Sept. 19-20, Hotel Washington
Conference to Examine Law Enforcement and Intelligence

The changing relationship between law enforcement and intelligence will be the subject of an important conference hosted by the Standing Committee on Thursday and Friday, September 19-20, at the Hotel Washington, 15th and Pennsylvania Avenue, NW, Washington, DC. Participants in the seven scheduled panels will include some of the foremost authorities from the United States and abroad, including two former Directors of Central Intelligence, current and former deputy attorneys general, current and former general counsels from key agencies like the CIA and FBI, prominent journalists, and highly respected members of the academic community.

Beginning with registration at 7:45 on Thursday morning, the first panel at 8:30 will include a discussion of the changing nature of this difficult relationship, featuring Standing Committee member Zoe Baird, former British Intelligence Legal Adviser David Bickford, former Deputy Attorney General (and Standing Committee member) Philip Heymann, and former NSA/CIA General Counsel Elizabeth Rindskopf (also on the Standing Committee).

At 10:00, there will be a panel discussion addressing political changes in the world environment, including Morton Halperin of the Council on Foreign Relations (and formerly of the National Security Council) and Jessica E. Stern of Stanford University’s Hoover Institution on War, Revolution and Peace.

The final program on Thursday morning will be a presentation by former Acting DCI Admiral Will-
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An Interview with Defense Department General Counsel Judith A. Miller

The Honorable Judith A. Miller graduated summa cum laude from Beloit College and received her legal education at Yale Law School. After clerking for Supreme Court Justice Potter Stewart, she served as a litigator with Williams & Connolly before assuming her current position two years ago. As Defense Department General Counsel, she is the Chief Legal Officer of more than 6,000 attorneys in the Department and is responsible for advising the Secretary and Deputy Secretary on a wide range of issues, many of which are at the core of national security law. She was interviewed by Standing Committee Chairman Paul Schott Stevens.—Ed.

Stevens: National security law is a field that continues to grow, and particularly that branch known within the Department of Defense as “operational law.” As the Department’s operations in
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**Miller Interview . . .**

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Recent years have expanded beyond traditional war fighting to peacekeeping, "nation building," and other assignments, the legal considerations appear to have become more intricate, novel and important. Can you describe some current "operational law" issues, and how these are handled within the Department and interagency?

**Miller:** The practice of operational law has indeed expanded and matured in the past decade. During the late seventies and throughout the decade of the eighties, operational lawyers focused on the legal underpinnings and justification for the use of force, and the imperative that our forces receive clear, unambiguous and legally sound rules of engagement. These issues remain the principle concerns in the operational law practice, but with the wide variety of taskings demanded of U.S. forces today, the practice of operational law includes a much broader spectrum of legal issues which must be addressed and successfully confronted than in the past. For example, we confront on a daily basis fiscal issues in respect to military operations other than war that we are conducting in the field. We constantly must determine the statutory or other legal foundations for our operations, as well as our support for other federal and state agencies, such as the Olympics and other domestic activities. Our mission as the lead agency in counter-narcotics detection and monitoring has matured over the years, and our counter-narcotics activities must be carefully examined and analyzed to ensure that we remain within the constraints of both domestic and international law. Law of the Sea and Law of Armed Conflict issues are encountered on a daily basis, and our challenge as operational lawyers is to ensure that U.S. Forces are accorded maximum mobility and flexibility while remaining within the parameters of the principles of law in these two important areas.

To provide one unique example of our wide ranging practice, you are aware of the current issue involving the arrest warrants issued by the International Tribunal for the Former Yugoslavia for Radovan Karadzic and Ratko Mladic, who have been indicted for war crimes allegedly committed in the Former Yugoslavia. The issue has been whether there is an affirmative obligation on IFOR forces to search for, seek out, and apprehend the two accused and to turn them over to authorities of the Tribunal. There are obviously political considerations involved in this issue, but it is also an important legal topic, and we have been called upon to provide legal advice on the issue. We recognize that the Geneva Conventions require states Party to search for persons alleged to have committed, or to have ordered to be committed, grave breaches of those Conventions, and to bring such persons, regardless of their nationality, before their own courts. We read these provisions as applying to the territory of the United States, not as a universal obligation or carte blanche to search for alleged war criminals in the sovereign territory of foreign countries. The Dayton Peace Accord obligates the Parties to that Accord to comply with any order or request from the International Tribunal for the arrest, detention, surrender of, or access to, alleged war criminals in Bosnia-Herzegovina, and it is to the appropriate officials of that country the world community must look for action. Furthermore, in transmitting the arrest warrants to the United States, the registrar of the Tribunal specified that the United States should arrest and detain the accused when they come "under the jurisdiction and control" of the United States, not that we were to seek out or search for the accused.

One also must be aware of the fact that United States Forces are in Bosnia-Herzegovina as part of a NATO force and operations, and that policy decisions for the IFOR are determined by NATO. The North Atlantic Council, the policy-making body for NATO, has determined that IFOR forces will detain accused war criminals and surrender them to the Tribunal only when they confront them in the normal course of their assigned mission, and that mission does not include seeking out or searching for accused war criminals. U.S. Forces are constrained to comply with the mission of the IFOR. This is but one example of the wide variety of legal issues we confront on a daily basis in the Department. It is a challenging and exciting time, and an equally chal-

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BOOK REVIEW

The Middle East:
A Brief History of the Last 2,000 Years
by Bernard Lewis
Pages: 387  Price: $30.00

Reviewed by Heather E. Morse

Bernard Lewis begins and finishes the Middle East: A Brief History of the Last 2,000 Years on common themes. In his introduction, he depicts a coffee house in which many of the furnishings are of Western origin, as are the clientele’s clothes. Coffee, on the other hand, is native to the Arab world. Thus, gathering for coffee is an ancient custom in the Middle East and, in one sense, distinctive of Islamic culture. Muslim men cannot gather in taverns or public houses, as they do in the West.

Consider the sugar trade. During the Middle Ages, sugar was a major export to Christian Europe. Eventually, the cultivation of sugar spread from North Africa to Muslim Spain, and from there to the Atlantic islands and, finally, to the “new world.” By the eighteenth century, Arabs and Turks were importing sugar for their coffee from European colonies in the West Indies.

There is this interplay and tension between the Islamic world and the West. Lewis concludes his book with an analysis of how the Middle East has been trying to eradicate the legacies of Western imperialism through constitutional and legislative reform. Yet, these concepts—written constitutions and parliaments—are also imports from the West.

This is not to say that Lewis takes a Eurocentric view in his narrative of Middle Eastern history. Rather, his purpose is to demonstrate that ideas and technologies have flown between the Middle East and the West through periods of antagonism and peaceful co-existence. In many cases, the instruments of opposition have been borrowed.

Lewis’ narrative begins before the advent of Christianity and Islam, but the heart of the book examines the rise of Islam and its relationship to other cultures that were developing in the region.

According to tradition, the Prophet Muhammad died in the year 632 AD (or CE, for “Common Era,” as Lewis prefers). Following the death of the Prophet, divisions appeared among Arabs about who should lead the Muslim Umma. This was originally conceived of as a community. It then evolved into a state and, ultimately, an empire. Initially, those favoring hereditary succession prevailed, and out of the Meccan clan of Umaya came four Umayyad caliphs who would rule the Arab world for nearly a century. The word caliph derives from an Arabic word meaning both successor and deputy. However, the title came to mean “the supreme sovereign office of the Islamic world.” During the time of the Umayyads’ rule, non-Arabs were colonized. Although conquests extended the reach of Islam, the conquerors were bound by the instructions put forth in the Qur’an. Islam was not to be imposed on conquered peoples by force. Incentives, such as lower taxes, were offered in hopes that people would voluntarily convert to Islam.

Following the assassination of the last three Umayyads, the Persians ushered in a new political era, the House of ‘Abbas. Although Persians instigated the revolt against the old regime, many Arabs held office in the new regime. The change in leadership meant a change in capitals. The seat of government was transferred from Syria to Iraq, and it was from Baghdad and the neighboring cities that the ‘Abbasids were to rule for almost five centuries.

Islam is, of course, historically anchored in Jerusalem as well. In 691/92 AD, construction began on Jerusalem’s Temple Mount. The Dome of the Rock (along with the adjoining mosque) that was built there was the first of the great Islamic shrines. Interestingly, inscriptions within the Dome of the Rock directly challenged points of Christian doctrine.

The larger picture of succession from caliph to caliph enables the reader to follow the internal disruption of the empire. The collapse of the caliph’s hegemony was complete by the 10th century. It was a familiar pattern of fragmentation. Remote leaders were no longer willing to recognize the supreme authority of a single caliph. Spain, North Africa, and even Egypt broke away from the caliphate.

Compounding the internal pressures on the caliph’s rule were the encroachments of rival powers—the Turks, for example. Turkish slaves were prominent in the imperial army of the ‘Abbasids. Gradually, Turks displaced Arabs and Persians in the army and converted to Islam. This was the beginning of a Turkish ascendency that was to last nearly a thousand years. By the 14th century, the Turks’ hegemony in the Middle East had evolved into the Ottoman Empire.

After presenting a chronological narrative, Lewis examines Middle Eastern history through a set of six “cross-sections.” He focuses on the state, the economy, the elites, the commonality, religion and law, and culture. Lewis traces several fascinating connections between East and West in the public and private spheres of life.

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Book Review

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In the cross-section on the commonality, Lewis explains that society was divided into five groups according to Islamic tradition. Male Muslims dominated society. Females, children, slaves, and unbelievers were inferiors. Lewis observes that only one of these classifications is permanent. Slaves can become free, children become adults, non-believers can convert, but females remain female.

Lewis considers the status of Jews and Christians as "unbelievers" according to the Islamic social hierarchy. Unbelievers were called "dhimmi," which means "people of the pact." Dhimmi is a legal designation for non-Muslims who are protected subjects within Muslim territory. The "pact" obligates non-believers to recognize the supremacy of Islam, abide by certain social restrictions, and pay a special tax. In return, non-believers were granted significant degree of autonomy, security of life and property, protection against external enemies, and the right to worship according to their own traditions. Interestingly, Jews and Christians were given administrative positions under the caliphs.

Profoundly important scientific knowledge flowed from East to West. Algebra and trigonometry, to name just two examples, were largely developed by Muslim scholars.

Military technology, on the other hand, flowed primarily from West to East. Initially, there was some reluctance to make use of guns and other firearms invented by the infidels, but the Ottomans did, of necessity, adapt to this technological revolution. As new weapons were introduced, Middle Eastern rulers began to look to Europe for military instruction. At first, Europeans arrived in the Middle East as independent consultants and advisers. It was a region where a European mercenary could earn a reputation (and a small fortune, in some cases). Later, in the early 19th century, Islamic rulers began to negotiate terms for military assistance with governments in the West. One such partnership, between the Ottoman Empire, the Prussians, and the British Royal Navy, lasted from the 1830s to the early 20th century. Gradually, young men from the Middle East began attending military and naval academies in the West. Why did Europe gain and hold a strategic advantage over the Middle East in the modern age? Lewis offers several insights about the relative effects of the industrial revolution. He also dispels a number of the myths about Islamic political culture that continue to surface in political debates of the present day. Lewis' masterful narrative of Middle Eastern history shows that there is nothing fundamentally intolerant, anti-intellectual, or imperialistic about Islamic civilization.

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Heather Morse was a research assistant at the National Strategy Forum during the 1995/96 academic year.

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Miller Interview

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Challenging and exciting operational law practice.

As to process, we do work closely with our attorney counterparts in the interagency. We coordinate our efforts on many issues with the Legal Advisers at the Department of State and the National Security Council, and often work closely with lawyers at Justice and other Federal agencies, particularly on those issues which have national security implications. It is important that the lawyers seek to reach consensus and speak with one voice when advising policy makers in the various agencies of the Executive Branch, as well as in our dealings with the Congress.

Stevens: International conventions and norms with respect to use of force, conduct of military operations, treatment of civilians, and the like are an important source of operational law. Does the Department support the establishment of a permanent new international tribunal to prosecute war crimes? What jurisdiction might such a court have? Competence with respect to what kind of offenses, and what jurisdiction vis-a-vis national courts martial or criminal courts?

Miller: The Department is favorably disposed towards the establishment of a Permanent International Criminal Court, which could exercise jurisdiction over the most serious crimes of concern to the international community as a whole. The Administration has taken a cautiously positive attitude towards such a Court, and we support that position. We do have concerns however. We want to protect our service personnel from spurious or fraudulent allegations of war crimes, and we need to ensure that our system of military justice re-

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Calendar of Events

September 19-20—Conference on Law Enforcement and Intelligence, Hotel Washington, Washington, DC (see story on page 1).
mains the primary means by which United States military personnel are brought to justice for alleged war crimes.

First, we believe that crimes "of concern to the international community as a whole" as set forth in the ILC’s draft statute, must include crimes that are so serious as to threaten international peace and security. And because of this, the United Nations Security Council necessarily must play a role in referral of situations giving rise to the commission of these crimes to the Court. We view the role of the UNSC as a necessary "filter," to prevent frivolous or politically inspired referrals, and to ensure that only the most serious crimes of concern to the international community as a whole are subject to the jurisdiction of the Court.

Secondly, we are concerned as them crimes listed in the Draft ILC statute over which the Court could exercise jurisdiction. We generally concede that the crime of genocide, as defined in the 1948 Genocide Convention, constitutes one of the most serious crimes of concern to the international community, and should be properly within the jurisdiction of the Court. We have great concern over inclusion of the crime of aggression, however, because the term is ambiguous. It is not clear, for example, whether the term encompasses more than planning and waging a war of aggression, as was the case in the Nuremberg prosecutions. It one were to look at the somewhat more recent UNGA definition of aggression, adopted despite many difficulties in 1974, one sees many political elements which make it unsuitable as a definition on which to base criminal prosecutions. On the whole, the position of the United States is that aggression should not be subject to the jurisdiction of the Court.

We also believe that the Statute must be much more precise in defining the "violations of the laws and customs applicable in armed conflict." There could be many minor violations of the laws and customs of war which would not rise to the level of concern to the international community as a whole, and which should not come under the jurisdiction of the Court. We would prefer that the statute should set forth a precise listing, including definitions and a description of the elements of such crimes, in order to provide adequate guidance to the Court and to the prosecutors as to what must be proved in order to convict an accused.

I might add that the United States furthermore wants to strengthen and give greater substance to the concept of "complementarity," articulated in the Preamble of the ILC Draft. That provision states that the International Criminal Court is "intended to be complementary to national criminal justice systems in cases where trial procedures may not be available or may be ineffective." We believe that this concept is extremely important; where national criminal justice systems, including systems of military justice, are extant and effective, the International Court should be required by statute to defer to those national systems, and should not be authorized to interfere with the national criminal justice systems. The United States has a mature and well-developed military justice system, reflected in our Uniform Code of Military Justice and Manual for Courts-Martial. We have convened courts-martial and conducted prosecutions for alleged war crimes and other offenses arising out of military operations, in virtually every conflict in which we have been involved. We have also conducted investigations into alleged war crimes and other operations-related offenses, and have determined not to prosecute, based on any number of valid legal reasons. In our view, bona fide determinations not to prosecute constitute the effective administration of military justice just as do prosecutions, and the International Court should not be authorized to second-guess those determinations. We believe the concept of complementarity should be given more substance and be incorporated into the Statute itself, not just in the Preamble.

Stevens: The President recently announced a new United States policy on anti-personnel land mines, committing the U.S. to negotiating an international treaty banning the production, stockpiling, transfer and use of anti-personnel land mines, except those employed for training and those land mines required in the defense of South Korea. The President also directed that all non-self-destructing/deactivating anti-personnel land mines be placed in inactive stockpile status, and that all "dumb" land mines be demilitarized by 1999, except for those I mentioned. What legal ramifications are to be drawn from this new policy?

Miller: The President is committed to the eventual elimination of all anti-personnel land mines, as

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he noted in his address to the UN General Assembly last Fall. An international treaty joined in by a sufficient number of states could lead to the international outlawing of these weapons, but I would hasten to note that this serious problem has been generated by the indiscriminate and irresponsible employment of anti-personnel land mines, primarily in internal armed conflicts, either without regard to the dangers posed to the civilian population, or intentionally targeted against civilians in order to terrorize the population. Indiscriminate employment of such weapons already violates the law of armed conflict, and the widespread indiscriminate use of these land mines generated efforts to impose additional controls on their design and use. These efforts culminated in the recent Review Conference of the Conventional Weapons Convention of 1980, which in April of this year hammered out a Protocol which imposes self-destructing/activation technologies for remotely-delivered anti-personnel land mines, requires certain levels of metallic content for these weapons in order to enhance detection, and requires Parties to maintain much closer control over their minefields. Most importantly, the Protocol applies to internal as well as international armed conflicts, which is a giant step in addressing indiscriminate employment of anti-personnel land mines so as to endanger civilian populations. Notwithstanding the scourge these weapons pose when employed unlawfully, it had to be recognized that anti-personnel land mines are legitimate weapons of war, and are in fact important force multipliers when properly employed by armed forces in the field. A balance had to be struck between the legitimate employment of anti-personnel land mines against opposing armed forces, and the indiscriminate employment which endangers civilians. I think that a substantial improvement has been made in the effort to control illegal design and use of these weapons, and I hope that the international community will sign up to the Protocol and abide by it. Until we do attain the goal of the total elimination of these terrible weapons, the international community must continue to insist that anti-personnel land mines be employed strictly in accordance with the law of armed conflict as it applies to internal and international armed conflicts.

Stevens: The Standing Committee long has had an interest in the Law of the Sea Convention. What are the prospects for Senate ratification this Congress? And what benefits do you see accruing to the U.S. from our becoming a party?

Miller: The Department of Defense has taken the lead in efforts to secure the advice and consent of the Senate for ratification of the Law of the Sea Convention. We have done so because we believe the Convention accommodates important national security interests of the United States. We consider the Convention a proper balance of interests between coastal states and the international maritime community, and to reflect current international law and the practice of states. The navigation and overflight provisions of the Convention are critical to stability in the uses of ocean space, and the rights accorded the international community with respect to navigation and overflights of straits used for international navigation, innocent passage through the territorial sea, navigation and overflight of the exclusive economic zone, and the recognized freedoms of the high seas, are properly and fairly juxtaposed with the rights of coastal states in regulating their territorial seas, activities in the contiguous and exclusive economic zones, and activities on the continental shelf.

The navigational freedoms and rights guaranteed under the Convention are critical to the national security interests of the United States. Military and commercial mobility are the backbone of our national economic and security policy, and it is essential, especially in the post-cold war era, that United States military forces navigate and overfly the oceans as a matter of right under international law. The regimes of innocent passage in the territorial sea, transit passage in international straits, archipelagic sea lanes passage in archipelagic waters and high seas freedoms of navigation and overflight in the exclusive economic zone and in the high seas enable the United States to maintain its worldwide military mobility, and presence, in order to respond to threats to our national security and to our friends and allies around the world. We believe that the United States should maintain its leadership role in the law of the sea, and that participation as a Party to the Convention advances the national security interests of the United States.

Stevens: Personnel security and security classification matters long have been an important concern of the Department's General Counsel. President Clinton has made significant changes in this area. What do you think are the most important among these, and how have they impacted the Department and its contractors?
Miller: President Clinton has signed two executive orders on security matters, E.O. 12958 on Classified National Security Information and E.O. 12968 on Access to Classified Information. Both make important changes in the way we manage risks to the national security in the Department of Defense.

E.O. 12958 replaced E.O. 12356, latest in a line of Executive Orders that address security requirements for classified information. The new Order was intended to protect information critical to the nation's security while recognizing that the threats to national security have changed dramatically in recent years. It shifts the emphasis in the classification program from its predecessors' approach — "When in doubt classify" — to a new injunction that says "When in doubt, do not classify." There are major changes in the area of declassification of information. In the past, the Department was required to devote significant resources to declassify permanently valuable information. With the new Order, especially its provisions for automatic declassification of information after a period of years, the Department will be required to devote significant resources to keep permanently valuable information classified. The Department is now implementing this Order, reviewing records and record systems in the declassification effort the Order requires. We have requested exemption from the Order's automatic declassification requirements for a relatively limited number of record systems containing particularly sensitive information.

E.O. 12968 for the first time establishes uniform standards for granting security clearances across the Executive Branch. It adopts for the Executive Branch some of the procedures and standards we have been using in the Defense Department for some time. Now Executive Branch agencies can be confident that we are all using the same standards and procedures, which means that it is easier to transfer clearances between agencies. For the Department one major change is the adoption of an opportunity for a personal appearance in appropriate cases where the clearance of a DoD employee or military member is under review. These personal appearances are held before Administrative Judges in the Defense Office of Hearings and Appeals, a part of my office. Another major innovation, which has caused notable concern in the contractor community, is the requirement for financial disclosure by individuals who have access to certain categories of sensitive information. We are working with the other Executive Branch agencies and the Security Policy Board to develop a mechanism that will get the required information without unjustified intrusion into the privacy of the individuals who have to provide it.

We are proud of the Defense Department information and personnel security programs. They are efficient, effective and fair. These new Executive Orders are an opportunity to improve them even more.

Stevens: All of us have been reading about the threat of "information warfare" these days. The Brown Commission report cites the vulnerability of the information systems and information systems technologies relied upon not only by government but also by the communications, transportation, financial, energy and other industrial sectors. How is the Department seeking to address this threat, and what new legal dimensions do you see in this important effort?

Miller: Unquestionably, "information warfare," or information operations is a hot topic in the Department of Defense. The strides which have been taken in the ability to influence and affect information systems could have an enormous impact on the capability to protect critical information and information systems from destruction or exploitation on the battlefield of the 21st century. Information warfare could implicate an enormous range of legal subjects, from the seemingly mundane to beyond the outer limits of our current thinking on command and control.

Our government, and especially our national command authorities, have already begun to grapple with the many implications of information warfare. Within DoD, we have taken a number of steps in the implementation of a complete and coherent IW policy. An Information Warfare Directorate has been established in the office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) to coordinate and develop IW policy for the Department. DoD Directive 3300.1, which establishes DoD IW policy and assigns responsibilities, is under revision. The goal of this revision process is to make the Directive reflective of current thinking and increase distribution of that policy. The Office of Net Assessment is currently preparing a study that will look 20 years into the future. It will attempt to identify trends and the importance of information as a resource to sovereign nations. I have committed to devote substantial legal support to these first steps in the development of IW policy and efforts.

Stevens: There has been attention lately to the potential for a "cyber" attack — by a terrorist or a foreign power — on the nation's infrastructure systems. Is the Department of Defense involved in

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Miller Interview . . .
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protecting against this type of attack, and what legal issues might this protection raise?

Miller: This has been an issue of great concern to the Department of Defense and the entire Administration. There are certain elements of the national infrastructure that are so vital that their incapacity or destruction would have a debilitating impact on national defense and security. Logic bombs, viruses, and other computer-based attacks may disrupt or destroy the information upon which these critical infrastructure systems depend. These infrastructure systems include telecommunications, electrical power systems, gas and oil storage and transportation, banking and finance systems, transportation, water supply systems, and others.

Early this year several representatives from the Department of Defense participated with representatives from the Justice Department (including the FBI), the Intelligence Community, and the White House in the Critical Infrastructure Working Group (CIWG), Chaired by the Deputy Attorney General. The CIWG’s mission was to identify critical infrastructures and assess in broad terms the scope and nature of the threats to those infrastructures, survey the existing mechanisms in the government for addressing those threats, and propose options for how the government should address these threats. The CIWG’s report proposed options for a full-time policy development group that would continue the work of the CIWG in assessing the nature of the problem and recommending how the government should address it.

In response to the CIWG report, President Clinton recently created, by Executive Order, the President’s Commission on Critical Infrastructure Protection (CIPC) to develop a strategy for protecting and assuring the continued operation of critical infrastructure systems. This is a full-time commission of experts in different infrastructure systems and the threats to those systems. The CIPC includes representatives from DoD, and the Secretary and Deputy Secretary of Defense will be involved, along with senior officials from other executive branch components, in overseeing its work. Because many of the critical infrastructure systems are owned and operated by the private sector, the CIPC will have an unprecedented interaction with the private sector. The CIPC has already begun to tackle its extremely daunting task.

Among the many assignments the President has given the CIPC is to determine what legal and policy issues are raised by efforts to protect critical infrastructures, assess how these issues should be addressed, and propose any statutory or regulatory changes necessary to effect its recommendations. I cannot predict all of the legal issues that this group will identify, but I am certain there will be many. For example, currently there are overlapping authorities for dealing with infrastructure issues; legal authorities for addressing information security issues in particular are scattered among many agencies. In addition, because the private sector owns and operates most of the critical infrastructure systems, there are likely to be difficult privacy, antitrust, and intellectual property issues to resolve.

September Conference Planned . . .
Continued from page 1

iam O. Studeman on technical and operational challenges, including discussion by Professor Anthony G. Oetinger of Harvard University and Walter H. Pincus of the Washington Post.

Thursday afternoon’s program will begin at 2:00 with a discussion of new tech dangers, featuring Dartmouth College Provost Lee Bollinger, Presidential Arms Control Representative Thomas Graham, and former NSA General Counsel Stewart Baker (also a Standing Committee member). The final panel will consider the implications for civil liberties of this relationship, and will include Kate Martin of the Center for National Security Studies, FBI General Counsel Howard Shapiro, Senate Intelligence Committee General Counsel Suzanne Spaulding, and New York Times columnist Anthony Lewis. A dinner is scheduled following a 6:30 reception.

Friday morning’s first panel will feature former DCI James Woolsey and a senior official from the National Security Council discussing new uses for intelligence as a necessary arm of U.S. policy. This will be followed at 10:15 by a panel on law enforcement and intelligence, featuring CIA General Counsel (and Standing Committee member) Jeffrey Smith, Deputy Assistant Attorney General Mark M. Richard, Associate Deputy Attorney General Michael Vatis, and Deputy Assistant Secretary of State Jonathan Winer. Deputy Attorney General Jamie S. Gorelick, who formerly served as General Counsel to the Department of Defense, will conclude the conference with luncheon remarks.

The conference is open to the public. There is a $20 registration fee, each of the two lunches will cost $20, and Thursday’s dinner will cost $30. For further information, contact Holly McMahon (see box on page 9).
General Counsel Dinner

Nearly every year since the 1980s, the Standing Committee has hosted a dinner honoring the senior legal officers in each of the major national security departments and agencies and from key congressional committees. Among its other benefits, the dinner provides an opportunity for informal, unclassified, off-the-record discussions about emerging national security legal issues that might warrant further attention by a conference, working group, or in some other way. This year’s dinner took place on June 28, at the Army and Navy Club. Twenty-two departments and agencies were represented, as well as the Senate Armed Services Committee, House Committee on International Relations, House Select Committee on Intelligence and the Senate Select Committee on Intelligence.

Standing Committee Chairman
Paul Schott Stevens welcomes
senior legal officers and Commit-
tee members.

Ambassador Richard Schifter
Special Assistant to the Presi-
dent and Counselor, National
Security Council (and ABA
Advisory Committee member)

Don Deline
Counsel, Senate Armed Services
Committee

Judith A. Miller
General Counsel, Department of
Defense

Standing Committee on Law and National Security

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Advisory Committee Chair: Richard E. Friedman

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General Counsel Dinner June 28, 1996

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Edward Knight  
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Steven Rademacher  
Chief Counsel, House Committee on International Relations

Suzanne Spaulding  
General Counsel, Senate Select Committee on Intelligence
General Counsel Dinner - continued

Mary Elizabeth Hoinkes
General Counsel, Arms Control and Disarmament Agency

William T. Coleman III
General Counsel, Department of the Army

Captain Michael Lohr
Senior Deputy Legal Counsel
Office of the Chairman of the Joint Chiefs of Staff

Richard E. Friedman
Chairman, Advisory Committee
ABA Standing Committee on Law and National Security
The National Security Agenda . . .

by Daniel Richard

Intelligence Reform Effort Appears Stalled in Congress—Comprehensive efforts to overhaul the U.S. Intelligence Community after the Aldrich Ames scandal appear to have died in the 104th Congress. Nebraska Democrat Bob Kerry, vice chairman of the Senate Intelligence Committee, has stated that “We will probably get 10 percent of what we started out with.” Reform proposals over the last few years have called for an enhancement of the Central Intelligence Agency by granting the Director of Central Intelligence more authority over budgetary and management matters involving agencies outside the CIA. Moreover, these proposals have recommended that Congress shift several intelligence programs from the Pentagon and put them under the control of the CIA. Pro-defense legislators, however, have resisted efforts to diminish the authority of the Pentagon. Congressional debates have gutted most of these provisions from the intelligence and defense authorization bills and have protected the Defense Department’s ability to manage several intelligence programs. In fact, the Pentagon is set to expand its control in this area by gaining authority over the new National Imagery and Mapping Agency which will consolidate map and satellite imagery analysis into one agency. The final defense and intelligence authorization bills will only include minor reorganization changes and omit many comprehensive changes.

Senate Prepares to Vote on Defense Authorization Bill—After the August recess, the Senate is ready to approve the $265.6 billion defense authorization bill (H.R. 3230). Final passage of this bill in the Senate will send the measure to the White House where President Clinton is expected to sign the bill into law. Contrary to last year’s budgetary battle, many highly political measures have been omitted from this bill or resolved during the legislative process. Republicans hope to seize on several politically-charged defense issues in a series of hearings in September. Topics for these hearings include legislation to limit the president’s authority to deploy troops under U.N. command (H.R. 3308), the status of U.S. troops deployments in Bosnia and a review of the terrorist bombing in Saudi Arabia that killed 19 U.S. soldiers.

Congress Exploring Recent Iran-Turkey Natural Gas Deal—Turkey recently signed a $20 billion natural gas agreement with Iran that will include building a new pipeline between the two countries. According to the deal, Iran is expected to earn between $850 million and $1 billion over the next 23 years. This agreement has received considerable attention in Congress because President Clinton recently signed legislation that would penalize foreign companies who invest in Iran’s petroleum industry. If the Administration discovers that this agreement has violated the Iran-Libya Foreign Oil Sanctions Act, President Clinton would be required to impose sanctions against the Turkish government. Ankara has informed the United States that the recent natural gas agreement does not violate American law because Turkey and Iran signed this agreement before the bill was passed. Turkish officials also argued that this was a trade matter, not an investment agreement, because both countries are responsible for building the pipeline on their territory.