"Historic" First Public Address by Sitting FISA Court Judge

FISA Court Chief Judge Royce Lambeth Discusses Work of Court

Judge Royce C. Lambeth, since 1987 U.S. District Judge for the District of Columbia, addressed the Standing Committee’s breakfast on April 4, 1997 at the University Club in Washington, DC. A former Assistant U.S. Attorney and Chief of the Civil Division of the U.S. Attorney’s Office for the District of Columbia, in 1995 he was appointed by Chief Justice Rehnquist to be the Presiding Judge of the U.S. Foreign Intelligence Surveillance Court, which is charged with reconciling the needs of the United States for foreign intelligence collection with America’s constitutional commitment to individual rights. Excerpts from Judge Lambeth’s remarks follow.—Ed.

It is a great privilege for me to speak to such a distinguished group of individuals, interested in national security issues. I see a lot of old friends here that I haven’t seen in some time.

My remarks today will be historic in at least one sense. I understand that no judge on the Foreign Surveillance Court has ever spoken in public before about the court. I will have to be circumspect about what I say about the court’s operation, as the information we deal with in each case is always classified either Secret or Top Secret for national security reasons. But there are some things I think I can say, and I hope you will find them reassuring.

Continued on page 2

Under Secretary Slocombe Says Nuclear Weapons Still Necessary for Deterrence

The Honorable Walter B. Slocombe, Under Secretary of Defense for Policy, spoke to a Standing Committee breakfast program at the International Center on March 19, 1997. A former Rhodes Scholar, Mr. Slocombe received his undergraduate training at Princeton and earned his law degree at Harvard before clerking for Supreme Court Justice Abe Fortas. The text of his prepared remarks follows.—Ed.

Nuclear deterrence has been the subject of much debate over the decades, and, appropriately, this debate has been resumed after the end of the Cold War. Most recently, the nuclear question has been given prominence by respected individuals and committees who advocate a radical change—setting as a policy goal the complete abolition of nuclear weapons.

Indeed, such calls underscore the continuing American and global interest in a deliberate process to further reduce—and ultimately eliminate—nuclear weapons. The United States has embraced

Continued on page 7
The Foreign Intelligence Surveillance Court

Judge Webster and I talked last month here at the breakfast about his efforts to persuade Congress in 1978, at the request of Griffin Bell, to enact the Foreign Intelligence Surveillance Act and create this court. He told me that he had some misgivings at that time about it all, but he was persuaded by Judge Bell we should go forward and try this. And he came to know over the course of his tenure at the FBI and then at the CIA just how important this step has proven to be.

I would say from my own perspective, I believe geniuses were at work in crafting and enacting this statute. The court has seven judges, appointed by the Chief Justice for seven-year nonrenewable terms. Each has to be from a different circuit, so they are from all around the country. The terms are staggered so that we get one new judge each year. The variety of judges who have now served on the court—Democrats and Republicans, conservatives and liberals, from east and west and north and south, has been a real strength of this court in demonstrating that when we approve a surveillance request there really is a valid national security basis for the surveillance.

Besides the certification of the applicable intelligence agency official, and an affidavit of the investigating agent, we always have the personal approval of the Attorney General as the last stop before the application is presented to us for approval. The political accountability that the Attorney General must personally assume, per each surveillance, is an important safeguard; and we consistently find the applications well scrubbed by the Attorney General and her staff before they are presented to us.

But we then have the investigative agent appear before us, under oath, for questioning, at the time we act on the application. Frankly, those in this room who know me, know that the Chief Justice did not put me on this court because I would be a rubber stamp for whatever the Executive Branch wants to do. I ask questions. I get into the nitty gritty. I know exactly what is going to be done and why. And my questions are answered in every case before I approve an application. I know the same is true of each of my colleagues.

So I bristle at the suggestion, in some quarters, that we are rubber stamps for the Government, because no applications have been formally denied in recent years. Some have been revised, some have been withdrawn and resubmitted with additional information; and the process is, in fact, working.

It is working in part because the Attorney General is conscientiously doing her job, as is her staff. I am personally very proud of what we are doing, and while I can’t go into details, I will give you some examples that are now public.

Recent Cases

We all know about the Aldrich Ames case, of course, and the key role that the Foreign Intelligence Surveillance Court played in his case. ... But in the Ames case, the Attorney General had also authorized physical searches of Ames’ home—not pursuant to a court order, but pursuant to the President’s own inherent constitutional power delegated to the Attorney General.

Those physical searches of Ames’ home turned out to be very productive. Had Mr. Ames gone to trial, that would have been a hotly litigated issue. The President and the Congress reacted very wisely, I believe, by amending the statute to now require that physical searches be authorized by the court itself. The court had authority all along to authorize physical entries to plant eavesdropping devices, but the court had never authorized physical searches for information.

The amendment to the statute became effective just as I was appointed to the court in 1985, and the Attorney General presented to me at that time all physical searches that she had authorized for my review as to continuation. I think each judge on the court has now had the opportunity to rule on one or more physical searches, and many new questions have been presented and resolved to our satisfaction. None of these have yet been litigated by a district court.
BOOK REVIEW

*International News and Foreign Correspondents*  
by Stephen Hess  
Pages: 209  
Price: $26.95

Reviewed by Vivian E. Vahlberg

For those who care about international news and think the rest of the populace should too, the American news media's international coverage disappoints. There is not enough space and time devoted to international stories. Too much coverage focuses on violence, war, and natural disasters. And, as with last year's coverage of the Olympics, too many stories are terribly America-centric, as if the only developments that matter are those that directly, specifically affect the United States.

Stephen Hess documents these and other failings of American news coverage in his new book about international news and foreign correspondents. He acknowledges another reality as well — that readers and viewers do not seem to have much of an appetite for international news, unless there is a war going on that involves American lives or there is a natural disaster. When national news magazines put international news on their covers, sales go down. When newspapers focus on foreign affairs, consultants tell them that they are losing touch with what readers want — local news. As CBS News anchor Dan Rather said a few years ago:

Don't kid yourself, the trend line in American journalism is away from, not toward, increased foreign coverage. Foreign coverage is the most expensive. It requires the most space and the most time because you're dealing with complicated situations which you have to explain a lot. And then there's always somebody around you who says people don't really give a damn about this stuff anyway... if you have to do something foreign, Dan, for heaven's sake, keep it short, will you?

Hess examines the tension between what the news media "ought" to provide and what the public will pay attention to, but he does not answer the pivotal chicken or egg question: would the American media provide better coverage if only people were more interested — or would people be more interested if only the media did a better job? Perhaps that is not an answerable question.

Hess blends his own research with that of other analysts to show what kind of international news diet Americans are getting and why. He provides a fascinating look at the lives and backgrounds of people who cover international news. As in his previous studies of reporters, Hess constructs a statistical arsenal. He surveyed 404 current and 370 former foreign correspondents; analyzed the content of 24,000 news stories; and observed twelve overseas news offices and U.S. news desks. The result is not a gripping story, but it is a fascinating kaleidoscope of statistical snapshots and interpretations which, taken together, provide an overview of the issues and people involved in reporting international news for Americans. The questions Hess addresses are important because public opinion is an increasingly prominent factor in U.S. foreign policy decision-making (although Americans are among the world's least informed citizenries).

Remarking at "how thin is the layer that supports serious foreign reportage," Hess wonders whether "perhaps it is time... to declare the correspondent an endangered species." There are only 1,500 correspondents working for fewer than 50 news organizations. Three-quarters of the largest 100 newspapers have no foreign correspondents or only token representation — and the networks have slashed their foreign news workforces.

Compounding the problem of the public's seeming lack of interest are economic pressures. "Those news organizations that care about foreign coverage pay dearly for their commitment, which, as the Washington Post's Katherine Graham has warned, 'will not bring in a single page of advertising.'" Hess cites one estimate that it costs $300,000 a year to maintain a one person foreign bureau.

Hess is scathing in his assessment of television news. He concludes that, while the quantity of international news on television has not changed much since the 1970s, the quality has eroded. Overseas broadcast news bureaus have been closed down and replaced with less expensive, less experienced freelancers and anonymous independent contractors. He notes several major stories that were reported by independent correspondents and photojournalists whose integrity was later questioned — from the video of a dead American soldier being dragged through the streets of Mogadishu to pictures of the meltdown at Chernobyl. "By the time the tape gets on the air, nobody has the foggiest idea who make it or whether the pictures were staged," said a network executive quoted by Hess.

Another result of network staff reductions is that "crises get covered by parachutists, who know a great deal about covering crises, but not necessarily much about the crisis they are covering. When television foreign news is studied country by country, it becomes evident how little viewers can learn.

*Continued on page 5*
Judge Lamberth . . .
Continued from page 2

It is now public that we have three ongoing major spy cases where criminal charges have been filed, where our surveillance orders can be litigated. Harold Nicholson from the CIA, however, has now pled guilty, as has [Earl] Edwin Pitts from the FBI. Mr. [Robert] Kim, who is accused of spying for South Korea, has not; and so some of these questions may be litigated in his trial this summer.

I have to say with some confidence, however, that every district court that has now reviewed an order of the Foreign Intelligence Surveillance Court in a subsequent criminal prosecution has upheld the action of our court, and I think every Circuit Court of Appeals has now done the same. The Supreme Court has never granted certiorari.

So I say to you, this is a court of which we can be very proud. We add a measure of protection that heretofore did not exist to insure that national security surveillances are conducted for valid reasons, in the best interest of our Nation, and not for some political reason. And I think the independence of Article Three judges, appointed for life, whose only obligation is to do what is right, helps insure that our national security surveillances are properly conducted with appropriate safeguards for all our citizens.

I don’t know how a better system could be devised, and I haven’t heard one proposed by any of our critics. The age of spying is not over, as we see in these cases this year. And the age of terrorism is just dawning, really. The security of our Nation requires the surveillances we are approving, in my view, and I am personally proud to be a part of the process and to be witness to the dedicated and contentious work of FBI, NSA, CIA, and Justice Department officials and agents who are doing a truly outstanding job for our Nation.

The Classified Information Procedures Act

Today, I want to praise one other statute that Congress enacted, in 1980; this one is the Classified Information Procedures Act. As many of you know, as a district judge I tried the third Iran-Contra case that went to trial. Oliver North was the first, John Poindexter was the second. The defendant in my case was Claire George, the Deputy Director for Operations of the CIA.

The defendant was indicted on ten counts, including obstruction of justice, obstruction of Congress, making false statements, perjury to Con- gress, and perjury to a grand jury. I was determined to prove that I could make this CIPA statute work, so that the days of “graymail” would be over forever; and we could bring to trial and hold accountable our Nation’s own top spy—the DDO, the person who knew virtually every deepest, darkest, secret our country had, and who could argue that he needed to use each in his own defense.

Over the course of 1991 and 1992, I had lengthy CIPA proceedings. They resulted in my issuing fifty-two pretrial opinions and orders. Most were classified secret or top secret when they were issued, but all were eventually declassified and all are now on the public record, with only a few minimal redactions of words or phrases or sometimes footnotes.

I charted a course for how to decide what’s relevant to the defendant, how the Government could prepare substitutions that would adequately protect the defendant, how the defendant and his counsel could participate in the process, and a whole host of issues which had never been decided in written opinion. Almost all of the courts opinions in the North and Poindexter trials had been oral bench rulings.

Admittedly, I thought all of this body of law that I created would be reviewed by the D.C. Circuit if there was a conviction. The first three-month trial resulted in a hung jury. The second three-month trial ended on December 9th, 1992, with a jury verdict of guilty on perjury and various other charges. I felt satisfied that I had proven our legal system was now up to the task of trying anyone, for any crime—even when truly sensitive national security issues were surrounding the court at every step. President Bush’s pardon of Mr. George on Christmas Eve, 1992—along with Secretary Weinberger and others—was a surprise to me. It was a mixed blessing to me, actually; on the one hand, it somewhat muted my effort to prove the legal system could work to hold accountable anyone who lies to Congress and obstructs justice, but it also assured that my fifty-two opinions and orders could never be reversed by the D.C. Circuit. [Laughter] So I breathed a sigh of relief.

Frankly, I did not look forward to sentencing the defendant anyway. I view perjury and obstruction as such serious offenses that they would almost never warrant a sentence of probation. At the same time, there was no doubt in my mind that Mr. George had done what he did only for what he thought sincerely was the best interest of the national security of this country. He was never even alleged to have done anything for personal gain. So, as I say,
I have very mixed feelings about President Bush's pardon.

**The Rezak Case**

There is one other case I want to mention briefly before I take questions, because it is now pending in the D.C. Circuit. That is the case of *United States v. I'Omar Mohammed Ali Rezak*, who was tried and convicted in my court last summer for air piracy—resulting from his hijacking of an Egypt Air plane in 1985 which was forced down in Malta.

After giving up their passports, all of the Americans and Israelis on board were taken to the front of the plane, shot, and thrown onto the tarmac. Egyptian commandos then stormed the plane, resulting in 57 deaths—the bloodiest hijacking in their history.

Rezak was released by Malta after serving only seven years, and the United States was able to get custody of him on July 15, 1993, when he was flown direct to Dulles Airport and arraigned before me the next morning.

It turned out that we had extensive CIPA hearings because of information derived from sensitive intelligence sources and methods. Contrary to the *George* case, where the defendant had every secret and security clearance imaginable, in the *Rezak* case the defendant was never going to be cleared to participate in any kind of CIPA hearing, obviously. So virtually everything I did there under CIPA was done *ex parte*.

Again, everything was done on the record with a court reporter present, and again I issued a number of written classified opinions. However, those are still currently classified either Secret or Top Secret. All are now lodged with the Court of Appeals, and I think in the near future we will get some further guidance from the Court of Appeals as to whether I'm doing this right. I sentenced Rezak to life in prison, so it is unlikely it is going to become moot. I have my fingers crossed about the next decision of the D.C. Circuit.

**Judicial Activism**

Lest I lose all of my credibility by standing here and actually praising Congress for these two statutes (laughter), something judges are not wont to do; please allow me to say that I have struck down as unconstitutional more than my share of statutes.

Indeed, I had only been on the bench about a year when I struck down something called the Armstrong Amendment. Among the calls in the *Washington Post* the next day for my impeachment, my own congressman was quoted as saying it was the worst example of "judicial activism" he had seen in twenty-two years in Congress. I thought that was a *little* excessive (laughter), so I am tempted to say I was not terribly upset when he was defeated for reelection the next year—but I won't say that, for fear it would be considered an improper political comment by a judge. (Laughter) (I *knew* I'd get it trouble today.)

Seriously, though, I did take some pleasure in that case when I was actually affirmed by the D.C. Circuit in striking down that statute. Even though I was affirmed, I *still* think I'm right. (Laughter)

I did look around and make sure no D.C. Circuit judges were around before I started to speak today.

Thanks for letting me share these thoughts with you. I have tried to speak plainly—probably too plainly—and I guess we'll find out in the next few days how much trouble I got in.

---

**Book Review—International News**

*Continued from page 3*

about any of them. Instead, they see a lot of free-floating combat coverage... CNN would appear to be the exception, but its reporting only seems more substantial because it goes on forever... The news on CNN has the same focus and limitations as the other networks," Hess writes.

Not only does television focus excessively on the violent story, but "TV's tales are usually gratuitous; they tell us where and how, rarely why." Hess concludes that television news stories are "too episodic, too lacking in context to provide coherent information."

While Hess criticizes the networks for being unwilling to pay the steep costs for foreign coverage, he faults newspapers for ignoring large amounts of international reporting they have already paid for. He found that newspapers regularly purchase a wealth of foreign stories from Associated Press and a variety of supplemental news services, but they use few of them (and half of what they do run are news briefs, stories shorter than 150 words). "The reason for the lack of international news in the papers is indifference, not economics," according to Hess. "Many so-called gatekeepers, the editors receiving the wire services' transmissions, obviously view foreign news as filler."

He suggests that one reason midsize newspapers are indifferent to foreign news is that their wire editors have limited international experience.

*Continued on page 6*
Book Review—International News...
Continued from page 5

Hess believes that U.S. media coverage produces a distorted picture. In the seven years his study encompasses, networks covered only 6 countries regularly; 22 because of crises, and another 77 occasionally. Most countries were ignored. Hess observes:

Comparing coverage to population size, the media grossly undercovers Asia and overcovers the Middle East and eastern and western Europe. Newspapers do better than television in providing proportional coverage. They report on more countries (144 compared to television’s 79 during a two-year period) and on a fuller range of topics (including economics, culture, human interest, science, and sports). Networks concentrate largely on combat, human rights, and government.

Networks give “pre-assigned roles” to some countries. If the country is Columbia, the story must be drugs. If it’s Italy, it’s the Mafia. Germany, neo-Nazi; Japan, commerce.

The biggest disparity is in the Middle East, which has 5% of the world’s population, 3% of its gross domestic product, but which receives 35% of network foreign coverage. Hess cites numerous reasons why Israel, in particular, is “so teleogenic.” Israel is a democracy. Sound bites are easy because lots of people speak English. There is a vigorous local press that helps the foreign press corps know what to look for. The government provides frequent briefings and news releases. Given the extensive political, economic, and social links, stories about Israel are also about the United States. Yet, the main factor that “keeps the cameras in Israel is conflict . . . Israel has been in crisis since its founding.”

Looking ahead, Hess worries that we are increasingly becoming “one nation and two media societies.” He explains that “one society is awash in specialized information, available to those who have the time, interest, money, and education to take advantage of it. The other society encompasses the vast majority of Americans, who devote limited attention to subjects so far removed from their necessary concerns.” Hess worries that if the majority of Americans are content with the inadequate fare provided by the major media, news executives will have justification for the retreat from foreign coverage. Hess argues that this would amount to “an abdication of the social responsibility that theoretically makes the news business different from the fast food or automobile industries.” Hess recognizes that “the constitutional and legal preterments of the press are not based on good behavior,” but he asks the news bosses, who still “take selective responsibility for publishing other

matters they think are in their readers’ best interests . . . why not more international news?”

For those interested in the human side of foreign correspondent, the book is filled with interesting vignettes and statistical patterns. Among Hess’ findings:

Today’s foreign correspondents have more prestigious educational backgrounds than other journalists.

Although they tend to be better educated, today’s foreign correspondents share one characteristic with their predecessors, many spent extended periods abroad in their youth.

Most foreign correspondents have an aptitude for foreign languages. Two-thirds are able to conduct interviews in the local language, and thus do not have to rely on filtered information. Hess notes, however, that fluency is not always possible. One journalist he mentions covered a region where 130 different native languages are spoken.

44% of foreign correspondents posted abroad in the 1990s were married to journalists — an exponential increase. The result is a crazy-quilt of arrangements. One paper paid $25,000 a single annual salary to a husband and wife team of journalists. Sometimes spouses have no choice but to free-lance for foreign news organizations because they are barred from working for either the same news organization as their spouse or for a competitor.

Vivian E. Vahlberg, director of journalism programs for the Robert R. McCormick Tribune Foundation, was formerly Washington correspondent for three daily newspapers, president of the National Press Club, and executive director of the Society of Professional Journalists.

Calendar of Events

ABA Annual Meeting • San Francisco

August 2—12:00 Noon. Standing Committee will cosponsor 1997 CEELI Award Ceremony, honoring Latvian President Guntis Ulmanis, keynote address by Justice Sandra Day O’Conner. San Francisco Hilton, Continental Ballroom, tickets $40, reservations required. For information, call 1-800-98CEELI.

August 3—3:00-4:30 PM, Standing Committee Presidential Showcase on “Strategy of Sanc-
tions,” San Francisco Westin Hotel, Elizabethan Room, featuring Stewart Baker, Richard Friedman, Elizabeth Rindskopf, and others. For information contact Holly McMahon (see box on page 9).
Under Secretary Slocombe . . .

Continued from page 1

this commitment for many years. When the Nuclear Nonproliferation Treaty was signed in 1968, we signed on to Article VI of the NPT, which calls for the Parties to undertake "to pursue negotiations in good faith relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control." In 1995, when the NPT was indefinitely extended, we reiterated this pledge to work toward the complete elimination of nuclear weapons in the context of general and complete disarmament. President Clinton, in a speech to the United Nations this past September, said he looks forward to a new century "in which the roles and risks of nuclear weapons can be further reduced, and ultimately eliminated."

The United States has made remarkable progress in fulfilling our NPT Article VI commitment. The nuclear arms race has, in fact, been halted. The United States has been reducing its nuclear stockpile in a consistent fashion through both its unilateral and bilateral initiatives. For example, the 1987 Treaty on Intermediate-Range Nuclear Forces eliminated an entire category of U.S. and Russian nuclear weapons. In 1991 we and our NATO allies decided to retire all nuclear artillery shells, all nuclear warheads for short-range ballistic missiles, and all naval nuclear anti-submarine warfare weapons. None of these weapons is deployed today, and the majority of them have been destroyed.

Over the past four years, the Clinton Administration has worked hard to secure detargeting of U.S. and Russian strategic missiles; the entry into force of the START I Treaty; the complete denuclearization of Ukraine, Belarus and Kazakhstan; the indefinite extension of the NPT; Senate ratification of Start II; and negotiation of the Comprehensive Nuclear Test Ban Treaty. And we have made clear that, once Start II enters into force, we are prepared to work on further reductions in strategic nuclear arms as well as limiting and monitoring nuclear warheads and materials. Thus, lifting the threat of nuclear weapons destruction and limiting their spread has been and remains at the top of President Clinton's foreign policy agenda.

However, we are not yet at the point where we can eliminate our nuclear weapons. For the foreseeable future, we will continue to need a reliable and flexible nuclear deterrent—survivable against the most aggressive attack, under highly confident constitutional command and control, and assured in its safety against both accident and unauthorized use.

We will need such a force because nuclear deterrence—far from being made wholly obsolete—remains an essential ultimate assurance against the gravest of threats. A key conclusion of the Administration's National Security Strategy is that "the United States will retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against our vital interests and to convince it that seeking a nuclear advantage would be futile.

Therefore, we will continue to maintain nuclear forces of sufficient size and capability to hold at risk a broad range of assets valued by such political and military leaders."

To summarize the argument I will develop in more detail:

- We have already made dramatic steps in reducing U.S., Russian, and other, nuclear arsenals and potentials. We have also taken important steps to ensure safety, security—and non-diversion.

- We can and should do more on both the reduction and safety/security fronts.

- Nonetheless, nuclear weapons remain essential to deter against the gravest threats, actual and foreseeable.

- Abolition, if understood as a near-term policy, rather than, as President Clinton has stated, an ultimate goal, is not a wise and surely not a feasible focus of policy.

Continued on page 8
Under Secretary Slocombe . . .
Continued from page 7

- Therefore, assuring the reliability of our nuclear forces and the nuclear stockpile remains a high national security priority.

Let me turn to the rationale behind our nuclear forces, how and why we have been able to reduce our dependence on them in recent years, and then address why abolition in the near future is not a good idea. I should note that while there is a good deal that cannot be said in an unclassified session, the broad outlines of our nuclear policies have been available for years.

Nuclear Deterrence: The Cold War Experience

Because the past has lessons for the future, let me review briefly how our nuclear forces have strengthened our security. First, they provided a principal means by which the United States deterred conventional and nuclear aggression by the Soviet Union and Warsaw Pact against itself and its allies. Second, the extension of the U.S. nuclear umbrella allowed many of our allies to forego their own nuclear weapons, even though they had the technological know-how to develop them. Third, although the East-West competition spilled over into numerous regional conflicts during the Cold War, the nuclear capabilities possessed by the superpowers instilled caution, lest the United States and the Soviet Union be brought into direct, and possibly nuclear, confrontation.

It is a remarkable fact that for almost half a century, the United States and its allies faced the USSR and its coerced auxiliaries in a division over ideology, power, culture, and the very definition of man, the state, and the world—and did so armed to the greatest extent huge sacrifice would afford—and yet did not fight a large-scale war. No one can say for sure why that success was achieved for long enough for Communism to collapse of its own internal weakness. But can anyone really doubt that nuclear weapons had a role?

Some argued, even in the Cold War, that the danger of a nuclear holocaust was so great that the risk of possessing these weapons far outweighed their benefits. I do not agree. Nuclear deterrence helped buy us time, time for internal forces of upheaval and decay to rend the Soviet Union and the Warsaw Pact and bring about the end of the Cold War.

The U.S. Nuclear Deterrent has been Transformed in the Post-Cold War Period

But the Cold War is over, and it is important to recognize the great degree to which our nuclear deterrent and indeed that of Russia has been transformed from that period. The role of nuclear weapons in our defense posture has diminished—we welcome this trend and expect it will continue in the future. United States spending on strategic forces has declined dramatically from Cold War levels—from 24% of the total DoD budget in the mid-1960s, to 7% in 1991, to less than 3% today. Moreover, we currently have no procurement programs for a next generation bomber, ICBM, SLBM or strategic submarine. The programs we do have are designed to sustain the effectiveness, safety and reliability of remaining forces, and to ensure the continued high quality of our people.

Russian spending on strategic forces has also declined substantially. The Russian Federation has some strategic systems under development—for example, a new single warhead ICBM (the SS-X-27) and a new strategic ballistic missile submarine but these programs are fewer in number (and their development pace slower) than at the height of the Cold War. These systems will replace deployed systems that will reach the end of their service lives over the next decade, or that would be eliminated under START I.

Stabilizing agreed reductions in nuclear forces have been, and continue to be, a primary objective of the United States. The United States and Russia have taken great strides in this regard in recent years. START I will reduce each side’s deployed strategic weapons from well over 10,000 to 6,000 accountable weapons. Russia, like the United States, is actually somewhat ahead of schedule in meeting the START I reduction requirements. START II, when it is ratified by the Russian Duma and enters into force, will further reduce to 3000-3500 each side’s weapons. Following START II’s entry into force, we are prepared to engage in negotiations further reducing strategic nuclear forces.

Meanwhile, the United States has unilaterally reduced its non-strategic nuclear weapons (NSNF) to one-tenth of Cold War levels. While Russia pledged in 1991 to make significant cuts in its non-strategic nuclear forces and has reduced its operational NSNF substantially, it has made far less progress thus far than the United States, and the Russian non-strategic arsenal (deployed and stockpiled) is probably about ten times as large as ours.

In addition to START reductions, there have been
qualitative changes in our nuclear arsenal. There used to be nuclear land-mines, artillery, infantry weapons, surface-to-surface missiles, surface-to-air weapons, air-to-air weapons, depth-charges, and torpedoes; all these have gone. In 1991 and 1992, the United States unilaterally eliminated several nuclear weapons systems (e.g., Lance, FB-111, SRAM-A), halted a number of planned or on-going development programs (e.g., Small ICBM, Peacekeeper Rail Garrison, Lance Follow-on), took nuclear bombers off alert, and removed from alert, well ahead of the required schedule, those ICBMs and strategic missile submarines planned for elimination under START I. In 1994, further reflecting the changed international situation, the United States and Russia agreed to no longer target their ballistic missiles against each other on a day-to-day basis.

Nor is the non-proliferation picture all bleak. No nation has openly joined the nuclear club since China in 1964. There are only three unacknowledged nuclear powers. South Africa has abandoned its capability, as Ukraine, Belarus and Kazakhstan have theirs. Argentina and Brazil have renounced the option, as Sweden and Canada did long ago. North Korea’s program is frozen. Iraq is under a special and highly intrusive UNSCOM regime. The vast majority of countries support a permanent Non-Proliferation Treaty—mostly a benefit which non-nuclear countries confer on one another, not a favor they do for the nuclear powers. We have negotiated an end to nuclear testing.

Why Nuclear Deterrence?

The question, however, is highly asked: Granted all these reductions, with the end of the Cold War, why do we continue to maintain a nuclear deterrent at all?

In September 1994, the Clinton Administration answered this question in its Nuclear Posture Review, the first comprehensive post-Cold War review of U.S. nuclear policy. The NPR recognized that, with the dissolution of the Warsaw Pact, the demise of the Soviet Union, and the embarkation of Russia on the road to democracy and a free market economy, the strategic environment has been transformed. Conventional forces, therefore, could and should assume a larger share of the deterrent role. We concluded, nonetheless, that nuclear weapons continue to play a critical role in deterring aggression against the United States, its overseas forces, its allies and friends. This conclusion is entirely consistent with NATO’s Strategic Concept, adopted in 1991 after the end of the Cold War, which states that the fundamental purpose of NATO’s nuclear forces is “to preserve peace and prevent coercion and any kind of war” and that “nuclear weapons make a unique contribution in rendering the risks of aggression incalculable and unacceptable.”

Why did we reach this conclusion? Most importantly, because the positive changes in the international environment are far from irreversible.

There are broadly, two classes of threats to which nuclear weapons remain important as deterrents.

First, Russia has made great progress and we do not regard it as a potential military threat under its present, or any reasonably foreseeable government. We wisely invest substantially in the Cooperative Threat Reduction program, in future arms control—and we share with the current Russian leadership (and most of their opponents) a determination not to let our relations return to a state of

Continued on page 10
Under Secretary Slocombe . . .

Continued from page 9

hostility in which these weapons would be a threat.

All that said, Russia continues to possess substantial strategic forces and an even larger stockpile of tactical nuclear weapons. And because of deterioration in its conventional military capabilities, Russia may be placing even more importance and reliance on its nuclear forces. We cannot be so certain of future Russian politics as to ignore the possibility that we would need again to deter the Russian nuclear force.

Accordingly, with respect to Russia, our nuclear policy is what has been called "leading" toward further reductions and increased weapons safety and "hedging" against the reversal of reform in Russia. We do not believe that reversal is likely, and we are working to manage the risk. Nonetheless, we still feel it is prudent to provide a hedge against it happening.

Second, even if we could ignore the Russian nuclear arsenal entirely, there are unfortunately a range of other potential threats to which nuclear weapons are a deterrent. One cannot survey the list of rogue states with potential WMD programs and conclude otherwise. I do not, by the way, regard such states as undeterred, either in the long-run sense of the incentives to acquire WMD capability, or the short-run sense of incentives to use such a capability. Indeed, the knowledge that the United States has a powerful and ready nuclear capability is, I believe, a significant deterrent to proliferators to even contemplate the use of WMD. Of course, nuclear weapons are only part of the range of capabilities by which we deter and defend against threats of WMD. Passive defenses, diplomatic efforts, active air, cruise and ballistic missile defense and a powerful and precise conventional capability all have key roles to play. But nuclear weapons also play a part. That this is so will, I think, be clear if one thinks about the proliferation incentives that would be presented to the Kaddafis and Kim-Chong-Ils of the world if the United States did not have a reliable and flexible nuclear capability.

In view of this, it would be irresponsible to dismantle the well-established—and much reduced—system of nuclear deterrence before new and reliable systems for preserving stability are in place.

Argument: Our Weapons Cause Others to Seek Their Own.

What about the argument that our weapons promote proliferation, that states seek to acquire nuclear weapons in response to possession by nuclear weapons states? A more compelling case to me is that proliferant states acquire nuclear weapons not because we have them but for reasons of their own—to counter regional adversaries, to further regional ambitions, and to enhance their status among their neighbors. And, insofar as our nuclear capability is an issue, if a successful proliferator knew he would not face a nuclear response by the United States, it would scarcely reduce his incentives to acquire a WMD capability. The incentives to proliferate would hardly be reduced if a rogue state would, through a successful nuclear weapons program, acquire a nuclear monopoly, not a token capability facing far stronger forces possessed by the United States and other world powers.

Some people claim that once proliferation does occur, U.S. nuclear forces lack any utility in deterring rogue leaders from using nuclear weapons because those leaders will not regard the costs, even of nuclear retaliation, as sufficiently great. But experience suggests that few dictators are indifferent to the preservation of key instruments of state controls, or to the survival of their own regimes (or, indeed, their own persons). Thus, I believe the reverse is true—our nuclear capabilities are more likely to give pause to potential rogue proliferants than encourage them.

The important role of U.S. nuclear capability in preventing the spread of nuclear weapons often goes unnoticed. The extension of a credible U.S. nuclear deterrent to allies has been an important nonproliferation tool. It has removed incentives for key allies, in a still dangerous world, to develop and deploy their own nuclear forces, as many are technically capable of doing. Indeed, our strong security relationships have probably played as great a role in nonproliferation over the past 40 years as has the NPT.

Argument: Nuclear Weapons Should Be Eliminated Because They are Dangerous and Unsafe.

Of course, nuclear weapons are dangerous; they contain high explosives and fissile material. But they are not unsafe in the sense that they are susceptible to accidental or unauthorized use. Our nuclear weapons meet the highest standards of safety, security, and responsible custodianship. Moreover, we place high priority on maintaining and improving stockpile safety. Our nuclear safety record is extraordinary. Although a few accidents involving nuclear weapons have occurred, no accident has ever resulted in a nuclear detonation and
the last accident of any kind was almost twenty years ago.

We believe the likelihood of accidents has been dramatically reduced since the end of the Cold War. Our strategic bombers are no longer on alert; our surface ships and attack submarines no longer carry nuclear weapons. The Army and Marines have eliminated their nuclear weapons. Older weapons with less modern safety features have been removed from the stockpile. Technical safety mechanisms have been improved. Detargeting means that the missiles, even if somehow launched in error, would no longer be aimed at targets in Russia. The number of nuclear weapon storage sites have been decreased by 75% and weapons consolidated. As a result of all these changes our weapons are much less exposed to accident environments.

In addition, nuclear weapons security has been a key element of DoD’s Cooperative Threat Reduction Program with Russia from the beginning. A total of up to $101 million in CTR assistance has been made available under these CTR agreements for projects to enhance security of nuclear weapons under MoD control. In addition to agreements already signed on armored blankets and security upgrades to nuclear weapons railcars, other nuclear weapons transportation and storage security projects are underway or being developed.

On balance, the safety risks of maintaining a smaller nuclear arsenal are far outweighed by the security—and non-proliferation—benefits that we continue to derive from nuclear deterrence.

The Bottom Line on Abolition

I would summarize the case for retaining nuclear weapons for the foreseeable future as follows:

• There is no reasonable prospect that all the declared and de facto nuclear powers will agree in the near term to give up all their nuclear weapons. And as long as one such state refuses to do so, it will be necessary for us to retain a nuclear force of our own.

• If the nuclear powers were, nevertheless, to accept abolition, then we would require—and the Congress would rightly demand—a verification regime of extraordinary rigor and intrusiveness. This would have to go far beyond any currently in existence or even under contemplation. It would have to include not merely a system of verification, but what the “international generals statement” calls “an agreed procedure for forcible international interven-

We Need to Maintain Safe and Reliable Nuclear Weapons Stockpile

Because nuclear deterrence is to remain part of our national security policy for the foreseeable future, the U.S. nuclear deterrent must remain credible—weapon systems must be effective and their warheads safe and reliable. The quality, reliability, and effectiveness of the forces themselves (including their communication and command systems) and the people who operate them, is one of our top priorities in DoD. With respect to the nuclear devices themselves, DoE has an aggressive, well-funded, program designed to ensure our weapons remain safe and reliable in the absence of nuclear testing. The Department of Defense fully supports this program. Today, we have high confidence in the safety and reliability of our nuclear deterrent force; the stockpile stewardship and management program is designed to provide the tools to assure this in the future.

Conclusions

Our objective is a safe, stable world. But we must develop our national security policy with the understanding that nuclear weapons and the underlying

Continued on page 12
The National Security Agenda . . .

Business Executives Call for Biological Weapons Strategy—The group Business Executives for National Security (BENS) has called for a comprehensive strategy to counter the threat posed by biological weapons. Retired Air Force Lt. Gen. Thomas G. McInerney, President and CEO of BENS, observed that such weapons “are hard to detect, easy to produce and can be as devastating as nuclear weapons.” For further information and a copy of the BENS publication, *Assessing the Biological Weapons Threat*, contact Zachary Selden at (202) 296-2125.

Editor Disavows Stories Alleging CIA Drug Conspiracy—The *San Jose Mercury News* published a front-page column on May 11th by Editor Jerry Ceppos, declaring that a controversial series of articles published last August—alleging that the CIA had sold crack cocaine in Los Angeles to obtain funds for the Nicaraguan *Contras*—“fell short at every step of our process . . . .” The series had previously been the subject of independent detailed inquiries by the *Los Angeles Times*, the *Washington Post*, and the *New York Times*—all of which concluded that the allegations were unfounded; and the *American Journalism Review* had termed the incident “another dark day for journalism,” according to the *Washington Post* (May 13). The *Post* reported that at a “packed” *Mercury News* staff meeting shortly before the disavowal was published, “numerous staff members assailed the series” and asked why the paper still employed the series’ writer.

Nonproliferation Center Warns of Russian Rocket Exports—The Nonproliferation Policy Education Center (202) 466-4406 in Washington, DC, reports that Russia continues to violate the Missile Technology Control Regime which it agreed to uphold in June 1990. Among other examples, the Center mentioned the seizure by Jordan last November of 30 cranes containing 115 Russian-made gyroscopes (from dismantled Soviet ICBMs) destined for the Iraqi missile development center in Karame, which also violated the UN Security Council ban on military trade with Iraq. Earlier this year, according to the Center and various press accounts, Russia sold Iran the means to produce an SS-4 missile capable of delivering a 2,000-kilo (4,400-pound) warhead to a distance of 1,250 miles. This range would bring all of Saudi Arabia and Israel within range of Iran; but the most frightening aspect of the transaction is that the SS-4 is so inaccurate that it is only considered useful for delivering nuclear or biological payloads.

Scheffer Nominated Ambassador-at-Large for War Crimes—On May 20, President Clinton announced his intention to nominate David J. Scheffer, who currently serves as Senior Adviser to the Secretary of State and formerly was Senior Associate at the Carnegie Endowment for International Peace, as Ambassador at Large for War Crimes Issues.  

Under Secretary Slocombe . . .

*Continued from page 11*

Technical knowledge cannot be disinvented whether or not the United States retains its weapons. In this connection, the United States will continue to lead the way to a safer world through the deep reductions in nuclear forces undertaken in START and through Nunn-Lugar cooperative threat reduction and other actions. At the same time, we will maintain a smaller nuclear force as a “hedge” against a future that is uncertain and in which substantial nuclear arsenals remain.

Successive U.S. administrations have embraced the objective of nuclear disarmament as our ultimate goal. Two years ago at the NPT Review and Extension Conference, the U.S. reaffirmed its commitment to this goal in the Conference’s statement of principles and objectives. In an uncertain world, however, the path to this goal is not clearly marked. What is clear is that the ultimate goal will be reached only through realistic moves forward, as genuine security permits, with each step building on those before it.

We will continue to strive to make the world a safer place for our children and grandchildren. In this regard, the United States is committed to Article VI of the NPT which calls for the complete elimination of nuclear weapons in the context of general and complete disarmament. Until these conditions are realized, however, I believe that nuclear weapons will continue to fulfill an essential role in meeting our deterrence requirements and assuring our nonproliferation objectives.

Thank you.