventors whose work is suppressed by secrecy orders have compensation claims; the public does not.

3. Statutory tools

Tool	Scope	Limits
Bayh-Dole march-in, 35 U.S.C. §203	Inventions made by contractors with federal funding	Agency discretion; never exercised; NIST draft interagency framework (request for information, Fed. Reg. Doc. 2023-26930 (Dec. 8, 2023)) would allow agencies to consider price; no final framework appears in the Federal Register as of Oct. 15, 2026
Government use, 28 U.S.C. §1498	Any patented invention	Lets government use; does not compel release to public
Invention Secrecy Act, 35 U.S.C. §§181-188	Privately filed applications	Orders renewable yearly; compensation for inventors; no public right of release
Defense Production Act, 50 U.S.C. §4501 et seq.	Prioritization and allocation for national defense, including energy and health emergencies	Government power, not public right
Technology transfer statutes (Stevenson-Wydler, 15 U.S.C. §3710 et seq.)	Federal laboratory inventions; duty to transfer technology “whenever appropriate”	Classified technology excluded in practice
Right to Try Act, Pub. L. 115-176 (2018)	Access to eligible investigational drugs for terminally ill patients	Applies to drugs that have passed Phase 1 trials; not classified technology
Atomic Energy Act compulsory licensing, 42 U.S.C. §2183	The Commission (now DOE and NRC) may declare a patent “affected with the public interest” if the invention is “of primary importance in the production or utilization of special nuclear material or atomic energy” and its licensing is of primary	Limited to atomic energy inventions; a model for a broader compulsory license for UAP-derived energy technology

Tool	Scope	Limits
	importance to the Act's purposes, and then license it to others with a reasonable royalty	
FDA access routes (expanded access, 21 C.F.R. §312.300 et seq.; emergency use authorization, 21 U.S.C. §360bbb-3; breakthrough devices, 21 U.S.C. §360e-3)	Earlier patient access to unapproved drugs and devices, and faster review	Require a sponsor willing to apply and data to support it; nothing compels a holder of classified medical technology to seek approval

3.1 March-in in practice

The National Institutes of Health has refused every march-in petition it has decided, including petitions over the price of ritonavir (Norvir) in 2004 and of enzalutamide (Xtandi) in 2016 and 2023. The record matters for design: a release statute that relies on Bayh-Dole's march-in standard will not produce access, and [Form D6-1](#) therefore uses its own presumption of release and licensing terms.

3.2 A worked example

Suppose a program has learned from recovered material how to make a room-temperature superconductor, one of the capabilities a former director of the Navy's UAP Task Force says the technology could provide (Jay Stratton, *Out of the Shadows* chs. 8, 67 (2026)). The information is classified, so FOIA and the Records Collection will release descriptions at most (Exemptions 1 and 3; 10 U.S.C. §130). If a contractor patented a human improvement, the government may use it under 28 U.S.C. §1498 but need not license it to anyone; march-in, if the patent arose under a funding agreement, has never been used. If the process involves nuclear material, 42 U.S.C. §2183 would let DOE declare the patent affected with the public interest and license it, which is the only existing compelled-licensing route. No court could order release. Only a statute of the kind in [Form D6-1](#), with an inventory, a civilian benefit review, and a presumption of release, would reach it.

4. International law

- **ICESCR Article 15(1)(b)** recognizes the right "to enjoy the benefits of scientific progress and its applications." General Comment No. 25 (2020) lists as a core obligation that states "[e]liminate laws, policies and practices that unjustifiably limit access by individuals or particular groups to facilities, services, goods and information related to science, scientific knowledge and its applications" (para. 52), and allows limitations only if they are "determined by law," promote "the general welfare in a democratic society," are compatible with the nature of the right, and are proportionate, using the least restrictive means available (para. 21, applying Art. 4). U.N. Doc. E/C.12/GC/25 (Apr. 30, 2020). The United States signed the ICESCR in 1977 but has not ratified it.

- **ICCPR Article 6** (right to life), as read by the Human Rights Committee in General Comment No. 36 (2018), includes positive duties: the obligation “extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life” (para. 7), and states “should take appropriate measures to address the general conditions in society that may give rise to direct threats to life,” including “the prevalence of life-threatening diseases” and “extreme poverty,” with measures “designed to ensure access without delay by individuals to essential goods” (para. 26). U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019). The United States is a party to the ICCPR but treats it as non-self-executing and has rejected the Committee’s broader readings.
- **Arguments for advocacy:** if a government withholds technology that could prevent large-scale deaths (for example, from energy poverty or disease), these instruments supply the vocabulary of obligation, and other states could raise the matter diplomatically.

5. Designing a release statute

1. **Inventory:** require AARO, DOE, and DoD to inventory technologies derived from UAP-related material or research and report to Congress, with a classified annex.
2. **Civilian benefit review:** an independent board (including NIH, DOE, and National Academies representatives) reviews each technology for energy and medical applications.
3. **Presumption of release:** technologies with significant civilian benefit are released for licensing unless the Secretary certifies, by clear and convincing evidence, a specific national security harm, with annual review.
4. **Technology transfer:** licensing through federal laboratories, with march-in-style public-interest conditions and price commitments.
5. **Export controls:** define controlled elements narrowly; use OY521-style temporary controls rather than blanket USML treatment ([Issue A5](#)).
6. **Compensation:** protect private inventors and contractors (Issues E1, E2).
7. **International cooperation:** share benefits consistent with Article 15 principles.

6. Practice points

- For inventors with secrecy orders: track renewal dates, petition for rescission, and file §183 claims.
- For advocates: request records on technology derived from UAP programs ([Form A2-1](#) adapted); seek congressional inventory requirements ([Form D6-1](#)).
- For patients: there is no litigation route to compel release of classified medical technology; focus on legislative and administrative channels.