General Barry R. McCaffrey Discusses Drug Policy

by William E. Conner

The Standing Committee was privileged to have the Director of the Office of National Drug Control Policy (ONDCP), General Barry R. McCaffrey, USA, Ret., address its April 28, 1998 breakfast meeting at the Army-Navy Club in Washington, D.C. During his Army career, General McCaffrey served a total of four combat tours of duty, two in Vietnam, one in the Dominican Republic, and one in Iraq. General McCaffrey has twice earned the Distinguished Service Cross, the nation's second highest award for valor, and the Silver Star, the third highest award for valor, twice as well. He later served as an assistant to General Colin Powell, the Chairman of the Joint Chiefs of Staff (JCS), as Director for Strategic Plans and Policy on the JCS, and as the principle JCS Staff Advisor to both the Secretary of State and the United States Ambassador to the United Nations. At his retirement, General McCaffrey was the youngest and most highly decorated four star General in the United States Army. General McCaffrey graduated from the United States Military Academy at West Point, holds a Master of Arts Degree in Civil Government from American University. General McCaffrey was confirmed as Director of the ONDCP, a full member of the President's Cabinet, by a unanimous vote of the U.S. Senate on February 29, 1996.

Former Central Intelligence Agency General Counsel, Elizabeth Rindskopf, opened the event by welcoming the assembled guests and then broke with tradition and invited ABA President Jerry Shestack to introduce General McCaffrey. Mr. Shestack, in his brief remarks, reaffirmed the ABA's

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JCS Chairman General Henry H. Shelton Addresses June Breakfast

by William E. Conner

General Henry H. Shelton, Chairman of the Joint Chiefs of Staff, addressed the Standing Committee's June 5, 1998 breakfast at the University Club in Washington, DC. The immediate past Chairman of the Standing Committee, John Shenefield, opened the event by thanking departing Standing Committee Chairman, Paul Schott Stevens, for his exemplary service and wished him luck as he moves on to a new position in San Francisco. Mr. Stevens then took the opportunity to thank several key members who had made significant contributions to the committee, including General E. E. Anderson, USA, Ret., Bob Davis, Suzanne Spaulding, Elizabeth Rindskopf, Jeff Smith, Dan Richard, Pam Jimenez, Will Curtis, and finally, his two predecessors as Chairman, Bob Turner and John Shenefield.

In his introduction, Mr. Stevens briefly reviewed the Chairman's service in the United States Army. General Shelton was commissioned a Second Lieu-

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tenant in the United States Army in September 1963 and served in a series of infantry command positions until July, 1965, at which time he left the regular Army but remained in the Army Reserve. Returning to active duty in September 1966, the Chairman served as a Platoon Leader with the 5th Special Forces Group in Vietnam. After his return, the Chairman served in another series of command and staff positions with the Special Forces as well as with several infantry training schools. Returning to Vietnam in January 1969, the Chairman served as a Company Commander with the 173rd Airborne Brigade. Later, he attended the Army’s Infantry Officer Advanced Course, the Air Command and Staff College, and the National War College. He also served in a series of positions which included command of an infantry battalion in the 9th Infantry Division, command of the 1st Brigade of the 82nd Airborne Division, and later as Commanding General of the 82nd Airborne Division itself. From June 1993 to February 1996, the Chairman served as the Commanding General of the XVIII Airborne Corps at Fort Bragg, North Carolina, and before assuming his present duties, was Commander-in-Chief of the United States Special Operations Command at McDill Air Force Base in Florida. The Chairman’s awards include the Defense Distinguished Service Medal (with Oak Leaf Cluster), the Distinguished Service Medal, the Legion of Merit (with Oak Leaf Cluster), the Bronze Star Medal with “V” Device, the Bronze Star Medal (with 3 Oak Leaf Clusters), the Purple Heart, the Meritorious Service Medal (with 2 Oak Leaf Clusters), numerous Air Medals, the Army Commendation Medal (with 3 Oak Leaf Clusters), the Combat Infantryman Badge, Master Parachutist Badge, Pathfinder Badge, Special Forces Tab, Ranger Tab, Air Assault Badge, and the Joint Chiefs of Staff Identification Badge. The topic of the Chairman’s address was the current state of military affairs and operations.

After thanking Mr. Stevens for the introduction and analogizing his being in a room full of lawyers to that of a Christian thrown to the lions, the Chairman acknowledged his own Legal Advisor, Captain Mike Lohr, USN, and thanked him for his service. The Chairman then addressed the Committee and guests directly. The following is a copy of the Chairman’s prepared remarks:

Back during the Civil War, Major General John Pope remarked that, “The well being of the people, equally, with the well being of the Army, requires a common sympathy and a common interest between them.” And as I had the opportunity to tell a group of your colleagues in New York two weeks ago, it seems to me that no factor has affected the well being of our people, or our armed forces, more than our common respect for the law. It is the glue that cements the bond between our Armed Forces and our civilians.

The roots of the military’s respect for the law run deep, back to the very beginning of our nation. Even today, as most of you know, following a tradition established in the early days of the Republic, we require new recruits to raise their right hand and swear allegiance to the Constitution of the United States, the supreme law of the land, before we ever allow them to put on the uniform of our country. And this tradition of respect for the law is carried by our service members into every country they visit and is integrated into every operation, every contingency, and every crisis they face.

This morning as we are having breakfast, more than 100,000 troops are deployed away from home, conducting major training exercises or participating in real world operations in scores of countries around the world, some of which you have heard of and others that would send you scrambling for an atlas. It is the operation in Bosnia that gets most of the publicity, but U.S. servicemen and women are deployed throughout the world, in places as diverse as Macedonia, Southwest Asia, Haiti, the Western Sahara, Georgia, South America, and the Sinai, where we have had 1,000 troops rotating every six months since 1982!

On any given day, our armed forces are performing missions that cover a wide spectrum, from forward presence and humanitarian assistance, to peace keeping and evacuation of U.S. nationals from threatened areas. These new challenges re-

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BOOK REVIEW
The Pacific War and the Origins of Modern Intelligence

*Combined Fleet Decoded: The Secret History of American Intelligence and the Japanese Navy in World War II*

by John Prados
ISBN: 0679437010
Pages: 832 Price: $37.50

Reviewed by Patrick L. Moore

It is surprisingly difficult to write a review of a classic. Without putting too fine a gloss on it, *Combined Fleet Decoded* ("CFD") should be considered as to intelligence work what Thucydides’ *The Peloponnesian War* is to national naval strategy—quite simply, the epitome of its kind. In it, John Prados shows how modern strategic intelligence practice and theory came of age in World War II and did so primarily in the Pacific. In terms of scope and depth of analysis, along with sheer drama and gut level operational practicality, it belongs on the shelf between Peter Hopkirk’s *The Great Game* and Adda Bozeman’s *Strategic Intelligence and Statecraft*.

CFD tells the story of the most crucial military rivalry in the history of the world, that between U.S. Navy Intelligence and the Imperial Japanese Navy in the Pacific War. While conventional conceptions of the history of World War II seem to see only a European campaign rounded at the beginning by the invasion of Poland and at the end by the bombing of Hiroshima and Nagasaki (with a couple of John Wayne movies in between), in actuality it was the Pacific War which was by far and away “America’s” war. Europe was obviously the heavyweight bout, but the war in the Pacific was our own particular war. The Pacific War, in American strategic culture is our “Odyssey”, while Europe was our “Iliad.” The war in Europe was Elliot Ness versus the Mafia while the Pacific was a fight between the Texans and the Comanches and culturally much more up close and personal. Japan had been planning for yogeki zegen sakusen (an offensive/defense strategy of interceptive operations) leading to a “Decisive Battle” since 1907 and America had been anticipating the struggle since 1906 with its War Plan Orange.

In any event, it cannot be denied that, absent the heroic stand at Bataan, and then the victories at Coral Sea, Midway and Guadalcanal, the D-Day landings would have been drastically delayed and the European air offensive might never have gotten off the ground. What is insufficiently appreciated is that what made the early American shoestring counter-offensive against Japan and the eventual turnaround of the war in the South Pacific possible was the vastly superior intelligence methods and organization brought to bear with typical American zeal, teamwork, ingenuity and know-how by the U.S. Navy. It was an effort which the pseudo-modern military culture of Japan at the time could not even conceive of. For example, Japan never produced ship recognition models or aircraft identification flashcards—simple but indispensable training aids without which no naval air force could expect to fight a consistently proficient war. Also, it wasn’t until April of 1945 that the Japanese Combined Fleet began to share intelligence materials with the Imperial Japanese Army (while the U.S. Navy and Army worked hand in hand, even if they didn’t like it, from the inception of the war).

Without those crucial, early lynchpin victories in the Pacific, America would doubtless have focused ever greater attention on the conflict with Japan at the expense of the Allied strategy of “Germany First.” What gave the edge to those U.S. operations in 1942 and 1943 which turned the tide in the Pacific, relieved the pressure somewhat, and allowed the operational primacy of Europe to prevail was the American intelligence masterpiece of cracking the Japanese diplomatic codes “Red”, through “Purple” (named for their colored binders in the codebreakers office), intercept translations of which were called “MAGIC,” and the breaking (and re-breaking in each later version) of JN-25—the Imperial Japanese Navy’s very own operational cipher.

Moreover, while British intelligence had benefit of Polish and French work on solving the Enigma cipher in Europe, and were working in a culturally similar language with German, the American codebreakers in the Pacific worked alone on the Japanese codes and in a language remote from our linguistic heritage. Ultimately, the American analysts tapped the resources of the Underwood company to manufacture the super secret “RIP-5,” a Japanese-language typewriter which allowed U.S. Navy code clerks to take down Japanese signals traffic faster than the IJN’s radiomen themselves. Similarly, the Navy’s retro-engineered version of the Japanese “B” type cipher machine (comparable to the German Enigma) was totally home-built, was

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wrapped up and sealed at the end of the war and is still highly classified. (When the PBS Nova series shot the January 18, 1994 episode on "The Code Breakers," they were refused permission to enter the warehouse where the B-machine was stored to film it themselves but rather were provided government footage of the machine being unwrapped and displayed for them.)

The clue to the success of U.S. naval intelligence and the failure of the IJN, is to be found in the essential differences between American and Japanese strategic cultures. For example, as John Prados relates, in 1940 Commander Zanematsu Yuzuru (who eventually became chief of the "U.S." office of the joho byoku, i.e. Japanese naval intelligence), was a naval attaché assigned to America. While crossing the United States by automobile, he saw a three-man crew in the Rocky Mountains making road repairs at an isolated spot with a power shovel and dump truck. He knew that in Japan the job would take at least 30 men. He later recalled, "I felt in my guts that it would be real trouble if Japan had to fight with such a country." By comparison, in Richard B. Frank's, Guadalcanal: The Definitive Account of the Landmark Battle, the author notes that Japan lost that crucial encounter not because of too few fighter planes but for lack of bulldozers. Japanese after-action analysis of the battle for the Solomons estimated that had Japan possessed even 20% of the American airfield-construction capability, they could have won the campaign.

Between these benchmarks can be found the essential character of U.S. and Japanese intelligence methods and effectiveness in the Pacific War which Prados chronicles in amazing detail. American naval intelligence triumphed and ultimately shortened the war by at least a year or more (and went far to give the Allies the victory in Europe as well by allowing a crucial economy of force for the concentration on defeating Hitler first) because of the character of the war effort supported by typically American social influences on its military institutions. Japanese naval intelligence failed in large measure because of the strategic culture within which it worked and that failure made the critical difference between success in its limited war aim of a favorable negotiated peace and the total and absolute defeat (the first in the history of that nation) which it suffered instead.

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Mr. Moore is in private law practice in Chicago.

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support for national security law and praised General McCaffrey for his service to the nation. He stated that if General McCaffrey achieves his goal of a 50% reduction in U.S. drug abuse, it "would be the most notable victory of any war in our history."

In beginning his remarks, General McCaffrey noted his close association with foreign policy. As a member of the Council on Foreign Relations and as an Army Officer who spent fourteen years in overseas assignments, General McCaffrey stated that he felt a natural affinity for foreign affairs but that he would focus his remarks on the security policy aspects of the illegal drug trade which he noted was arguably, the greatest current threat to our national security.

In explaining the role of the Director of the ONDCP, General McCaffrey noted that whenever he addresses newly promoted Generals at the National Defense University, he first advises them to "read the law" and "find out what your portfolio outlines as your responsibilities." General McCaffrey noted that his responsibility as Director of the ONDCP is to help produce the national drug control strategy and that in this capacity, he does not have operational control of any law enforcement agency in the United States. Instead, he is responsible for producing a conceptual framework in which to organize the fifty federal agencies, hundreds of state and local government agencies, and numerous non-governmental organizations who are involved in the fight against illegal drugs. General McCaffrey stated that the proposed 1999 federal budget for antidrug efforts is in excess of $17 billion and the total is over $36 billion if the contributions of state and local governments are added.

In describing the extent of the drug problem in the United States, General McCaffrey noted that approximately 72 million Americans have walked away from illegal drug use but that 13 million people, or 6% of our total population, still abuse drugs regularly. Of this latter amount, roughly one quarter, or four million Americans are "chronic, compulsive drug users." General McCaffrey stated that he was intentionally excluding from his comments the problems associated with alcohol abuse but he noted that there are between ten and eighteen million chronic alcohol abusers in America and that the alcohol problem "dwarfs the immediate impact of illegal drugs." However, General McCaffrey went on to state that if one were to examine any social problem in America today, "a major factor in the problem, or a dominant variable in the problem
is the abuse of illegal drugs." General McCaffrey noted that illegal drugs account for one third of all AIDS victims, one third of all industrial accidents, and each year they cost the nation $70 billion and kill 14,000 Americans. Using these figures, General McCaffrey highlighted the severity of the drug problem in this country by simply asking what the country’s reaction would have been had the Gulf War injured several hundred thousand Americans, killed 14,000 others, and cost $70 billion worth of “our national treasure?” He went on to state that these figures, alarming as they are, are repeated year after year and are actually on the rise.

Because of this escalating level of drug abuse, General McCaffrey stated that the National Drug Strategy has five overall goals and 32 intermediate objectives which, it is important to note, have already been incorporated into the ONDCP’s budget. On this point, General McCaffrey praised the former Director of the Office of Management and Budget, Franklin Rains, for his assistance in enabling the ONDCP to fund its program and he stressed that Mr. Rains’ participation was essential in developing a multi-year budget plan for the antidrug program. General McCaffrey noted that Mr. Rains had joined with him in signing instructions to the Cabinet Secretaries who are responsible for the nine principle appropriations bills that fund the antidrug effort.

General McCaffrey then discussed his proposed “Performance Measures of Effectiveness” which will provide a yardstick by which the government’s performance in the antidrug effort can be objectively measured. This system will hold the government responsible for “the output function of the policy process, not just count the input variables, dollars, people, consumption of resources, or titles of programs.” The purpose of this program is to have the various governmental agencies articulate in writing what they are trying to achieve and what their individual goals are. The program provides a total of 82 intervening variables which the various agencies must address if they are to reach their desired outcomes. In an effort to require compliance with this program, General McCaffrey stated that he would like to see a system of annual quotas enacted which would force government agencies to achieve prescribed intermediate objectives on their way to ultimately accomplishing their ten year goals.

General McCaffrey stressed however, that the cornerstone of his antidrug program is not law enforcement nor treatment programs but rather to prevent drug use in the first place. He cited several university studies which concluded that if children are prevented from using drugs, alcohol, and ciga-

rettes before age nineteen, they have a much greater chance of avoiding drug use altogether. He also briefly discussed some of the many variables which contribute to drug prevention including family, school, local law enforcement, medicine, and community coalitions. In explaining why the focus on local resources is so important, General McCaffrey stated emphatically that “this country works from the bottom up, not the top down” and that the greatest leverage will be achieved by using local rather than federal forces.

Most significantly for the ABA, General McCaffrey stated that, in addition to drug prevention, drug treatment programs must be expanded and must be tied directly to the criminal justice system in order to provide adequate and effective supervision. He also stated that he welcomed the participation of the legal community in this effort. Citing the fact that there are more Americans in prison than in the armed forces and that more federal funds are earmarked for prison construction than for the global military construction bill, General McCaffrey said that in his opinion, at least half of all prison inmates are incarcerated “directly for drug related reasons” and he quoted an authoritative study that concluded that the figure may actually be closer to eighty percent. In addressing the question of how to bring these numbers down, he noted the high failure rates of rehabilitation programs in the past and argued that programs work better when drug users are supervised by the courts and can be required to take regular drug tests. He further argued that rather than committing inmates to long prison sentences without rehabilitation, those failing court supervised drug tests should be sent back to jail for shorter periods in order to receive treatment and break the cycle of drug abuse. He noted that such a program would lead to long term benefits for both drug users and society and was a much more cost effective method of treating drug abuse.

On an international level, General McCaffrey stated that he has spent much of his time trying to construct multinational cooperation in the antidrug effort by convincing other nations that it is in their best interests to cooperate since their drug problems are generally worse than those of the United States. He also argued that it is important for other countries to understand that while the United States uses a large percentage of the illegal drugs consumed in the world, hard data shows that the available supply of illegal drugs far exceeds America’s demand indicating that drugs are truly a global problem. In support of this contention, General McCaffrey estimated that the United States

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consumes thirteen metric tons of heroin each year while nearly four hundred metric tons are produced worldwide. He also estimated that the United States uses just over two hundred metric tons of cocaine per year while over eight hundred metric tons are produced. From these figures, it is clear that illegal drugs cannot be managed on a supply and demand basis since drug production is done on such a large scale that interdiction and eradication efforts are not effectively denying drugs to those who want them.

In addressing the future, General McCaffrey noted that the ONDCP is attempting to front load its budget in order to fund long range prevention and treatment programs. He also argued that if we are to have an effective, long range, coherent drug policy, the antidrug effort must be funded in five year increments. He pointed out that budgeting on a yearly basis tends to produce a disjointed, ineffective program whereas a multi-year program allows initiatives to remain in place long enough to show real results. In support of this argument, he noted that once in place, antidrug initiatives take about two years before they begin to affect the rate of drug use and he added that, considering the long lead time involved, budget proposals take three years before they begin to show effect. On a positive note, General McCaffrey argued that the payoff for this initial investment will be reduced prison populations and rehabilitation costs in future years. General McCaffrey also cited polls which show that most Americans feel that drugs are the number one problem in this country and he stated that he has used this fact to secure additional funds for the antidrug effort.

Addressing several other “marginal” issues, General McCaffrey stated that the medical use of marijuana is an issue which has been delegated to the medical community for appropriate scientific tests and clinical evaluations. General McCaffrey also voiced his support for the Administration’s decision to leave responsibility for the creation of needle exchange programs to local governments since he felt that they were more responsive to the wishes of the communities in which they live.

Lastly, General McCaffrey addressed the issue of society’s denial of the realities of the drug problem. He cited a University of Chicago study which found that a broad range of Americans believe that drug abuse is largely an urban black issue which, in fact, is not the case. In support of this argument, he provided statistics which show that only the armed forces have a lower rate of drug use than black Americans under the age of 30. He argued that based on this, drug use is not a black issue but in fact is a problem for America as a whole. However, in closing, General McCaffrey stated that he is “reasonably optimistic” that drug programs will eventually be successful owing to the fact that drug abuse is not like other problem areas in American society since “it lends itself to conceptual organization.” He emphasized that antidrug programs must be pursued for a decade if they are to be effective and he noted that the drug war is not going to be won by a “lightning campaign.”

During the question and answer period which followed his remarks, General McCaffrey was first asked if the U.S. reluctance to send support to the Colombian military forces in their fight against narcoterrorists is a result of the Administration’s problems with the Colombian President who has been tied to the drug cartels? General McCaffrey first praised the Colombian people and expressed his sympathy for their plight. He noted that there are 240,000 Colombian police and military forces facing approximately 15,000 guerrillas who are funded by drug money and other criminal enterprises. He described the escalating level of attacks by these guerrillas but noted however, that the Colombian people still overwhelmingly support the government. He revealed that Colombia received over $100 million from the United States for its counterdrug efforts last year but stated emphatically that it would be the responsibility of the Colombian people to decide how best to fight the war against the narcoterrorists. He argued that at best, the United States can only play a supporting role since it is not the job of U.S. personnel to tell the Colombians how to fight their war and the United States is not prepared to fight it for them. General McCaffrey also stated that the best hope for Colombia is to elect an honest President and to proceed with the strategy that the Colombian military has already developed to fight the narcoterrorists.

General McCaffrey was next asked which tactics he felt were most effective in preventing drug use. He responded that first and foremost, parents are the best weapon against drug use but noted that in modern American society, a large percentage of children are raised in single parent households or households where both parents are required to work which leaves many children unsupervised in the late afternoon and early evening hours. General McCaffrey noted that this is the time when children are engaging in drug use, unprotected sex, and criminal behavior. He went on to say that the ONDCP was attempting to assist parents by
providing them with information through such programs as the "Drug Free Workplace" and that the goal was to educate parents on how to prevent their children from ever using drugs in the first place. In reinforcing the argument that parental guidance is the key, General McCaffrey noted that statistically speaking, if children eat dinner at home with their parents five nights a week or are attending church with their parents on the weekends, they are generally not using drugs. He also stressed that it is important to employ a 1990's solution to today's problems rather than trying to recycle a 1950's solution. To that end, he briefly discussed a new media campaign that is being launched nationwide which will air on network television during prime time. He stated that this new campaign will feature a completely new approach to drug abuse and stressed that it will not be like any previous antidrug campaign.

General McCaffrey was next asked why the President and Vice President had become heavily involved in publicizing the dangers of smoking but had not made any mention of the dangers of drugs. General McCaffrey responded that he was not prepared to argue the question of "relative moral damages" and fully conceded that cigarettes and alcohol kill or injure many more Americans each year than does drugs. He explained that as Director of ONDCP, his legal mandate was to combat, in addition to illegal drug use, underage smoking and drinking which he felt were prime indicators of the possibility of later drug addiction. He emphasized that his position is not political but he revealed that he has made an effort to convince those in political positions to stop "savaging each other about who smoked dope at Columbia University Law School in 1968, it's silly." He also stated that the President and Vice President are fully supportive of his efforts and he has even been able to convince the President to go on television and talk about his own drug use and what, as a parent, he has told his daughter, Chelsea. General McCaffrey made the point that in years past, it was considered every American male's prerogative to drive drunk but that the successful efforts of Mothers Against Drunk Driving and other such programs have changed the way America sees this problem. He asked why then, if we don't continually attack each other for drunk driving twenty years ago, it would be productive to rehash anyone's drug use thirty years ago? He stated simply that the drug use of young people in the 1960's was a failed experiment and need not be brought up in the future.

In a third question, General McCaffrey was asked how he views his role in relation to the law enforcement community, particularly the Drug Enforcement Agency. General McCaffrey stated that the least problem that the ONDCP has is law enforcement. He noted that this is due to a lot of reasons, first of which is the sheer professionalism of law enforcement itself. He cited the independent and collective efforts of individual departments and agencies and he further noted that the parochialism that pervaded law enforcement in the past has largely been broken down. General McCaffrey particularly praised DEA Chief, Tom Considine and FBI Director Louis Freeh and he noted that U.S. Attorney General, Janet Reno, knew more about the drug problem than anyone in the country owing to her years as a criminal prosecutor in south Florida. However, General McCaffrey noted that, as effective as these individuals and their agencies may be, they cannot and will not solve the drug problem. He stressed that only prevention and treatment can eventually rid America of its drug abuse.

General McCaffrey was next asked to explain the ONDCP's own figures which showed that over the last five years, drug use in America has risen. Specifically, the General was asked to explain how the current programs such as "Drug Free Workplace" and "Drug Free Schools" were making progress in the drug war. In answering, he first emphasized that this was the most important question of all since it directly addressed the issue of whether or not this country was succeeding in its antidrug efforts. The General then noted that despite the fact that drug use by young people has risen steadily since 1992, overall, drug use today is still only 50% of what it was in 1979 and last year the figures actually declined. To sustain this downward trend, he argued that it is vitally important to maintain and even increase our current antidrug efforts. He stated that he felt that last year was a turn around point for this country and cited extensive studies which show a marked decrease in drug use among the very same groups that had previously shown increased usage. General McCaffrey also pointed out that the budget increases which he has procured for the ONDCP will go primarily towards prevention programs in order to preserve and even improve upon the previous efforts that are only now showing their positive effects.

General McCaffrey was next asked what he felt the role of the military should be in the war on drugs. He responded by stating that the military had a large role in the antidrug effort. He cited the $900 million budget allocated for Defense Department participation in the Drug War.
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Caffrey also stated that he, the Director of Central Intelligence, and the Attorney General were co-chairing a review of the intelligence system as it relates to the drug problem. He stated that the first phase of the program had been completed and he felt that they now had a firm grip on who collects information relating to drugs and now the goal was to connect the intelligence collection system with law enforcement. He went on to detail some of the specific missions currently being conducted by military personnel but he stressed that the military will not become overly involved in domestic law enforcement. He argued that the goal should be to create a federal law enforcement establishment of the "right size, doctrine and technology" and listed several of the proposed programs which include increasing the number of Border Patrol personnel, extending the fence along the U.S.-Mexican border in San Diego, and the installation of special radar and x-ray systems that will allow federal officers to conduct non-intrusive but thorough inspections of vehicles and personnel crossing the border into the United States.

The final question of the morning was posed by Elizabeth Rindskopf who asked if there was more that could be done in the area of eradication. General McCaffrey affirmed that there was indeed more that could be done. First, he noted that he was well acquainted with drug production in Latin America and cited the fact that drug production in Peru, for instance, had been reduced by 40% just in the last two years. He admitted to some frustration with the fact that there were no figures concerning much of the drug production in the United States but, that aside, he stated that there is reason for optimism concerning the ONDCP's ability to deal with the cocaine problem. The one area that General McCaffrey noted was providing some real concern was the heroin issue but he emphasized that the ONDCP was aware of the problem and was taking steps to address it directly.

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William E. Conner is a former naval intelligence officer currently in private law practice in Virginia. He contributes frequently to the Report.

For More Information:
The White House Office of National Drug Control Policy provides more information on this important topic at <www.whitehousedrugpolicy.gov>.

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quire that our soldiers, sailors, airmen, and marines, be warriors one day and peacekeepers the next, with a corresponding change in the way that the law pertains to their way of doing business! The ability of our Armed Forces to function successfully as combat professionals and as America's ambassadors in complex settings, where no rule of law exists, is a tribute to our nation and the values we have instilled in our citizens and as we ask our Armed Forces to take on new, nontraditional roles and responsibilities, more than ever before, we find ourselves working as a team with a host of new players on a range of new problems.

In the new paradigm, the nontraditional missions we have been asked to assume require much closer coordination and cooperation with our own Department of Justice, international organizations, and foreign authorities around the world. Let me offer up a couple of examples of what I am talking about as a way of illustrating just how complex issues are becoming. In Bosnia, our commanders have done more than simply separate the warring parties and coordinate the military activities of the more than 34 nations involved. They have also had to wrestle with local law enforcement issues, help oversee the safety of the humanitarian relief activities of dozens of NGO's, (non-governmental organizations), provide logistical support for local and national elections, and work with the war crimes court in the Hague. And the proceedings at the Hague raise a second example of the type of legal issues we are involved with in this new environment: the wide array of new international treaties and initiatives that now affect military operations, either by design or as an unintended consequence.

The proposal for an International Criminal Court is just such an issue and one which some of you may be involved with. President Clinton has publicly supported creation of the court and we all feel it is the right thing to do but, if such a court is not properly constituted, it could profoundly affect our troops and commanders. So DoD lawyers are working closely with the Administration to ensure that the International Criminal Court proposal establishes the same strict standards and guidelines that we enjoy here in the United States.

Today, our military commanders must also be concerned with the impacts of a wide array of laws and treaties governing environmental issues: everything from the Greenhouse Gas Treaty, which could have potentially restricted our flying, steaming, and driving, to new agreements protecting
whales at sea and birds on our military installations. And in some cases, each of us are susceptible to fines and prosecution as individuals. In this new world, we are every bit as interested in becoming good stewards of the environment as we are good stewards of democracy so we also attempt to educate our commanders about these issues as well.

As you might expect, the list of new challenges goes on and on. I could just as easily have talked about the Anti-Personnel Landmine Treaty, new international frequency spectrum agreements, or the Open Skies Treaty. The point I am trying to make is that in this new paradigm, our commanders have to be knowledgeable about a tremendous range of new issues and I am not joking when I say that one of the first people stepping ashore during our military operations is a representative from the Judge Advocate Corps. If you doubt my word, find a picture of me in Haiti and you will find Colonel, now Major General John Altenburg, my Staff Judge Advocate, standing near by. And all of these new issues and nontraditional taskings are coming at a very difficult and defining moment for our armed forces.

I think you are all aware of the deep cuts we have made this decade, cuts we needed to make to align our force structure with a new and very different security environment. Let me tell you about our Armed Forces today. We are a busy force. From the end of World War II to the end of the Cold War in 1989, we deployed the Army 10 times. In the last 6 years, it has deployed 25 times (Rwanda, Iraq, Somalia, Panama, Haiti, and Bosnia). At the same time, we are a smaller force. Just since 1989, we have reduced the force by 700,000! This is about one-third of our active force. To put this number in perspective, the 700,000 individuals we have cut is more than all the troops in the UK, German, Dutch, and Danish Armed Forces put together. Or looking at it another way, 200,000 more than all the auto workers in the U.S. This cut equates to a 38% cut in the Army, a 35% cut in the Air Force, and a 37% cut in the Navy.

But even though we have made these cuts, we are a quality force. The real strength of our Armed Forces is not our aircraft, ships or tanks, it is our people. Today, 38% of our officer corps has a Masters Degree or a Ph.D. and 25% of the enlisted force has some college or a degree. In 1977, when I was an infantry major, one-third of new recruits scored in the lowest category of our standardized test. Today that number is only 0.3% and I can tell you that this isn’t something we have done alone. It took the cooperation and teamwork of the President, the Congress, and the American people.

But, although we have reduced our forces by 35% and our budget by about 40%, we still have a way to go to match our infrastructure with our new force structure. The major problem we now face in DoD is that our current infrastructure exceeds our force structure by about 20%, and as a result, we are paying for things we don’t need.

In spite of all the challenges we are facing, we are standing on the threshold of a century that promises to be the best America has ever known. If I have sounded like a Chairman of the Board reporting on the state of the company to the stockholders, then I have achieved my objective because as taxpayers, citizens, and leaders of our nation, that is exactly what you are, important people with a vested interest in our success. With your help, I know we will remain the world’s best military and the world’s richest and most successful democracy.

After his closing remarks and thanking the assembled guests on behalf of the 3 million members of the U.S. Armed Forces, the Chairman answered several questions, the first of which was regarding the specific mission of the troops currently deployed to the Western Sahara. The Chairman responded that the U.S. national military strategy is one of "peace-time engagement" in an attempt to shape the world in such a way so as to preempt the need to deploy crisis response military forces. The idea is to work with military forces around the world and develop military to military contacts. The Chairman stated that these programs are tied into the State Department's initiatives which provide U.S. teams to foreign nations in order to train local forces in self-defense capabilities while at the same time exposing those forces to U.S. military personnel in the hopes of fostering favorable personal as well as diplomatic relations. The Chairman stated that the mission in the Western Sahara was a part of this program.

The next question was posed by the Honorable James Woolsey, the former Director of Central Intelligence, who asked why, in light of the threat posed by the proliferation of weapons of mass destruction and possible terrorist use of biological weapons in attacks on U.S. targets, the DoD and the Administration chose to focus on forward deployment rather than on these issues. The Chairman responded that there were several incorrect impressions regarding what the "military side of the Pentagon" felt about the issue. First, as to the issue of ballistic missile defense, the Chairman stated that the first priority was to Theatre Missile Defense because as forces deploy into such areas as Southwest Asia and the Korean peninsula, U.S.

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troops are within the range of the missiles of potentially hostile nations which could have "catastrophic consequences if we're not prepared." Therefore, the Chairman noted that the first priority is to protect our warfighting capabilities. As to the threat of intercontinental ballistic missiles, the Chairman went on to state that the military supported the Administration's position for several reasons. The first is that the DoD currently has an ongoing effort to push technology to the limit to develop an effective missile defense system for later deployment. The Chairman stated that if we were to take the "less than perfect" system that we have now and continue to develop that, it would not provide us with adequate protection and would constitute a "tremendous drain" on our resources and would come at the expense of other more productive projects. The Chairman stated that the current goal was to have a viable missile defense system within the next three years but conceded that there was a legitimate debate as to whether or not the country would have three years in which to develop the system. However, he stated that the current risk analysis does not show a viable threat within the next five to six years and so there was no need to freeze current technology and begin to field a system based on current technology. Rather, it was more prudent to use the time available to continue to refine our technology in the certainty that a system fielded at a time when there is a real threat on the horizon will be a better, more capable defense system. The Chairman stated that a gap in our defensive capabilities could conceivably occur if a rogue state were to purchase a missile delivery system without our knowledge but the intelligence community was reasonably sure that it could detect any efforts to develop a missile delivery system by a potentially hostile nation.

The Chairman also noted the importance of the deterrence effect associated with U.S. strategic capabilities. He cited the fact that if a missile were to be fired at the United States, we would be quickly able to determine where it came from and could retaliate with "catastrophic consequences." The Chairman noted that the military believes that deterrence has worked well for the past fifty years and is no less effective today. Concerning the question of whether the military was willing to risk the possibility of a gap in our missile defense, the Chairman noted that a rogue state could, if it desired to attack the United States without incurring its own destruction, use other means of delivering weapons of mass destruction (WMD) that are outside the missile defense capability of the United States. He specifically cited possible attacks on the subway systems of major American cities as an example of an attack that could not be prevented by a missile defense system. In summing up this point, the Chairman stated that "if it comes down to risk, and whether or not we can afford to take the risk, from our perspective right now, rather than move forward with an unproven technology, hold off and get the technology right and then invest the money to provide a very reliable system." The Chairman added that when it comes to WMD in general, the DoD was very concerned and was devoting substantial resources to detection of all types of WMD, including chemical, biological and nuclear. He also noted that the DoD was devoting substantial resources to "consequence management" which included developing appropriate responses in the event that a WMD is used against the United States. He conceded that the United States is, in fact, vulnerable to an attack of this type and noted that the issue of "homeland defense" would be discussed in three weeks at a meeting of all the Commanders-in-Chief.

General E.E. Anderson, a member of the Standing Committee, next asked the Chairman what the DoD's position is in regard to the current assignment of military personnel to law enforcement missions, particularly anti-drug efforts along the U.S.-Mexican border. The Chairman stated that he is a big believer in the Posse Comitatus Act but noted that the decision properly rests with the President. He stressed that no one in uniform wants to be pitted against American citizens and he argued that there are other governmental agencies better suited for the mission of preventing criminal activity. He cited the Kent State incident and the recent shooting of a local teenager by a Marine anti-drug reconnaissance patrol as examples of the negative consequences of requiring the military to function as a law enforcement agency. The Chairman did note that in the event of a terrorist act, or some other such event, which exceeds the capabilities of a law enforcement agency, the DoD would be happy to provide assistance so long as the President, on the advice of the Attorney General, approves it. However, the Chairman noted that the DoD would very much like to avoid involvement in day-to-day law enforcement activities.

The last question was asked by Elizabeth Rindskopf, who is also a member of the Standing Committee. Specifically, she inquired as to whether, in light of the end of the draft and the lingering negative impact of the Vietnam conflict, the Chairman
believes that there is a gap between the civilian perception of the military and reality. The Chairman responded that at least the volunteer force as it exists today is substantially better than the force made up of draftees. However he stated that his concern was that as fewer and fewer Americans actually serve in the military, there is, correspondingly, fewer and fewer Americans in Congress and in key national defense positions who have first hand military experience and can understand and appreciate the hardships and sacrifices that are required. The Chairman noted that on the other side of the issue, the military was actively staying in touch with American society since the majority of service men and women live in civilian communities and participate in normal social activities such as teaching Sunday School and coaching Little League. The Chairman did state that he felt that in ending the draft, "we miss a lot in the public service aspect of it." The Chairman concluded his remarks by stating that at the present time, he is confident that there is a balance between decision makers who have served and those who have not but he added that he is worried that in ten to fifteen years, there may be only a small percentage of America who can relate to the Armed Forces.

Paul Schott Stevens then closed the very successful and informative morning with some brief remarks. He thanked the Chairman for his time and praised him for his eloquence as a spokesman for America’s Armed Forces.

William E. Conner is a former naval intelligence officer currently in private law practice in Virginia. He contributes frequently to the Report.

June 2000 in Charlottesville, VA
CNSL to Hold Tenth National Security Law Institute Next Summer

The Center for National Security Law (CNSL), founded at the University of Virginia School of Law in 1981, has announced plans to hold a tenth annual National Security Law Institute during June 2000.

This highly successful program was initially designed to train law professors to teach in this growing new field of study, but over the years it has been expanded to include professors in related disciplines and government attorneys with national security responsibilities. Past institutes have trained hundreds of lawyers from five continents.

The intensive program includes a four-day visit to Washington, DC, where the group visits CIA Headquarters, the White House, the Pentagon, and Capitol Hill. Past instructors have included former Secretary of State Lawrence Eagleburger, DCT’s William Colby, William Webster, and R. James Woolsey, State Department Legal Advisers, and leading national security law experts from the FBI and other government agencies. Standing Committee Chair Elizabeth Rindskopf Parker, a former General Counsel to both the CIA and NSA, has frequently addressed the group.

For further information, see the Center’s web page at <http://www.virginia.edu/~cnsl//train.html>, send an e-mail to <cnsl@virginia.edu>, or call (804) 924-7441.

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Ninth Review of Field Conference Set for October 28-29, 1999

Mark your calendar now to reserve the dates of October 28-29, 1999, when the Standing Committee will hold its ninth annual conference on National Security Law in a Changing World at the Hotel Washington in the District of Columbia. This highly-successful series was the brainchild of the late Morris I. Leibman, one of the founders of the Standing Committee and its chairman for many years. The goal is to provide members of the national security law community with an update on current issues and to identify potential future issues which may benefit from careful consideration by the Standing Committee or others in the community.

October’s conference will follow the pattern of recent years, beginning with a roundtable discussion featuring the senior legal officers from the major national security departments and agencies addressing current and anticipated issues of concern to their offices. The second panel will include senior attorneys from key Senate and House committees discussing national security issues of concern to the Congress.

While the details of the four panels to follow are still being worked out, issues likely to be addressed in detail include U.S. policy towards the new International Criminal Court, use-of-force issues involving Kosovo (perhaps examining the proper role of Congress in such decisions and/or the lawfulness and scope of “humanitarian intervention”), and possibly a look at the Uniform Code of Military Justice (UCMJ) on the occasion of its fiftieth anniversary.

As usual, there will also be a dinner program Thursday night and two lunches featuring distinguished speakers. Additional information will appear in the Report and on the Standing Committee's web page (see page 11) in the months ahead.

Walter Gary Sharp, Sr., Named New Editor of ABA National Security Law Report

We are pleased to announce that Lt. Col. Walter Gary Sharp, Sr., USMC-JAG (Ret.), has been selected as the new Editor of the ABA National Security Law Report. A graduate of the Naval Academy and Texas Tech University School of Law, Colonel Sharp also holds master's degrees (LL.M.s) from Georgetown Law Center in international and comparative law and from the Army JAG School in military law.

His final assignment during a distinguished twenty-five year career as a Marine JAG officer was as Deputy Legal Counsel to the Chairman of the Joint Chiefs of Staff. He currently serves as Senior Counsel and Principal National Security Policy Analyst at Aegis Research Corporation in Falls Church, Virginia. He is also an Adjunct Professor at Georgetown Law Center, where he teaches seminars on United Nations Peace Operations and International Peace and Security. Colonel Sharp is the author of two books (United Nations Peace Operations and CyberSpace and the Use of Force) and numerous articles.

Colonel Sharp succeeds Professor Robert F. Turner, of the University of Virginia's Center for National Security Law, who has served as editor since 1992. Turner chaired the Standing Committee from 1989-92.