



National Security Law Report

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Praises Standing Committee

Glickman Calls for Releasing Intelligence Community Budget

Representative Dan Glickman (D-KA), Chairman of the House Permanent Select Committee on Intelligence, addressed the January 27 breakfast and called for greater openness in intelligence matters, a statutory basis for the classification of information, and the publication of an aggregate budget figure for the Intelligence Community. We reprint below his remarks for the benefit of readers who were unable to attend.

I am going to talk to you for a few minutes about a couple of legislative ideas I have concerning demystification and secrecy in the intelligence process. . . .

Your Committee has been a great resource to the House Intelligence Committee on a variety of matters, including the Foreign Intelligence Surveillance Act, the Classified Information Procedures Act, and the 1991 amendments to the National Security Act. We expect to be confronting similar challenges this year in this authorization bill and I hope that you all can be involved in this process.

It has almost become a cliché, but the implosion of the Soviet Union and the end of the Cold War has fundamentally changed the world. In national security affairs, as in other areas, this change offers an opportunity to review old ways of doing business, and discard those practices and procedures that are no longer useful or necessary. The intelligence committees in the House and Senate—but I speak

from my experience in the House—have been actively engaged for the past three years in encouraging the Intelligence Community to engage in this process. Significant threats to the national security of the United States remain, notably the danger posed by proliferation of weapons of mass destruction and terrorism; and dealing with those threats requires that policy makers be provided with timely and accurate information. In my view, however, the capability to provide that type of information can be assured with an Intelligence Community substantially smaller and less expensive to maintain than the one which confronted the Soviet Union. We will continue to work with the Director of Central Intelligence, Jim Woolsey, through the budget process to determine the proper size for that Community in the post Cold War world.

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March 31 at Capital Hilton

Secretary of Defense Perry to Address March Breakfast

Secretary of Defense William J. Perry will be the guest speaker at the next Standing Committee breakfast, which will take place on Thursday, March 31. In order to accommodate a larger than usual audience, the breakfast has been moved to the Capital Hilton Hotel, 16th & K St., Washington, DC. It will begin at 8:00 AM and should conclude by 9:30.

Secretary Perry was educated at Stanford and Penn State, from which he received his Ph.D. in mathematics. He has extensive experience as an entrepreneur and investment banker, but is particularly respected for his knowledge of defense procurement and related issues. He served as Under Secretary of Defense for Research and Engineering during the Carter Administration, and prior to taking the oath of office as Secretary of Defense on February 3 of this year he was Deputy Secretary of Defense. He has served on the National Academy of Science Committee on International Security and Arms Control and the President's Foreign Intelligence Advisory Board (PFIAB).

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I do not want to spend more time on the intelligence budget today, although it is central to the oversight work of the Committee and to the introduction of change in the Community. I want to instead focus on another opportunity provided by the end of the Cold War, and that is the chance to review policies promoting secrecy which were established in the name of national security and continued with little change for nearly half a century. I believe that it is time that we make our national security establishment more open and more understandable to the American people.

To his great credit, Jim Woolsey has been working hard to increase public knowledge of what it is the CIA and other intelligence organizations do. He has been on television, on the radio, and in print—not only in Washington, but throughout the country. He has also ordered the declassification of many CIA documents the sensitivity of which has greatly lessened with the passage of time, the most notable being the JFK assassination documents.

In compliance with a law which I authored and which was enacted last year, he will soon be making the first of what are to be annual unclassified reports to the Congress on the Intelligence Community's past successes and failures, and those areas of the world and issues which will require particular attention in the future. These kinds of activities would have been unheard of five years ago; and in these changed times—with the competition for fiscal federal resources growing increasingly intense—they are not only commendable, but in the Intelligence Community's self-interest as well.

I want the Committee to devote some attention to two other issues: the policy for security classifications and the secrecy which continues to surround the intelligence budget figure, which I believe could also benefit from a new approach. No decisions are more important in a free society than those which result in restricting access to government records. Since 1940, the standards governing the classification of information have been established primarily through executive order, not through congressional action. From the beginning of the Eisenhower Administration until the start of the Reagan Administration, the bases for classifying information were successively narrowed. The Reagan Executive Order, 12356, under which we still operate, reversed that trend. Congressional efforts to affect policy in the security classification area have been limited and uncoordinated. In only a few statutes, such as the Atomic Energy Act of 1946, the National

Security Act of 1947, the CIA Act of 1949, and the Freedom of Information Act, has Congress even made a passing reference to the classification issue in law.

And, just as a side note, as you sit up there in the Intelligence Community and you look at all of the documents that go through the various levels of classification, some documents no more secret than a map of the world from a public source, and then you realize that in fact the Executive is making the decision to classify these documents pretty much on its own, without any congressional authority, then you begin to realize that it is at least time to look at this issue in a more careful and deliberate way. I know that the Clinton Administration is drafting a successor to the executive order I mentioned, with the intention of reducing over classification and declassifying the mountains of material that are already classified—some of which is sixty or seventy years old. Those are goals which I support.

I believe, however, that there should be a specific statutory basis, congressionally authorized, for the actions of the President in this area. While presidents have relied on their implied powers, the extent of their constitutional authority to classify materials has never been settled. The concept of national security is being redefined in light of the end of the Cold War. It is important, therefore, that the law now make clear when national security requires that access to government information be restricted.

I expect to introduce shortly legislation which will provide a statutory basis for the classification of information. While the bill is still in the drafting

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Proposed Rules for the International Tribunal to Adjudicate War Crimes Committed in the Former Yugoslavia

by Walter G. Sharp, Sr.

On 7 October 1942 the international community announced that a United Nations War Crimes Commission would be created for the investigation of war crimes which occurred during World War II. Precisely fifty years later, on 6 October 1992, United Nations Security Council Resolution 780 requested the United Nations Secretary-General to establish a Commission to report on the "evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia." This Commission recommended the creation of an *ad hoc* international tribunal to prosecute war crimes committed in the former Yugoslavia.

Security Council Resolution 808, of 22 February 1993, decided that an international tribunal should be established and requested the Secretary-General to make a report on all related matters. The Secretary-General completed his report, which contained a proposed "Statute of the International Tribunal," on 3 May 1993. The Security Council approved the report of the Secretary-General, and adopted his proposed Statute, on 25 May 1993 in Resolution 827. Acting under Chapter VII of the Charter of the United Nations, this Resolution established "an international tribunal for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia between 1 January 1991 and a date to be determined by the Security Council upon the restoration of peace."

The Statute consists of thirty-two articles and begins with a statement of the Tribunal's jurisdictional competence. While the Statute recognizes that the Tribunal and national courts have concurrent jurisdiction, it gives the Tribunal primacy over national courts and prohibits national courts from prosecuting an offense previously tried by the Tribunal. The Tribunal, however, may try a person who has been tried by a national court if the act was characterized as an ordinary crime, or if the national court proceedings were not impartial or independent, not diligently prosecuted, or were de-

signed to shield the accused from international criminal responsibility. Perpetrators and principals are individually responsible for grave breaches of the Geneva Conventions of 1949, violations of the laws or customs of war, genocide, and other crimes against humanity. Articles two through six generally define these crimes, but do not detail the elements of the offenses.

The Tribunal is organized into three organs: the Chambers, the Prosecutor, and the Registry. The Statute prescribes that eleven judges are to be elected for a four-year term by the General Assembly from a list of names submitted by the Security Council, which is to receive nominees from Member States and permanent observers to the United Nations. No two judges are permitted to be of the same nationality. The judges are to elect from their ranks a President of the Tribunal, who will preside over the Appeals Chamber and assign the judges to two, three-judge Trial Chambers and a five-judge Appeals Chamber. Article 15 requires the judges to draft and adopt the Tribunal's rules of procedure and evidence, but does not require any further review or approval by the United Nations.

The Prosecutor has the responsibility to initiate investigations, to determine whether there is sufficient basis to proceed, and prepare an indictment for transmittal to a Trial Chamber. The Trial Chamber will then review the indictment for a *prima facie* case, and either confirm or dismiss the indictment. The Trial Chamber has the authority to issue orders and warrants for the arrest, detention, surrender or transfer of indicted accused. States are required to cooperate with the Tribunal and comply with its orders without undue delay. The Registrar will be responsible for the administrative support of the Tribunal.

The accused has the right to a fair and public trial with limited exceptions for the protection of victims and witnesses. The Statute creates a presumption of innocence, but the Statute's failure to establish a burden of proof is one of the very important substantive issues left unresolved. Among other rights, the accused has the right to be tried without undue delay, to be tried in his presence, to defend himself or to have counsel of his own choosing, to cross-examine adverse witnesses, to obtain witnesses on his behalf, and not to be compelled to testify against himself.

The penalties imposed by a Trial Chamber are limited to imprisonment and the return of any property or proceeds acquired by criminal conduct. Alleged errors on questions of law which may invalidate the decision, or errors of fact which may cause

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War Crimes Rules . . .

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a miscarriage of justice, may be appealed. The Appeals Chamber may affirm, reverse, or revise the decision of the Trial Chamber. In its closing articles, the Statute details the privileges and immunities of Tribunal personnel, establishes the working languages as English and French, declares that the expenses are to be paid by the regular budget of the United Nations, and locates the seat of the Tribunal at the Hague.

Security Council Resolution 827 also encouraged States to submit suggested rules of procedure and evidence for approval by the Tribunal in accordance with article 15. On 28 May 1993, a Department of Defense (DoD) *ad hoc* working group of eight military attorneys met to draft proposed rules of procedure and evidence. This working group was a mixture of international- and criminal-law attorneys, and worked under the supervision of Colonel James P. Terry, U.S.M.C., who serves as the Legal Counsel to the Chairman of the Joint Chiefs of Staff. The working group was chaired by Lieutenant Colonel (Select) Steven J. Lepper, U.S. Air Force, who serves as a Deputy Legal Counsel to the Chairman.

The proposed Rules prepared by the DoD working group continued the blend of common law adversarial systems and civil law systems created by the Statute. Commentary accompanied these proposed Rules to provide insight regarding the DoD

working group's attempt to balance considerations such as the seriousness of the offenses, the form of evidence available, the likely scenario of prosecution during ongoing conflict, and the impact of this important legal precedent on future tribunals and the laws of war. These proposed Rules complement the Statute with extensive, detailed provisions, and provide alternate approaches on a number of issues for the Tribunal to consider.

The DoD working group considered the lessons learned from the Nuremberg Trials, and reviewed numerous reports written by the American Bar Association and other state bar associations concerning the issues involved in an International Criminal Court. The first working draft was circulated for informal comment by the Central Intelligence Agency and the Departments of State and Justice at the end of July. These interagency comments were incorporated to ensure that the interests of other agencies of the United States were reflected in the proposed Rules. On 16 November 1993, Ms. Jamie Gorelick, the General Counsel of the Department of Defense, forwarded the final version of the proposed Rules to the Department of State. These proposed Rules were presented to the Tribunal when it met at the Hague during the last two weeks of November. The DoD working group is continuing to work on a proposed Code of Crimes which will define the elements of the offenses subject to the jurisdiction of the Tribunal.

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Fourth National Security Law Summer Institute for Law Professors Set for June 5-18 in Charlottesville

The Center for National Security Law at the University of Virginia School of Law is accepting applications from law professors and other educators or related professionals interested in attending the fourth annual National Security Law Summer Institute, which will be held in Charlottesville, VA and Washington, DC from June 5-18, 1994. As in past years, the highly successful program will feature an intensive program of lectures, panel discussions, and debates by prominent experts in various aspects of national security law. The group will also spend several days in Washington, DC meeting with senior officials and national security lawyers at the Central Intelligence Agency, the White House, the Pentagon, and on Capitol Hill. While the program is designed primarily to prepare law professors to teach in this growing new field, applications are also welcomed from educators teaching at the graduate level in related fields, such as political science and international relations, who have a professional need to understand national security law. Each year a few JAG officers or government attorneys from other agencies are also admitted to the institute. For further information, contact the Center as soon as possible:

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Prominent Historian John Lewis Gaddis Rebuts "Revisionist" Cold War History

In a remarkable short essay¹ tucked away in the back of the January-February issue of *Foreign Affairs*, noted historian John Lewis Gaddis—President of the Society for Historians of American Foreign Relations in 1992—has announced that information from the Moscow archives and other reliable sources in the former Soviet Union shows that he, and the “mainstream” of American diplomatic historians, made serious errors in their treatment of Stalin and the brutal regime he led. “The end of the Cold War has obliged most of us to jettison any number of clichés, orthodoxies and long-cherished pearls of conventional wisdom,” he writes, and “in this sense, we are all becoming post-Cold War revisionists.”

The Moscow archives, discussed in the December issue of the *Report*, have clearly had a dramatic impact upon Professor Gaddis’s thinking. He writes:

First, archives are important, even if all they do is confirm old arguments. The new Soviet sources, however, may well do more than that: the evidence now becoming available suggests strongly that conditions inside the U.S.S.R., not just under Stalin but also under Lenin and several of Stalin’s successors, were worse than most outside experts had ever suspected. . . . [W]hatever dimensions of Soviet history one looks at, what is emerging from the archives are stories more horrifying than most of the images put forward, without the benefit of archives, by the Soviet Union’s most strident critics while the Cold War was still going on.

Professor Gaddis attributes the shortcoming of American historians in failing to recognize the real nature of communism, in part, to “the lingering effects of McCarthyism,” which “so traumatized American academics that for decades afterward many of them avoided looking seriously at the possibility that communism might indeed have influenced the behavior of communist states.” As a result of what might be called the anti-anti-communist mentality (my term, not his) held by many American intellectuals, Professor Gaddis writes that “some of us also worried that if we talked too explicitly” about what was really going on in the Soviet Union “we might wind up sounding like . . . Ronald Reagan.” Instead, too many academics accepted “a kind of moral equivalency doctrine in which the behavior of autocracies was thought to be

little different from that of democracies.”

Thus, according to Professor Gaddis:

Many Cold War historians have long argued that certain Third World autocracies held power illegitimately, and have vigorously condemned U.S. foreign policy for putting up with them. But not everyone who took this view was willing to grant equal attention to what those few citizens of the Second World who were free to speak had been saying all along during the Cold War, which was that communism as it was practiced in the Soviet Union really was, and has always been, at least as illegitimate and repressive a system. Now that they are free to speak—and act—the people of the former Soviet Union appear to have associated themselves more closely with President Reagan’s famous indictment of that state as an “evil empire” than with more balanced academic assessments. The archives . . . are providing documentary evidence for such an interpretation.

Turning to the long-standing debate among Cold War historians over whether the United States missed the chance to work things out peacefully with Stalin and his successors, Professor Gaddis observes: “[W]e have long known that Hitler killed millions in pursuit of his vision, but we now know that Stalin killed many more. It is really quite difficult . . . to see how there could have been any long-term basis for coexistence—for getting along—with either of these fundamentally evil dictators.”

In language hardly calculated to endear him with the considerable number of contemporary diplomatic historians who came of age during the anti-Vietnam war protest years—often embracing the revisionism of William Appleman Williams² and proclaiming the alleged virtues of regimes from Hanoi to Havana—Professor Gaddis refers to “all the little Stalins and Maos who appeared elsewhere in the world during the Cold War: Kim Il Sung, Ho Chi Minh, Pol Pot, Fidel Castro, . . . each of whom, like their teachers, promised liberation for their people but delivered repression.”

Professor Gaddis argues that the twentieth century will likely be “remembered as one whose history was largely shaped by the rise and fall of authoritarian regimes,” and he concludes that “historians will have no choice but to debate the role the United States played in resisting them.”

[W]hatever the direction these lines of interpretation eventually take, the role of the United States in resisting authoritarianism will be at the center of them. It would seem most appropriate, therefore, for historians of American foreign relations to be at the center of that debate. I see little evidence of that happening, though, and I wonder if this is not because those of us who work in this field have allowed

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Counter-Proliferation Seminar Set for March 10

A seminar on "Political, Legal and Military Strategies in Counter-Proliferation" will be held at the International Club (1800 K St., Washington, DC) from 4:00-6:00 PM on Thursday, March 10. Chaired by Professor Yonah Alexander of George Washington University, the program will include remarks by Dr. Steven D. Bryen, Kenneth R. Timmerman, Tom Moore, and Peter Rodman. Cosponsored by the United States Global Strategy Council, George Washington University, and the Jewish Institute for National Security Affairs, the program is open to the public without charge.

Gaddis on Cold War Revisionism . . .

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Williams' "tragic" perspective to obscure our vision.

...

If one defines tragedy according to the *extent* of the gap between aspirations and accomplishments, it becomes a more fruitful concept. But if one then compares gaps in terms of their extent, setting the American record against those of other great powers in the twentieth century, the tragedy appears more to fade out than to stand out. Perhaps that is why the United States is still the preferred destination of those who seek to leave their own countries in the hope of finding better lives; the truly oppressed normally flee away from their oppressor, not toward it.

As Professor Gaddis notes, there is "little evidence" that the mainstream of American diplomatic historians are rushing to get on an anti-communist bandwagon at this point. Sadly, scholars with serious anti-communist credentials are still not welcome in polite company at many major American institutions of higher learning. But this remarkable essay by one of the foremost Cold War scholars in the nation reflects not only an author of commendable intellectual integrity and courage, but also, one might hope, a trend in "new thinking" to guide the next generation of diplomatic historians. It deserves the widest possible circulation.

—RFT

Notes

¹ "The Tragedy of Cold War History: Reflections on Revisionism," *Foreign Affairs*, vol. 73, no. 1, p. 142.

² William Appleman Williams, *The Tragedy of American Diplomacy* (1959).

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stage, I intend that it will accomplish the following purposes:

(1) establishing a test for classification which will require a balancing of the public interest in knowing the information against the harm to national security from its disclosure, with a presumption in favor of disclosure.

(2) establishing two classification levels, one for information the unauthorized disclosure of which would cause "exceptionally grave danger to the national security," and the other for information the unauthorized disclosure of which would cause "serious" damage. In both cases, the damage would have to have been susceptible to identification or description when the original classification decision was made.

(3) specifying who may classify, and how that authority is derived. Under current law, virtually everyone can classify—and that is something that we need to provide some clarification to.

(4) establishing a duration for classification with a specific ending date whenever possible. In those situations where a specific date could not be fixed, outer limits—like, for example, ten years for information classified under the "exceptionally grave damage test," and six years for information classified under the "serious damage" test—would be established.

(5) establishing a procedure for review of classification decisions and extension of that classification date should that be warranted in extremely unusual circumstances—because I recognize that there may be cases where you have to go beyond this time period.

The bill will provide only the essential elements of a classification policy. The details and implementation procedures will be left to the Executive Branch, with a requirement that they be reviewed and approved by Congress using expedited legisla-

Calendar of Events

March 31—Breakfast Meeting, Capital Hilton
Speaker: Secretary of Defense William J. Perry

tive procedures. I do not believe that the introduction of this legislation is at all at odds with the Administration's goal of reducing the quantity of classified material. The bill's specific purpose is to subject the issue of classification to the public debate which, because of the Cold War and associated concerns, it has never had.

That is the underlying function. It needs a public debate of the elected officials of this great country of ours. My objective is not only to stimulate that debate, but at its conclusion to codify a classification policy which reflects that, in an open society, the construction by government of a barrier to the free flow of information should be a last resort when harm to the nation is clear, not a first resort because it is easy to do and requires little or no justification.

Among the pieces of information which have traditionally been classified because of Cold War security concerns has been the aggregate amount spent on intelligence activities. When the fiscal year 1994 intelligence authorization bill was before the House, we debated an amendment which would have required disclosure of the aggregate figure in a form to be determined by the Administration. I voted for the amendment. I didn't work it very hard, and perhaps if I had we could have passed it. But I decided that I would give the Administration another year to work on this issue.

The amendment did not pass, but I made it clear in the conference committee meeting on the bill, and later when the conference report was considered on the House floor, that we would be revisiting the issue this year. I also joined the Speaker of the House, the Majority Leaders of the House and Senate, the current and former chairmen of the Senate Intelligence Committee, as well as Senator Metzenbaum—the chief proponent in the Senate of the open intelligence budget—in a letter urging the President to make the aggregate figure public.

I understand that the Administration is considering its position now. While that is taking place, we will be having two days of public hearings on this issue later next month. I do not believe that there is a compelling reason for maintaining the classification of the aggregate intelligence budget figure. The Soviet Union was the only entity with even an arguable capacity to benefit from knowing the yearly total of the amounts the United States spends on intelligence. No potential adversary now exists for whom possession of this information would make any measurable difference whatsoever.

Furthermore, I do not share the view that the disclosure of the aggregate figure would lead inexorably to the disclosure of the spending levels for specific programs or the details of those programs. The argument goes, if you say we spend X billion dollars on intelligence, then you will be able to deductively figure out, or else the pressure will be on us to say, how much we spend on this clandestine activity, this covert program, or this satellite program. I just don't believe that. In the defense world we don't do that.

The fact that we know how much we spend on defense doesn't mean we disclose how much we spend on black programs in the defense budget. Information which identifies programs and reveals the manner in which those programs are to be operated should remain classified, and I believe that most people would support classification in that instance.

Some of you may remember George Carlin, the old comedian. Carlin used to have this routine where he would come out—it was called the "baseball score routine"—and he would say "Here are the scores . . . 6 to 5, 3 to 2, and 4 to 1. And here's a partial score . . . 9." Of course, you wouldn't know who was playing whom or what the teams were.

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Standing Committee on Law and National Security

Chairman: John H. Shenefield. *Members:* Richard E. Friedman, Edward Hidalgo, Harold H. Koh, Lucinda A. Low, J. Michael McWilliams, Elizabeth R. Rindskopf, L. Britt Snider, Paul Schott Stevens, Richard K. Willard, Diane P. Wood

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This issue kind of reminds me of that joke. I suppose there were some people in the baseball world early on who didn't want to disclose the sports scores at all. I realize the analogy might not be perfect, but the fact of the matter is that these numbers really are not too meaningful to most people; but they are useful information to a public who pays an awful lot of tax money and deserves to know how much is being spent in various areas.

I also suspect that one of the reasons for classifying the aggregate budget figure—the practical result is to prevent the American taxpayer from knowing how much is spent on intelligence. I think some people figure if we know what aggregate amount is spent it will sure be a lot easier to cut that figure, because then you will have a specific number to reduce from. Well, I'm just going to say: Isn't democracy tough! Isn't that what our responsibility is, to justify it? I went down on the House floor last year, and I defended the budget from further cuts successfully. People know how important this issue is, and people know as a general proposition what good work intelligence people do. And that's our problem, we've got to justify—we have to justify an agricultural program in the aggregate and defense programs. So, I think the time has passed, particularly since we are at the end of the Cold War, where we have to hide this. Besides, most people think they know what it is anyway. It's the worst kept secret in the history of the world.

We do spend a lot of money on intelligence activities—sometimes more than is needed, sometimes less than is needed, depending upon the area. It is the responsibility of the Congress, working through the Intelligence, Armed Services, and Appropriations Committees, to identify unnecessary spending and eliminate it. We do not need a classified budget figure to do that job. A solid case can be made, even within the confines of the need to protect the security of particular programs, for spending an appropriate amount on intelligence, and we should be. It is more important now that probably it was even fifteen, twenty, or twenty-five years ago, with the threats being more diverse; but that case can be made in public. People understand it. People want a strong America, and people can understand it in words the average American can understand.

Arguing that, with all of the changes that have recently occurred in the world, the overall intelligence budget figure still needs to be kept secret,

hinders the development of public support for the maintenance of vital intelligence capabilities. In the long run, that is more threatening to the intelligence budget than making funding totals public.

When I became chairman of the Intelligence Committee last year, I resolved to do what I could to open the work of the Intelligence Community to public scrutiny where that was possible. Not just to make it open for the sake of openness, but the fact of the matter is these people do extraordinary work for the national security of America. The successes far outweigh the failures. The problem is, the people only hear about the failures. The people in the Community hear about some of the successes, but the country doesn't hear about very many of these successes.

I believe a greater degree of openness is more in keeping with our democratic ideals, especially given the geopolitical realities we now face and given the political realities at home as well. The American people are not stupid, nor are they children. And they shouldn't be treated that way when it comes to their budget. We made progress toward the goal of opening the process last year, and in areas such as those I have discussed this morning. I expect more progress to occur in this session of Congress. I also expect some of the things I have talked about to be controversial, but I think they can be discussed in an objective and dispassionate sense. I do not believe that these are particularly partisan issues, and while I have not necessarily reached any kind of bipartisan agreement on these in the committee, we're going to work to discuss them in an objective, professional manner.

War Crimes Rules ...

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The crimes being committed in the former Yugoslavia by military forces and partisans on all sides are profoundly disturbing. The establishment of this Tribunal and its work toward bringing war criminals to trial are the precedential steps in the creation of an institutionalized enforcement mechanism of international criminal law which is critical to world peace. Although the Tribunal is still in its formative stage and its substantive work has yet to be done, it serves as a warning to war criminals that their actions are illegal and must cease.

Major Sharp is a U.S. Marine attorney on assignment to the Office of the Navy Judge Advocate General (JAG). We regret misidentifying him last issue.—Ed.