

**C O N F E R E N C E  
R E P O R T**



**FREEDOM**  
*& Secrecy:*

*Trading Liberty for Security?*



**C O N F E R E N C E  
R E P O R T**



**FREEDOM**  
*& Secrecy:*

*Trading Liberty for Security?*

*Presented on Thursday, October 2, 2003  
at Boise State University, Boise, Idaho*

*Author:*

*Marc C. Johnson*

*President*

*The Andrus Center for Public Policy*

**The Idaho Statesman**  
IdahoStatesman.com



**Frank  
Church  
Institute**

## Introduction

In the post-September 11th world, are Americans trading their liberty for their security? How does an open society reconcile the inevitable clash that occurs when our notions of freedom come into conflict with a government's desire for secrecy?

Those issues were the focus of a major conference on October 2, 2003 in Boise, sponsored jointly by the Andrus Center for Public Policy, the Frank Church Institute, and the *Idaho Statesman*. The day-long conference featured presentations from nationally-syndicated columnist David Broder, former Vice President Walter F. Mondale, and former U.S. Senator Slade Gorton. Also participating was a group of current and former public policy-makers, academics, legal scholars, and journalists.

From that conference, we have produced the report that follows, one that we think summarizes the key points that were made and the lessons that were learned. Our goal in presenting the conference was not to attack or defend the current national policies but to create a balanced, informed discussion to illuminate and educate. We believe we achieved that goal.



Cecil D. Andrus  
Chairman  
The Andrus Center



Leslie Hurst  
President & Publisher  
*The Idaho Statesman*



Bethine Church  
Chair  
The Frank Church Institute

## Conference Schedule

- 8:30 AM **Welcome:** **Cecil D. Andrus**, Chairman, The Andrus Center  
**Bethine Church**, Chair, The Frank Church Institute  
**Leslie Hurst**, President and Publisher, *The Idaho Statesman*
- 9:00 AM **Opening Address:** **Slade Gorton**, former United States Senator (R-Washington), a member of the Senate Select Committee on Intelligence, now a member of the 9/11 Commission.
- 9:40 AM **Question & Answer Forum** with **Senator Gorton**
- 10:00 AM **Break**
- 10:15 AM **Intelligence, National Security, & Secrecy**  
A panel discussion exploring the history and outcomes of intelligence investigations in the 1970's and what those efforts tell us about issues the nation faces in 2003.  
Moderated by **Patrick Shea**.  
**Leroy Ashby**, Ph.D., Frank Church biographer, professor at Washington State University  
**Mark Gitenstein**, Intelligence Committee staff member, now practicing law in Washington, D.C.  
**Loch Johnson**, Ph.D., Intelligence Committee staff member, now Regents Professor of Political Science at the University of Georgia  
**George Lardner Jr.**, Reporter, *The Washington Post*

- 11:00 AM *Question & Answer Forum* with panel.
- 11:45 AM *Luncheon*, Jordan Ballroom, Student Union.  
Introduction: **Bethine Church**  
Address: **Walter F. Mondale**, Former Vice President, U.S. Senator, Ambassador to Japan, and member of the Senate Select Committee on Intelligence
- 12:45 PM *Question & Answer Forum* with **Vice President Mondale**  
Moderated by **Governor Cecil D. Andrus**.
- 1:45 PM *Freedom and Secrecy: The Clash of Values*  
Consideration of a series of hypothetical situations pertaining to current issues.  
Moderated by **Marc Johnson**, President of the Andrus Center.  
**David Broder**, Columnist, *The Washington Post*  
**Jim Brosnahan**, Noted First Amendment Attorney  
**John Deutch, Ph.D.**, Former Director of the Central Intelligence Agency  
**Kevin Duffy**, Judge, U.S. District Court, 3rd District, New York  
**Slade Gorton**, Former U.S. Senator, Member of the 9/11 Commission  
**Andrew Malcolm**, Columnist, *The Los Angeles Times*  
**Thomas E. Moss**, U.S. Attorney for Idaho  
**Pierce Murphy**, Boise Community Ombudsman  
**Patrick Shea**, Former senior staff member, Committee on Foreign Relations, U.S. Senate  
**Stephen S. Trott**, Judge, U.S. Court of Appeals, 9th Circuit  
**Carolyn Washburn**, Executive Editor, *The Idaho Statesman*
- 3:30 PM *General discussion and audience questions* with conference speakers and panelists.
- 4:00 PM *Concluding Remarks: Dr. Forrest Church*, Senior Minister, All Souls Unitarian Church in Manhattan
- 4:15 PM *Conference Recess*
- 7:00 PM *Closing Address: David Broder*, nationally-syndicated, Pulitzer Prize-winning columnist for the *Washington Post*. Jordan Ballroom, Boise State University, Student Union.
- 7:40 PM *Question & Answer Forum* with **David Broder**  
Moderated by **Governor Cecil D. Andrus**.
- 8:00 PM *Closing Remarks: Cecil D. Andrus*, Former Governor of Idaho and Secretary of the U.S. Department of the Interior
- 8:15 PM *Adjournment*



*“We are sacrificing freedom. There is no question about that.”*

*– David Broder*



*“Never underestimate the lengths administrations of either political party will go to protect themselves from public disclosure of erroneous, unethical, illegal or just plain embarrassing behavior.”*

*– Walter F. Mondale*



*“Here is a relevant part of the Preamble to the Constitution ... ‘We the people of America, in order to secure the blessings of liberty, do ordain and establish this Constitution.’ ... That is to say that those two words go hand in hand. Fundamentally, without security, there will be no liberty.”*

*– Senator Slade Gorton*

## Freedom & Secrecy: Trading Liberty for Security?

The American system, our political and legal institutions, our body of law, and our Constitutional guarantees are the products of a delicately-constructed, occasionally conflicting set of values. It is in the management of these delicately balanced values that Americans find much of our political uniqueness.

The balances teeter, and the values come into conflict. To cite a current example: when an individual's right to a fair and speedy trial, for instance, collides with the government's desire (some would say the government's necessity) to preserve sources of information that have precipitated an indictment in a case of terrorism.

Among the many values we espouse as Americans is the "right," or at least the widespread expectation, that we are entitled to be safe and secure in our homes and on our soil from foreign threats. Yet, the protection of this "right," some would argue, could require a grant of secrecy to government to undertake actions in the name of our security that we might well condemn, even find counter to our values, were the actions public knowledge.

The balance of, on the one hand, a free and aggressive press might well be tempered by the knowledge that some particularly sensitive information, national security information for instance, once placed in the public domain, could be damaging to national security.

So the values we espouse — fair trials, personal and national security, a free press, and an open society, among many others — are subject to constant balancing, steady pulling and hauling. How we reinterpret our values and strike the resulting balances from generation to generation is a recurring theme in American history. Today, we are engaged in some of the latest reinterpretations of these values, and the process holds profound implications for the American values of freedom, secrecy, security, and liberty.

The Andrus Center for Public Policy, the Frank Church Institute, and the *Idaho Statesman* recently sponsored a day-long conference on these issues in light of two specific circumstances, one recent and the other, nearly 30 years ago. The recent event was the devastating terrorist attacks on U.S. soil on September 11, 2001. The historical circumstances are centered on the various investigations of the nation's intelligence agencies in the 1970's. The most prominent investigation and the one with the most lasting impact on American policy was the Senate investigation chaired by the late Senator Frank Church of Idaho.

This "white paper" is a summary of principal observations from this conference: *Freedom & Secrecy: Trading Liberty for Security?* The paper includes the perspectives of, among others, a former Vice President of the United States; senior federal jurists; a former director of Central Intelligence; a former member of the Senate Intelligence Committee, who is now one of ten individuals investigating the 9-11 terror attacks; and a Pulitzer Prize-winning journalist, who has covered American politics for nearly forty years.

Among the key observations from this day-long conference are these:

- Americans are facing new and very significant threats to freedom — and security — as a result of the nation's responses to terrorism in the wake of 9/11.
- We are far from consensus, politically or legally, about many of the domestic policy issues that arise from the threats presented by terrorism. In fact, conference participants seemed to be suggesting that new issues relating to the terror threat pose even more challenging national debates. These issues include, for example, the likelihood that the future will bring more widespread use of personal electronic information to track terror suspects and the potential use of new law enforcement powers, including administrative subpoena power, to locate terror suspects.



*Governor Cecil D. Andrus welcomes the conferees.*

*We are far from consensus, politically or legally, about many of the domestic policy issues that arise from the threats presented by terrorism.*

- The present system of organizing U.S. intelligence among the CIA, the FBI, the Defense Intelligence Agency, the National Security Agency, and the new Department of Homeland Security, among other agencies, is increasingly problematic.
- There is a recurrent penchant for secrecy among the nation's intelligence agencies, one that can breed a culture that resists oversight and resents accountability. This issue was a major focus of the Congressional investigations in the 1970's and apparently still warrants careful and renewed scrutiny. Former Senator Slade Gorton, who left the Senate as recently as 2001, told the conference that current Congressional oversight is incomplete at best, ineffective at worst.
- The current organization of the intelligence community does not develop, encourage, or emphasize the qualities of foresight and imagination, especially domestically.

### Threats to Freedom and Security

At this writing, the ten members of the National Commission on Terrorist Attacks Upon the United States, the so-called "9/11 Commission," are continuing their investigation of the events leading up to the deadly attacks on the World Trade Center and the Pentagon and the related airliner crash in Pennsylvania. The Commission has been engaged in an increasingly pointed discussion with the Bush Administration over access to some of the most secret information held by the federal government: the President's daily intelligence briefing. This debate is, in

many ways, illustrative of the tensions surrounding "freedom and secrecy."

Former United States Senator Slade Gorton of Washington is a member of the 9-11 Commission and a former member of the Senate Intelligence Committee. His principal speech to the conference

focused on the work of the Commission. Gorton suggested three major issues of immediate and continuing importance: "hardening targets" or making ourselves more physically secure; more effective intelligence capability, including greater capacity to gather intelligence domestically; and preemption against potential threats.

There is a necessity, Gorton said, "for more aggressive and certainly more effective intelligence and preemption than we engaged in prior to 9/11."

*"From the hijacking of aircraft and crashing into buildings, what is required for the next time around?"*

— Senator Slade Gorton



George Lardner

*"The tensions between those advocates of liberty and the advocates of order and secrecy have always been with us. To those who wrote the Constitution — in secrecy, remember — a strong central government was the overriding goal."*

— George Lardner

"This whole question about how domestic intelligence should be handled is a part of that. Training and recruitment of officers to engage in those activities are a part of it. A far greater degree of imagination is required to determine what comes next. From the hijacking of aircraft and crashing into buildings, what is required for the next time around? And most particularly, how does more effective intelligence, particularly here within the United States, relate to the liberties that they are designed to protect?"

*Washington Post* investigative reporter, George Lardner, took a sterner view, a view that the country is in deep and deepening trouble as a result of the penchant for security that is dismissive of concerns about liberty:

"The tensions between those advocates of liberty and the advocates of order and secrecy have always been with us. To those who wrote



the Constitution — in secrecy, remember — a strong central government was the overriding goal. They saw no need for a Bill of Rights until it became plain they would not have a constitution without one. Frontiersmen and rural folk had a different view. To them, the Revolution was or should have been a victory for liberty, freedom from far away rules and onerous taxes, no matter whether they were imposed in London or in Philadelphia.”

Lardner said that, if anything, the intelligence investigations of the 1970’s, which exposed illegalities on the part of the FBI and the CIA, didn’t go far enough, and, as a result, Constitutional protections have been steadily eroded since:

“So what do we have now? What we had in the mid-70’s was a normal Constitution, operative in days of a strong desire for peace and shock over the Watergate scandals. What we have now is what historian Robert Higgs has called “the crisis Constitution,” which always overrides the normal Constitution in times of emergency, making the government’s exercise of power far more important than the protection of individual rights. And all this under a suffocating cloud of secrecy that reaches now into every corner of government. We’re almost back, I’m afraid, to the early days when excesses in the name of national security became as American as apple pie, when immigrants were suspect, and when criticism of the president was denounced as an act of disloyalty. We are in trouble.”

Former Vice President, Senator, and Ambassador Walter F. Mondale served on the Senate Select Committee on Intelligence, the Church Committee, and his principal remarks to the conference pointed to the inevitability that every administration, regardless of party, will go to tremendous lengths to protect its secrets:

“After a lifetime of public service, let me say this: Never underestimate the lengths administrations of either political party will go to protect themselves from public disclosure of erroneous, unethical, illegal or just plain embarrassing behavior. The instinct for self-protection is often disguised in the name of national security.

*“Never underestimate the lengths administrations of either political party will go to protect themselves from public disclosure of erroneous, unethical, illegal or just plain embarrassing behavior.”*

– Walter F. Mondale

“Nevertheless, there are secrets that must be kept. One of the greatest challenges facing these intelligence committees is to handle that information in such a way that it can drive policy without disclosure during that period.

“When you place American history beside the history of the great nations that were in being at our beginning, it is striking that all of those systems are gone, many of them a long time ago. But America remains free and is becoming stronger all the time. The great difference between the two examples was that America was based on freedom and accountability of government.”

In light of the current fight against terrorism and its impact on domestic freedom and secrecy, Mondale asked these questions:

“What is the duty in the United States of our key Intelligence Committee officials? When they believe certain fundamental facts, they’ve talked about being ignored when they are in the middle of a debate like that. What are the rights of the American people? What are the rights of the committee to hear



David Broder

what we've paid for in these Intelligence Committees and to hear it clearly so that it can be a part of the debate at the time when it is most useful? Our nation will continue to struggle, as we have from the beginning, to balance our often very real fears with our belief in the strength of the law as a protector."

The distinguished *Washington Post* reporter and columnist, David Broder, said the three principal institutions in the nation charged as watch dogs of the executive branch — the courts, the Congress, and the press — have, at best, a spotty record of holding the central power of government accountable and accessible.

Broder said that secrecy is a major problem, one that hampers public information and discussion about threats to security and impacts on freedom:

*"The material that was obtained, finally, from the Justice Department and the FBI constituted several hundred pages of information, but almost all of it was blacked out, 'redacted...'"*

– David Broder

"Congress obviously has a Constitutional duty to maintain oversight over the administration of justice by the Justice Department and the FBI, and it's clear that Congress has run into great difficulty in trying to fulfill that role. The material that was obtained, finally, from the Justice Department and the FBI constituted several hundred

pages of information, but almost all of it was blacked out, 'redacted,' to use the technical term, so that the members of Congress could only guess what was really being done in these cases. The Judiciary Committee on the Senate side sent about 50 questions to the Attorney General and asked him to respond to their queries about the use of the Patriot Act. When the answers came back, this is what the Judiciary Committee reported:

'We are disappointed with the non-responsiveness of the Justice Department and the FBI. Although the DOJ and the FBI have sometimes cooperated with our oversight efforts, often legitimate questions went unanswered, or the DOJ answers were delayed so long and were so incomplete that they were of minimal use in the oversight efforts of this committee.'

Broder did note that Idaho Congressman C.L. "Butch" Otter had one of the few successes in the Congress aimed at curtailing the executive branch's use of certain portions of the USA Patriot Act, which was rapidly approved by the Congress in the wake of the 2001 terrorist attacks on the United States.

### **The Administrative Subpoena and Privacy**

"I don't know what it is about [Attorney General John] Ashcroft," said former Vice President Mondale. "He has this idea about every day of pushing, pressing, demanding more things related to freedom for him to do what he wants beyond the law."

The Attorney General and some members of Congress have proposed (and legislation has been introduced) to widen the use of so-called "administrative subpoenas" as a weapon in the battle against terrorism.



Walter F. Mondale

Speaking of the controversial Attorney General, Mondale said:

“...his rhetoric is almost worse than what he is doing, but now he is talking up the Patriot II proposal, which would expand government access to private data, allowing federal agents to issue subpoenas for private medical, financial, and other records without a court order. Lack of judicial oversight removes an important check on government misconduct, and record holders would be required to comply with those requests or face prison. They would be barred from telling anyone about the subpoena.

“This is la-la land. This will not strengthen us. This will not allow us to go after those terrorists more effectively. This is the sort of thing that divides Americans, produces suspicion. The agents in the FBI hate it. One of the problems we found in our investigations is that many agents hated what the politicians were ordering them to do. That’s why you need laws and regulations that make sense so that agents can say no to their higher-ups when silly, dangerous stuff like this is being proposed.”



Stephen Trott

Judge Stephen Trott of the United States Court of Appeals for the Ninth Circuit agreed:

“The administrative subpoena, I think, is a major mistake because one of the structural ways that we deal with the inclination of human nature and people to do the wrong thing for the wrong reasons is by putting in a series of checks and balances, and we’ve always required, in almost every respect, one branch of government to oversee another. The administrative subpoena basically gives all the power to a single branch of government, and were I a United States Attorney, I wouldn’t use an administrative subpoena. I would go the old route of getting court approval, even if those were on the books, until I had a definitive decision from the courts, saying that those were Constitutional and appropriate under certain circumstances.

*“The administrative subpoena basically gives all the power to a single branch of government.”*

– Judge Stephen Trott

“If you’re faced with an emergency, of course, you don’t have to wait for any subpoenas. The Supreme Court has made it very clear, as Justice Jackson said a long time ago, that the Constitution is not a suicide pact, and if law enforcement is faced with a dire emergency, they can run into a house and grab the bomb or the dying child or whatever it is. So I would be very wary of administrative subpoenas until I had a definitive decision from the United States Supreme Court, telling me whether they were appropriate or not.”

The United States Attorney for Idaho, Tom Moss, said the use of an administrative subpoena might be justified in some cases.

“I think there are a couple of things that we need to clarify. The administrative subpoena is the subpoena the FBI uses. There is a good chance they wouldn’t even come to the U.S. Attorney and ask for an administrative subpoena. They know they can do it, but it’s very limited in the situations in which they do it. It’s limited to four circumstances: Health care fraud, sexual abuse of children, false claims against the United States, and threats against the president. Those are the only cases in which, currently, an administrative subpoena can be used... The new law is simply applying a law to terrorists that now applies to fraudulent doctors and people like that. I would suggest that if it’s good enough for doctors, it ought to be good enough for terrorists.”



Tom Moss

## **Competence and Oversight: How good is our intelligence, and how effective is our oversight?**

In the roughly 30 years since former Idaho Senator Frank Church helped expose some of the shadier activities undertaken in the name of the American people by the nation's intelligence agencies, has the nation's ability to gather, process, and act upon intelligence improved? Have we a better understanding of those around the world who would do us harm? Have the overseers of the intelligence community, primarily the Congress and the press, done a competent job, or has the desire and the need for secrecy by this section of our government hampered oversight?

In his morning address, Senator Gorton, said:

*“I cannot remember a single significant fact that I heard in a closed hearing of the Senate Intelligence Committee that I didn't read in the Washington Post within 48 hours.”*

– Senator Slade Gorton

“I did serve for about three years on the Senate Intelligence Committee, and because one of the subjects of this conference will be the quality of legislative oversight of our intelligence activities, I can tell you that I left it in boredom and frustration after about three years, considering it to be an almost total waste of my time. I can put it in this fashion:

I cannot remember a single significant fact that I heard in a closed hearing of the Senate Intelligence Committee that I didn't read in the *Washington Post* within 48 hours.

“Legislative oversight in that field is particularly difficult. First, of course, it does take place behind closed doors. Second, to do it right takes an immense amount of time. Third, that immense amount of time conflicts with the more public and, in many respects, more important duties of the members of the House and Senate. When I was a member of that committee, it was the fifth committee of which I was a member. There simply wasn't time to do the job right.”

“There are a few exceptions. Senator William Cohen, later Secretary of Defense, as chairman of the committee, spent a huge amount of time on legislative oversight of the intelligence agencies. The present chairman of the House Committee, Porter Goss, congressman from Florida, does the same thing, but they are overwhelmingly the exceptions rather than the rule.”

Former Senate Committee staff counsel, Mark Gitenstein, had a different view:



Mark Gitenstein

“Notwithstanding what Senator Gorton said, I think a good and aggressive oversight committee can make that system work. What is interesting about this period is, despite what the *Wall Street Journal* and others said about how the Church Committee reforms caused all this, after everything was said and done, nothing was really changed as to the core legs that I've described. Those structures still exist. The Patriot Act basically nibbled at the edges. That is not to say that there are not some problems, especially with the next version of the Patriot Act, but we'll get into that later. My bottom line is that I believe, as Senator Gorton suggested, the problems that we have post-9/11 with the FBI and the CIA are structural problems within those agencies.”

The oversight is far from perfect, according to University of Georgia professor Loch Johnson, who worked on the Senate investigation and has written extensively about the intelligence community and its failures, but the nation must continue to strive for accountability, he said.

“We did not create a perfect system. After all, Iran-Contra came in the 80’s. But the Church Committee took a giant stride forward, it took a strong stand on behalf of civil liberties, and it set statutory boundaries for intelligence operations. It established rigorous oversight — not the “overlook” we had experienced before. These reforms have stood the test of time. There has been a lot of research on these matters since 1976 — a couple of books even this year. They reinforce and add to the Church Committee findings but don’t challenge them in any serious way or change them.”

“I just came from a conference in Norway where people, including parliamentarians and others, from all over the world gathered to talk about intelligence oversight. What everyone was talking about was the Church Committee as a model of what they hoped to adopt for their own countries. Robert Gates, a director of the CIA appointed by the first President Bush, summed up quite well the value of the approach taken by the Church Committee. I am reading from his recent memoir:

‘Some awfully crazy schemes might well have been approved had everyone present not known and expected hard questions, debate, and criticism from the Hill. And when, on a few occasions, Congress was kept in the dark and such schemes did proceed, it was nearly always to the lasting regret of the presidents involved.’”

“That can be said more succinctly. The purpose of accountability is to try to prevent the executive branch from doing something stupid. That remains a worthy goal.”

*Post* reporter Lardner, who covered the Church Committee, is deeply suspicious of the quality of the oversight of the nation’s intelligence services:

“The investigators, as Loch Johnson has pointed out, were quite properly shocked at the abuses they discovered. What they passed over too lightly, I think, was the fact that excesses in the name of national security are as old and ingrained as the republic itself. They weren’t going to be cured by the creation of Congressional committees that inevitably come to look and think like the people they are supposed to regulate. What was needed was new law, even a charter for the intelligence community. We didn’t get it. What we got were bits and pieces.”

“Let me emphasize first that Frank Church should be the last person to blame for this unfortunate outcome. I personally think he could have been president if he had not stuck with the investigation for so long. Once he finally got in the race, late in 1976, he beat the pants off Jimmy Carter every time they had a face-off, but it was too late. He lost, and I think the nation was a loser, too. Instead of winning his party’s nomination, Church was vilified again and again by the whining intelligence community that still likes to attribute their failures to him while ignoring their own incompetence and by complaining endlessly about the few and too feeble restrictions that have been put upon it.”



*Dr. Loch Johnson*

*“The purpose of accountability is to try to prevent the executive branch from doing something stupid. That remains a worthy goal.”*

*– Dr. Loch Johnson*

*“...excesses in the name of national security are as old and ingrained as the republic itself. They weren’t going to be cured by the creation of Congressional committees that inevitably come to look and think like the people they are supposed to regulate.*

*– George Lardner*

Beyond adequate oversight, what of the competence of the nation's intelligence community? Are the agencies properly organized? Do we place a premium on the right skills and training? Does the public demand for security and the government penchant for secrecy even permit an intelligent debate about our national capabilities?

San Francisco defense attorney James Brosnahan defended the so-called "American Taliban," John Walker Lindh, and he said the discussion of competence in protecting Americans has been given short shrift:

"The competence issue is: How good a job is being done? How many people speak Arabic or Pashtun, if necessary? Not that we should know this, but it should be done. What about the detectives on television who solve crimes in one hour. One hour, OK? The anthrax case is a very difficult case. The Unabomber took 17 years. You have to be honest about it. It's not easy. How good a job are they doing with what they have? And Washington — I speak as a way outsider in California — is best at distracting attention from the key issue. The key issue is — and great Americans are back there working on it as we speak — how good a job are they doing with what they have? We're all talking about what they need to do the job."

Dr. John Deutch, who headed the Central Intelligence Agency during part of the Clinton Administration, argued that competence is at the core of an effective fight against terrorism, a fight that is waged while liberties are protected:

"We all want to be protected, and the fact of the matter is that there are really two issues here. One is how do we build the best competence? The other is how do we protect the rights of people? Let me say a word about competence. The notion that the law enforcement system is going to develop competence in this area is, in my mind, suspect."

Deutch advocated one national system, combining national security issues with law enforcement:



Dr. John Deutch

"But the principal thing is to build competence, and it can only be done if you build one organization that will collect the intelligence for you, subject to the rules that are set out by the judges here and others about what is proper behavior."

"But we don't have the competence because we have two different systems, and the FBI, for all of its greatness, is never going to be able to collect information on complicated foreign terrorist groups because they have a culture, an education, and a capacity which goes to law enforcement and bringing people to justice, not collecting information which, over time, will accumulate to understanding catastrophic threats to the people of this country. I would be happy to help build a system for competence, but I think there has to be one national system, whether it is in the FBI or the CIA or somewhere else. Competence is the issue here."

*"The notion that the law enforcement system is going to develop competence in this area is, in my mind, suspect." "...the FBI, for all of its greatness, is never going to be able to collect information on complicated foreign terrorist groups because they have a culture, an education, and a capacity which goes to law enforcement and bringing people to justice, not collecting information..."*

– Dr. John Deutch

There is a degree of competence in the intelligence community, according to 9/11 Commission member, former Senator Gorton, "but we live in an extraordinarily complex world."

"The qualities of foresight and imagination, which are perhaps the most important characteristics of people who will work for an intelligence agency — as against a law enforcement agency trying to put together what happened after the fact — and of seeing the world from a different perspective are very difficult to find. One of the most important duties of the people who are there to protect us is to find those people, to recruit those people, to give them enough recognition so that we do have highly competent people. If I were to exhibit a prejudice, as I have, it would be that I would put an even higher value on the people who are trying to prevent these happenings than I would put on the police officer or the FBI officer who is going to catch them after it's done. The very fact that he has to catch them after it's done shows we failed."

Attorney Brosnahan argued that the government knew all it needed to know prior to September 11, 2001, but was unable, competently, to act on the knowledge.



James Brosnahan

"The real issue is how to protect ourselves. We knew everything we had to know. That's my opinion. It's not classified. We knew everything we needed to know. That's true of the Clinton Administration and the Bush Administration. It's not a partisan remark. So before we say that throughout the United States the government is going to have roving wiretaps that you might be on, and that they may have a problem with that, you should remember that this issue is not a spectator sport. You may speak to someone about a confidential matter, and it may be not only listened to by agents but recorded. Have you said anything on the phone in the last two years that you would not like us to play now? So this is for all Americans, and it's serious stuff."

*"We knew everything we had to know. That's my opinion. It's not classified. We knew everything we needed to know. That's true of the Clinton Administration and the Bush Administration."*

— James Brosnahan

Several conference participants suggested that the real debates over personal liberty and the lengths we are able and willing to go to feel secure are really just beginning. Technology, it was suggested by Dr. Deutch among others, will drive the debate.

"It is possible that we can construct a computer system to do overnight data mining. Basically, every night, we will know where everybody is registered at every hotel, Hertz, airlines — so that when a question like this comes up, especially for an anticipatory act, there will be a database we can mine which will inevitably mix foreign and domestic individuals and which will be quite thorough, exhaustively so... Let me tell you that even in the more conservative parts of the country like Massachusetts, as opposed to here in Idaho, this is not a popular thought, but it is a potential reality."

"... What I want to stress in the most severe terms is that I do not want any FBI or law enforcement or prosecutor anywhere near such a system if we chose to put it into place. I want those guys to watch the people who are running that system, but if you start putting that kind of a collection strength in the hands of the law enforcement community, I think there is a real conflict. I would much

prefer, if such a system were created in order to protect Americans from perhaps catastrophic acts, that there be a separation of that activity from what the right rules are and whether they are being followed.”

“That’s the core of my point: Get the FBI out of this intelligence business, let them do what they are good at, which is law enforcement, and, we hope, the Justice Department will worry about the rights of Americans. That’s where I am.”

*“Get the FBI out of this intelligence business, let them do what they are good at, which is law enforcement, and, we hope, the Justice Department will worry about the rights of Americans.”*

– Dr. John Deutch

Every time you use it, it enters into a computer. My wife and I got an American Express Delta card because she likes to get miles. Everything is recorded: every place we go, every time we fly, every time we go to a hotel, every time we have dinner out. It’s all there; it’s just a matter of who gets to use it. You think American Express isn’t using it now? I think they are. That’s why you get those annoying phone calls, just when you sit down to dinner, telling you how to do better on your next flight.”

Is it inevitable that technology means a loss of freedom? Federal District Judge Kevin Duffy, who has presided over many of the most high-profile terrorist cases, is concerned:

“I’m fearful of it, but we almost have one of these systems set up. When was the last time you used your American Express card?

Federal Appeals Court Judge Trott took the example to a higher level:

*“To be facetious, why don’t we plant a computer chip in every child at birth and every immigrant... Then we could have a satellite and a printout, and we could tell where everybody is...”*

– Judge Stephen Trott

careful when we use anything that intrudes on our personal liberty, that it’s carefully balanced against these principles, that it’s not unreasonable, and that it’s not overkill.”

“To be facetious, why don’t we plant a computer chip in every child at birth and every immigrant that comes into the United States? Then we could have a satellite and a printout, and we could tell where everybody is with a computer chip. Obviously, by reducing it to that absurdity, it raises the question of how much are we going to distort who we are, how we got here, and what we enjoy in terms of the blessings of liberty to cope with these problems? It’s easy to over-react and to sell out the principles that make us a great nation. I think we have to be very, very

Judge Trott added, “So far, terrorists have done more than anyone I can think of to take away our liberties. We had a tremendous thing going for us prior to 9/11, and we’ve dropped back a couple of notches.”

Reverend Forrest Church, son of the late United States Senator from Idaho, provided the capstone to the policy discussion when he reflected on the renewed relevance of Franklin Roosevelt’s famous words about fear.

“Once we as a nation have done all of the obvious and defensible things to protect ourselves against another terrorist attack, each additional fraction of protection will exact a proportional sacrifice of freedom — and not only



freedom. When our alarms warn us only against threats that imperil our safety, they fail to alert us to dangers that may jeopardize our humanity. “Whoever fights monsters should see to it that, in the process, he does not become a monster,” wrote the philosopher Frederic Nietzsche. “When you look into an abyss, the abyss also looks into you.” When President Roosevelt reminded the American people that the only thing they had to fear was fear itself, he sought to make us less vulnerable to our enemies, not more like them.”

*“When President Roosevelt reminded the American people that the only thing they had to fear was fear itself, he sought to make us less vulnerable to our enemies, not more like them.”*

– Reverend Forrest Church



Rev. Forrest Church

## Conclusion:

Our ways of defining freedom, secrecy, security, and liberty are, as was suggested at the outset of this paper, not new debates in America. The current debates are variations on a recurring theme. In times of national crisis, faced with a frightful enemy and uncertain circumstances, the delicate balances that moderate among our occasionally conflicting values are upset. Abraham Lincoln suspended *habeus corpus* during the darkest days of the American Civil War. German language books were banned and the right to free speech infringed in many states during the First World War. The widespread raids against suspected anarchists and their foreign influence, ordered by Attorney General A. Mitchell Palmer in 1919 and 1920, are a sobering reminder of what unchecked power in the hands of federal law enforcement can mean. Japanese-Americans by the thousands, most of them American citizens, were interned during a time of world war in the 1940's. And a Senator from Wisconsin by the name of McCarthy gave his name to an American age by suggesting that “un-American” behavior was a threat to the nation's security.



Cecil D. Andrus

The profound debate continues amid new threats and new challenges.

Cecil D. Andrus, the former Idaho Governor and United States Secretary of the Interior, said he was asked by reporters covering the conference on freedom and secrecy why it had been organized. His answer is a challenge of sorts to all Americans who must engage in the debate over the limits of security, freedom, liberty, and secrecy: “What we would like to see,” Andrus said, “is an enlightened citizenry who will take it upon themselves to help make the determination on how much of our freedom we must sacrifice. How much is necessary?”

*“What we would like to see,” Andrus said, “is an enlightened citizenry who will take it upon themselves to help make the determination on how much of our freedom we must sacrifice. How much is necessary?”*

– Cecil D. Andrus

\*\*\*\*\*

## Participants



**Governor Cecil D. Andrus:** Chairman, Andrus Center for Public Policy; Governor of Idaho, 1987 to 1995; Secretary of Interior, 1977 to 1981; Governor of Idaho, 1971 to 1977. During his four terms as Governor of Idaho and his four years as Secretary of Interior, Cecil Andrus earned a national reputation as a “common-sense conservationist,” one who could strike a wise balance between conflicting conservation and development positions. He played a pivotal role in the passage of the Alaska Lands Act and the National Surface Mining Act of 1977 and in the creation of the Frank Church River of No Return Wilderness Area, the Snake River Birds of Prey Area, and the Hell’s Canyon National Recreation Area. Governor Andrus elected not to run again in 1994 and subsequently established the Andrus Center for Public Policy to which he donates his service as chairman. His awards include seven honorary degrees, the William Penn Mott Park Leadership Award from the National Parks Conservation Association, Conservationist of the Year from the National Wildlife Federation, the Ansel Adams Award from the Wilderness Society, the Audubon Medal, and the Torch of Liberty award from B’Nai Brith. In 1998, he authored with Joel Connelly a book about his years in public service: *Cecil Andrus: Politics Western Style*. He and his wife, Carol, have three daughters and three grandchildren.



**LeRoy Ashby, Ph.D.:** Professor of History, Washington State University. Dr. Ashby received his doctorate from the University of Maryland in 1966 and has enjoyed a distinguished career as an author and professor of 20th Century American History and Popular Culture. He was awarded the WSU President’s Faculty Excellence Award and honored as the 1990 and 1993 CASE Professor of the Year for the State of Washington. His books include *The Spearless Leader: Senator Borah and the Progressive Movement in the 1920’s* (University of Illinois Press, 1972); *Saving the Waifs: Reformers and Dependent Children* (Temple University Press, 1984); *William Jennings Bryan: Champion of Democracy* (Twayne 1987); *Fighting the Odds: The Life of Senator Frank Church* (WSU Press 1994); and *Endangered Children: Dependency, Neglect, and Abuse in American History* (Twayne, 1997).



**David Broder:** National political correspondent for *The Washington Post*. Broder writes a twice-weekly column that is carried by more than 300 newspapers around the globe. He was awarded the Pulitzer Prize in 1973 for distinguished commentary and named “Best Newspaper Political Reporter” by *Washington Journalism Review*. A survey for *Washingtonian* magazine found that Broder was rated “Washington’s most highly regarded columnist” by both editorial page editors and members of Congress, leading 16 others in ratings for “overall integrity, factual accuracy, and insight.” Broder won the White Burkett Miller Presidential Award in 1989 and the prestigious 4th Estate Award from the National Press Foundation in 1990, which also honored him with the Distinguished Contributions to Journalism Award in 1993. In addition, he won the 1997 William Allen White Foundation’s award for distinguished achievement in journalism and, in the same year, was given the National Society of Newspaper Columnists Lifetime Achievement Award. Before joining the Post in 1966, Broder covered national politics for *The New York Times*, *The Washington Star*, and the *Congressional Quarterly*. He has covered every national campaign and convention since 1960, traveling up to 100,000 miles a year to interview voters and report on the candidates. He is the author of seven books, the most recent of which are: *Democracy Derailed: Initiative Campaigns and the Power of Money* (Harcourt 2000); *The System: The American Way of Politics at the Breaking Point* with Washington Post alumnus Haynes Johnson (Little, Brown & Company, 1996); and *Behind the Front Page: A Candid Look at How the News is Made* (Simon & Schuster, 1987) Broder was born in Chicago Heights, Illinois. He received his bachelor’s degree and an M.A. in political science from the University of Chicago, served two years in the U.S. Army, and began his newspaper career at the Bloomington, Ill. *Pantagraph*. He has been a Fellow of the Institute of Politics of the John F. Kennedy School of Government at Harvard University and a Fellow of the Institute of Policy Sciences and Public Affairs at Duke University. Broder and his wife (the former Ann Creighton Collar) have four grown sons and make their home in Arlington, Virginia.

**James J. Brosnahan:** Senior Partner with Morrison & Foerster of San Francisco and a much-sought-after public speaker. Mr. Brosnahan received his B.S.B.A. degree in 1956 from Boston College and went on to attend Harvard Law School. His post-law school career led to five years as an Assistant U.S. Attorney, prosecuting federal cases in Phoenix and San Francisco. He has particular expertise in civil and criminal trial work and continues to be regularly engaged in civil and criminal trials, having tried more than 130 jury cases on issues including patents, money laundering, libel, murder, manslaughter, mail fraud, insurance bad faith, environment, property damage, divorce, child custody, tax evasion, bank embezzlement, theft of government property, real estate fraud, narcotics, obstruction of justice, perjury, conspiracy, interstate transportation of wagering information, antitrust, wrongful death, maritime personal injury, product liability, professional misconduct, immigration and other miscellaneous civil and criminal cases. Most recently, he is best known for his defense of the “American Taliban,” John Walker Lindh. Mr. Brosnahan has argued both civil and criminal cases in state and federal court, including two cases in the U.S. Supreme Court: *United States v. Caceres*, 440 U.S.741(1979), and *Eu v. San Francisco County Democratic Central Committee*, 109 S.Ct. 1013 (1989). His honors include induction into the State Bar of California’s Trial Lawyers Hall of Fame in 1996 and selection as Trial Lawyer of the Year by the American Board of Trial Advocates in 2001 and as “Legend of the Law” by the Lawyers’ Club of San Francisco in 2002. His lecture series, “Great Trials and Great Lawyers,” was featured in The Teaching Company’s *America’s Superstar Teachers*.



**Bethine Church:** Chair of The Frank Church Institute, President and Founder of the Sawtooth Society. Bethine Church, widow of Senator Frank Church, returned to Idaho following his death in 1984 and is best known now for her own achievements. In addition to chairing the many Frank Church Seminars at Boise State University in the intervening years, she has spearheaded the movement to save Idaho’s scenic Stanley Basin in Idaho through her inspired leadership of the Sawtooth Society. She is the daughter of Idaho Governor Chase Clark, who later served as a federal judge; the niece of another governor, Barzilla; and the cousin of a United States Senator, D. Worth Clark. During Senator Church’s three terms in the Senate, Bethine was active in many civic organizations in the Washington, D.C. area, including the Kennedy Center for the Performing Arts, the U.S. Capitol Historical Society, Meridian House, and the Center for Responsive Politics. She has contributed energy, time, and treasure to many of Idaho’s most worthwhile charities: the Anne Frank Human Rights Memorial, the Terry Reilly Health Services, the Basque Museum and Cultural Center, the Martin Institute for Peace Studies, and the Governor’s Task Force on Home Care. Her awards include an honorary degree from Lewis Clark State College, Boise State University’s Silver Medallion Award for Public Service, and the Lifetime Achievement Award from the Silver Sage Girl Scout Council. Her special interests are senior citizen advocacy, environmental protection, home health care issues, and children’s programs. She enjoys the company of her two sons, Chase and Forrest, and of her grandchildren. Her memoir, *A Lifelong Affair: My Passion for People and Politics*, has just been published by Frances Press, Washington, D.C.



**Forrest Church, Ph.D.:** Rev. Church is currently serving his twenty-sixth year as Senior Minister of All Souls Church (Unitarian) in Manhattan. He was educated at Stanford University, Harvard Divinity School, and Harvard University, where he received his Ph.D. in Early Church History in 1978. Dr. Church, who is 55 years old, has written or edited 20 books, including *Father and Son: A Personal Biography of Senator Frank Church of Idaho*; *Our Chosen Faith: An Introduction to Unitarian Universalism*; *God and Other Famous Liberals*; *Life Lines*; *Lifecraft*; *Bringing God Home*; and *The American Creed*. He is the editor of *The Essential Tillich* (University of Chicago, 1999); *The Macmillan Book of Earliest Christian Prayers* (1988), a new edition of *Thomas Jefferson’s Bible* (Beacon, 1989); and *Restoring Faith: America’s Religious Leaders Answer Terror with Hope* (2001). Eight of his addresses have been selected for inclusion in the annual anthology, *Representative American Speeches* (Wilson & Co.). Dr. Church is a member of the Executive Board at the



Franklin and Eleanor Roosevelt Institute. Mayor Giuliani appointed him Chairman of the Council on the Environment of New York City in 1995. Now serving in his eighth year as chair, he directs, among other programs, 32 green markets in the city. He is married to Carolyn Buck Luce and has four children: Frank (25), Nina (22), Jacob (19), and Nathan (16).



**John M. Deutch, Ph.D.:** Institute Professor at the Massachusetts Institute of Technology. He served as Director of Central Intelligence from May 1995 to December 1996. From 1994 to 1995, he served as Deputy Secretary of Defense and as Undersecretary of Defense for Acquisition and Technology during 1993-1994. Dr. Deutch also served as Director of Energy Research, Acting Assistant Secretary for Energy Technology, and Undersecretary in the U.S. Department of Energy. In addition, he served on the President's Nuclear Safety Oversight Committee (1980-81); the President's Commission on Strategic Forces (1983); the White House Science Council (1985-89); the President's Intelligence Advisory Board (1990-93); the President's Commission on Aviation Safety and Security (1996); the President's Commission on Reducing and Protecting Government Secrecy (1996-97); and as Chairman of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (1998-99). Dr. Deutch serves as director of the following publicly-held companies: Citigroup, Cummins, Raytheon, and Schlumberger Ltd. He is a director of the Council on Foreign Relations, Resources for the Future, and the Urban Institute and an overseer of the Museum of Fine Art in Boston. Dr. Deutch has been a member of the MIT faculty since 1970 and served as Chairman of the Department of Chemistry, Dean of Science, and Provost. He has authored over 160 technical publications in physical chemistry as well as numerous articles on technology, energy, international security, and public policy issues.



**Judge Kevin Thomas Duffy:** Judge, U.S. District Court, New York. Judge Duffy received his LL.B from Fordham University School of Law in 1958 and began his distinguished legal career as clerk for Judge Edward Lumbard, U.S. Court of Appeals, Second Circuit. From there he moved to the U.S. Attorney's Office for the Southern District of New York and became Assistant Chief of the Criminal Division. In 1961, he joined the firm of Whitman, Ransom & Coulson and subsequently Gordon & Gordon. In 1969, he was named Administrator of the Securities and Exchange Commission in the New York Regional Office and was appointed to the federal bench by President Nixon in 1972. He has served as Adjunct Professor of Trial Advocacy in the Fordham University, Pace University, and New York University Schools of Law. His many honors include Honorary Doctor of Humane Letters from the College of New Rochelle in 1998, the Dean's Medal from Fordham Law School in 1997, Community Leadership Award from the Federal Law Enforcement Foundation in 1995, the Lifetime Achievement Award (Justice William O. Douglas Award) from the Association of Securities and Exchange Commission Alumni in 1995, the Distinguished Public Service Award from the New York County Lawyers' Association, and numerous others. Judge Duffy is a prolific writer, and a sampling of his articles includes: "The Civil Rights Act: A Need for Re-Evaluation of Non-Exhaustion Doctrine Applied to Prison Section 1983 Lawsuits," *Pace Law Review*, 1983; "Amended Rule 11 of the Federal Rules of Civil Procedure: How Go the Best Laid Plans? The Actual Operation of Amended Rule 11," *54 Fordham Law Review* (1985); and "Cross-Examination of Witnesses: The Litigator's Puzzle" (with Aron and Rosner), Shepard's McGraw-Hill, 1989. The long list of his notable decisions includes: *USA v. Mohammad Salameh et al.*, 1993-1994 (*The World Trade Center Bombing Case*); *National Basketball Association et al v. Charles L. Williams et al.*, 1994; *USA ex rel Israel v. Mkousa Mohammed Abu Marzook* 1996 (*extradition of Hamas Chief for murders*); *USA v. Yousef, et al*, 1997 (*Manila Bombing Case*); *USA v. Yousef and Ismoil*, 1997 (*The World Trade Center Bombing Case II*). Judge Duffy and his wife of 46 years, Judge Irene Duffy, who is retired from the New York Supreme Court, have four children: Kevin Thomas Jr, Irene Moira, Gavin Edward, and Patrick Giles.

**Mark H. Gitenstein:** Attorney, Mayer, Brown, Rowe, & Maw, Washington, D.C. Mr. Gitenstein was counsel to the Senate Intelligence Committee (1975-1981). He was deeply involved in the Committee's investigation of domestic security matters at the Department of Justice and the Federal Bureau of Investigation. He served as Minority Chief Counsel of the Senate Judiciary Committee (1981-86) and as Chief Counsel of the Committee (1987-89). In those positions, he directed the Democratic staff's substantive work on all matters before the Committee. Among his responsibilities was overseeing the Committee's review of all judicial nominations. Mr. Gitenstein led the Democratic staff in 1987 when the Committee rejected the nomination of Robert Bork to the Supreme Court. His book on the subject, *Matters of Principle: An Insider's Account of America's Rejection of Robert Bork's Nomination to the Supreme Court*, was the recipient of the American Bar Association's 1993 Silver Gavel Award. He became a partner in the Washington, D.C. office of Mayer, Brown, Rowe & Maw in 1990 and founded the Government Practice Group at the firm. Mark is a 1968 graduate of Duke University, and he received his law degree from Georgetown University Law Center in 1972.



**Senator Slade Gorton:** Three-term U.S. Senator from Washington State, now a member of the Seattle law firm of Preston Gates & Ellis LLP and a member of the 9/11 Commission. Gorton's years in the Senate saw him appointed to powerful committee posts, including Appropriations, Budget, Commerce, Science and Transportation, and Energy and Natural Resources. Gorton served as the Chairman of the Interior Appropriations Subcommittee (1995-2001), the Commerce Subcommittees on Consumer Affairs (1995-99) and Aviation (1999-2000). He was a member of the Republican leadership as counsel to the Majority Leader (1996-2000). Senator Gorton began his political career in 1958 as a Washington state representative; he went on to serve as State House Majority Leader. In 1968, he was elected Attorney General of Washington state where he argued 14 cases before the Supreme Court. His most popular achievement as Attorney General came when he sued the American League in 1970 to keep baseball in Seattle. To this day, Slade Gorton is remembered by fans across the state for "saving the Mariners." In June 1980, he received the Wyman Award as "Outstanding Attorney General in the United States." He also served on the President's Consumer Advisory Council (1975-77) and on the Washington State Criminal Justice Training Commission from 1969-1981. He has served on the board of the Fred Hutchinson Cancer Research Center since 1987. In April, 2003, Senator Gorton became the first non-Estonian to receive the 1<sup>st</sup> Class Order of the Cross of Terra Mariana, the country's highest national award. The honor was the culmination of Gorton's many years of interest in and support of Estonia and the other Baltic states, Latvia and Lithuania.



**Leslie Hurst:** President and Publisher of *The Idaho Statesman*, she was named to her present position in May of this year. She relocated to Boise from Huntington, West Virginia where she was president and publisher of the *Herald Dispatch* and served previously in that role for the *Hattiesburg American* in Hattiesburg, Mississippi. Ms. Hurst has extensive experience in both the reporting and marketing sides of journalism, having reported for the *Shreveport Journal* and the *Columbia Missourian*. She was director of marketing for the *News-Press*, Fort Myers, Florida; the *Pensacola News Journal*, Pensacola, Florida; and *The Times*, Shreveport, Louisiana. Leslie is a recipient from the Gannett Company of the president's rings for excellence as both a marketing director and a publisher. Her civic involvement includes the West Virginia Roundtable; the Executive Committee of the Huntington Area Development Council, the Board of Directors of the Shreveport Economic Development Foundation, the Chambers of Commerce in Huntington, Hattiesburg, and Shreveport, and a *guardian ad litem* in Fort Myers. She is active on the Diversity Committee of the Southern Newspaper Publishers Association as well as the Board Diversity Committee for the Newspaper Association of America. Leslie was born in Turkey



into an Air Force family and grew up all over the world, living in such diverse places as Taiwan, France, and Germany. She is a graduate of the University of Missouri with a bachelor's degree in journalism. She is married to John Severson, a photojournalist with *The Indianapolis Star*. Her enjoyments include reading, traveling, and contemporary visual art.



**Loch K. Johnson:** Regents Professor of Political Science at the University of Georgia, author of several books on U.S. national security, and editor of the journal *Intelligence and National Security*. He has won the Certificate of Distinction from the National Intelligence Center and the V. O. Key Prize from the Southern Political Science Association. He has served as secretary of the American Political Science Association and president of the International Studies Association, South. Johnson was special assistant to the Chair of the Senate Select Committee on Intelligence in 1975-76, staff director of the House Subcommittee on Intelligence Oversight in 1977-79, and special assistant to the chair of the Aspin-Brown Commission on Intelligence in 1995-96. Born in Auckland, New Zealand, Professor Johnson received his Ph.D. in political science from the University of California, Riverside. At the University of Georgia, he has won the Josiah Meigs Prize, the University's highest teaching honor, as well as the Owens Award, its highest research honor.



**Marc C. Johnson:** Boise partner of the Gallatin Group, a Pacific Northwest public affairs/issues management firm with offices in Boise, Seattle, Portland, Spokane, Helena, and Washington, D.C. He serves in a volunteer capacity as President of the Andrus Center. Mr. Johnson served on the staff of Governor Cecil D. Andrus from 1987 to 1995, first as press secretary and later as chief of staff. He has a varied mass communications background, including experience in radio, television, and newspaper journalism. He has written political columns and done extensive broadcast reporting and producing. Prior to joining Governor Andrus, Mr. Johnson served as managing editor for Idaho Public Television's award-winning program, *Idaho Reports*. He has produced numerous documentaries and hosted political debates. Several of his programs have been aired regionally and nationally on public television. He is currently at work on a biography of progressive era Senator Burton K. Wheeler of Montana. Johnson is a native of South Dakota and received a B.S. degree in journalism from South Dakota State University. His community involvement includes a past presidency of the Idaho Press Club and the Bishop Kelly High School Foundation. He is a past board member of the St. Vincent De Paul Society and the Ada County Historic Preservation Council. Currently, he is chairman of the Idaho Humanities Council and a member of the boards of the Federation of State Humanities Councils, the City Club of Boise, and the Idaho Housing Company, a non-profit corporation devoted to developing low-income housing projects in Idaho. Mr. Johnson is married to Patricia L. Johnson, Ph.D., a senior planner with the Idaho Department of Health and Welfare. Their two sons, Rob and Nathan, both attend college in Idaho.



**George Lardner Jr.:** Staff writer for the Washington Post since 1963, working for most of those years as an investigative reporter on the newspaper's national staff. He has covered presidential campaigns, major court trials, and beats ranging from the White House and Congress to the CIA and the FBI. He won a Pulitzer Prize in 1993 for stories about the 1992 murder of his youngest daughter, Kristin, in Boston by a young man under court order to stay away from her. He later expanded that work into a book, *The Stalking of Kristin*. He has written numerous articles for national magazines and is chairman of the Fund for Investigative Journalism, which provides grants to free-lance journalists to expose governmental, corporate, and institutional wrongdoing and failings.

**Andrew H. Malcolm:** Member of the Editorial Board of the *Los Angeles Times*. Previous to joining the Los Angeles Times, Mr. Malcolm served as Deputy Communications Manager for *Bush 2000*, as press secretary to Laura Bush, and as a member of the transition team, Washington, D.C., July 1999-January 2001. Mr. Malcolm has roots in Canada but was educated at Culver Military Academy and Northwestern University, where he earned a B.S. and an M.S. in journalism. He is the author of ten books, including *The Canadians* and *Fury: Inside the Life of Theoren Fleury*, the true story of Theoren Fleury, the smallest player in the National Hockey League (McClelland & Stewart, Canada, November 1997). Malcolm's awards include the American Society of Newspaper Editors Award for Editorial Writing (2003); the *Los Angeles Times* Editorial Award (2002 and 2001); New York Page One Award from the New York Newspaper Guild (1975 and 1985), the *New York Times* Publisher's Award, 18 times; the George Polk Memorial Award for National Reporting (1975), and the Peter Lisagor Award for Reporting, Chicago Newspaper Guild (1983).



**Walter F. Mondale:** Vice President of the United States, U.S. Ambassador to Japan, U.S. Senator, and Minnesota's Attorney General. In addition to those offices, Fritz Mondale was also the Democratic Party's nominee for President in 1984. He is currently a partner with the law firm of Dorsey & Whitney LLP, headquartered in Minneapolis with 16 offices worldwide. He serves as chair of the firm's Asia Law Practice Group. Vice President Mondale is the product of the small towns of southern Minnesota where he attended public schools. In 1951, he earned his B.A. in political science from the University of Minnesota and, after completing service as a corporal in the U.S. Army, he received his LL.B (cum laude) from the University of Minnesota Law School. In 1960, he was appointed by Minnesota Governor Orville Freeman to the position of State Attorney General. Mondale was then elected to the office in 1962 and 1964 when he was appointed to fill the U.S. Senate vacancy created by Hubert Humphrey's election to the Vice Presidency. The voters of Minnesota returned Mondale to the Senate in 1966 and 1972. Jimmy Carter and Walter Mondale were elected President and Vice President of the United States on November 2, 1976. He was the first Vice President to have an office in the White House, and he served as a full-time participant, advisor, and troubleshooter for the Administration. During this period, Joan Mondale served as a national advocate for the arts and Honorary Chairman of the Federal Council on the Arts and Humanities. He ran unsuccessfully as the Democratic candidate for President in 1984, returned to Minnesota where he practiced law, and was appointed in 1993 by President Clinton as Ambassador to Japan. During that period, he helped negotiate several U.S.-Japan security agreements, including a resolution to the controversy about the U.S. military presence in Okinawa. He also helped to negotiate numerous trade agreements between the United States and Japan, and he promoted the expansion of educational exchanges between the two nations. Mondale has authored the book *The Accountability of Power: Toward a Responsible Presidency* and has written numerous articles on domestic and international issues. Mondale is married to the former Joan Adams. They have three children - Theodore, Eleanor Jane, and William - and three grandchildren.





**Thomas E. Moss:** United States Attorney for the District of Idaho. Tom Moss graduated from the University of Idaho College of Law with a Juris Doctor in 1965. He practiced law in Blackfoot and served as Prosecuting Attorney for Bingham County for 25 years. From February 2000 until his appointment as United States Attorney in August, 2001, he served as member of the Idaho House of Representatives. Mr. Moss has been a presenter to Idaho attorneys on behalf of the Idaho State Bar Association and the Idaho Prosecuting Attorneys' Association in the area of trial advocacy, media relations, and legal ethics. He has also served on the faculty for the National Advocacy Center in Columbia, South Carolina. Moss has presented many lectures and training sessions to law enforcement officers on preparing and presenting a criminal case, including crime scene investigation, preserving evidence, writing reports, and testifying in court. Mr. Moss is past president of the Idaho State Bar Association and currently serves on two subcommittees of the U.S. Attorney General's Advisory Committee concerning Native American issues and Borders and Immigration. He also serves on the Executive Working Group, whose objective is to maintain and improve working relationships among federal, state, and local law enforcement. Tom and his wife, Bonny, have raised seven children.



**Pierce Murphy:** Boise's Community Ombudsman. Murphy was appointed by the Mayor and the City Council on March 2, 1999 and began work on April 5, 1999. Mr. Murphy has extensive experience in human resource management, facilitation, mediation and investigation. He earned a Master of Pastoral Studies degree from Loyola University of New Orleans, a Master of Arts degree in Counseling Psychology from Gonzaga University in Spokane, Washington, and a Bachelor of Science degree in Commerce from Santa Clara University in Santa Clara, California. Mr. Murphy began his career in 1972 as a law enforcement officer with the City of Menlo Park in California. Following his graduate studies and from 1986 until 1994, Mr. Murphy maintained an active Human Resource Management consulting practice with clients throughout the United States, Europe, Asia, and Latin America. In 1994, Mr. Murphy joined the Paper Division of the Boise Cascade Corporation as Manager of Human Resource Development. Mr. Murphy is married, and he and his wife have seven children.



**Patrick A. Shea:** Attorney, Ballard Spahr Andrews & Ingersoll, Salt Lake City, former Deputy Assistant Secretary of the Interior for Land and Minerals Management. In that role, he oversaw the Bureau of Land Management, Minerals Management Services, and the Office of Surface Mining – agencies responsible for the management of over 270 million acres of land and for all offshore drilling for oil and gas production in the United States. Before entering government service, Mr. Shea was a lawyer, educator, and businessman in the Intermountain West. Along with practicing law in Salt Lake City and the District of Columbia, Shea was an Adjunct Professor of Political Science at the University of Utah and taught at the Brigham Young Law School. In September 1996, he was appointed by President Clinton to serve on the White House Commission on Aviation Safety and Security. Mr. Shea teaches seminars on Land Use Management and Biotechnology for Federal judges. Prior to his private law practice, he served as General Counsel and Assistant Secretary to a private communications company, operating television, radio, and newspapers. He also served as counsel to the Foreign Relations Committee of the U.S. Senate. Shea is a native of Salt Lake City and received his undergraduate degree from Stanford University in 1970, a master's degree from Oxford University in 1972, and a law degree from Harvard University in 1975.



**Judge Stephen S. Trott:** Judge, U.S. Court of Appeals, 9th Circuit. Judge Trott was nominated by President Reagan and sworn in on April 19, 1988. From 1983 until April 1988, he served in the Justice Department. During that time, he had primary responsibility for the Department's initiatives against international terrorism, drug trafficking, and money laundering, and he was required to approve personally all applications to the federal courts for electronic surveillance. From 1986 until 1988, he was the Department's Associate Attorney General, the third ranking position in the Department of Justice. He also served as U.S. Attorney for the Central District of California and as prosecutor for the District Attorney's Office of Los Angeles County. Judge Trott has been on the faculty of the National College of District Attorneys at Houston and is a member of the American College of Trial Lawyers. Born in Glen Ridge, New Jersey, he holds a degree in French literature from Wesleyan University, a law degree from Harvard Law School and honorary Doctor of Laws degrees from Santa Clara University and the University of Idaho. Judge Trott is an active member of "The Highwaymen," a folk music group best remembered for its gold 1960's record hit, "Michael Row the Boat Ashore" and "Cottonfields." He is past President of the Boise Philharmonic Association and is on the board of Directors for the Children's Home Society in Boise.



**Carolyn Washburn:** Executive Editor of *The Idaho Statesman*. Washburn has held the position of executive editor of *The Idaho Statesman* since March 1999. A Cincinnati native, Carolyn holds a bachelor of arts in political science and journalism from Indiana University at Bloomington. She started her journalism career at the *Lansing State Journal* in Michigan as a business reporter covering Oldsmobile and General Motors. She worked for ten years at the Gannett newspapers in Rochester, NY, a community of about 1 million people on the shores of Lake Ontario, from 1987-1993. She was a business reporter covering Eastman Kodak Co., business editor and AME/metro. She returned to Rochester as managing editor of *The Democrat Chronicle*, after serving as managing editor in Boise from 1993 to 1995, and held that position from 1995 until her return to Boise in 1999. Carolyn served for two years as the chair of the Reporting, Writing and Editing Committee of the Associated Press Managing Editors Conference. Carolyn, an avid reader, is married to Perry, a journalist by trade and now a stay-at-home dad. She has three children—a 13-year-old son and daughters 6 and 5. The entire family enjoys hiking and camping in Idaho's mountains.





*Dr. John Freemuth, Senior Fellow at the Andrus Center, holds the microphone for a questioner, following the address by Vice President Mondale.*

The Andrus Center is dedicated to independent, non-partisan research, analysis, discussion, education, and policy formation on critical issues confronting Idaho and the western United States.

The Center is non-profit, privately-financed, and housed on the campus of Boise State University. Contributions to support the Andrus Center are tax-deductible.

**The Andrus Center for Public Policy  
Board of Governors**

**Les AuCoin**

Chairman of the AuCoin Institute at Southern Oregon University,  
former Democratic Congressman

**Dan Evans**

Former Republican Governor of Washington  
and U.S. Senator

**Yvonne Ferrell**

Former Director of the Idaho Department of Parks and Recreation

**Neil Goldschmidt**

Managing Partner of Goldschmidt Imeson Carter,  
Secretary of Transportation in the Carter Administration,  
and former Governor of Oregon

**Jim Joseph**

The Stanford Institute at Duke University,  
former Ambassador to South Africa

**Patrick Noonan**

Founder of Nature Conservancy and  
Director of the Conservation Fund

**Mike O'Callaghan**

Executive Editor of the Las Vegas Sun,  
former Governor of Nevada

**Peter S. O'Neill**

O'Neill Enterprises of Boise

**Patrick Shea**

Former Director of the Bureau of Land Management,  
now a Partner in Ballard, Spahr, Andrews & Ingersoll in Salt Lake City

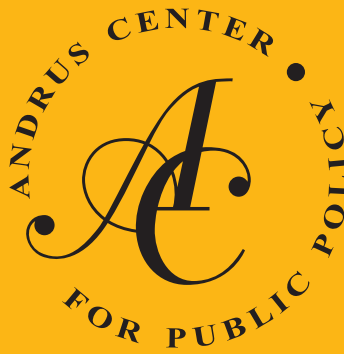
**Cathy Silak**

Partner in Hawley Troxell Ennis & Hawley,  
former Idaho Supreme Court Justice

**Alan Simpson**

Former Republican U.S. Senator of Wyoming

S P O N S O R S



**The Idaho Statesman**  
[IdahoStatesman.com](http://IdahoStatesman.com)

Ambassador Alan and Melinda Blinken  
Elam & Burke

The Gannett Foundation  
GC Strategic Advocacy

John Hechinger Sr.

Ambassador Henry L. Kimelman

Arthur and Jane Oppenheimer Fund in the Idaho Community Foundation

Moore Smith Buxton & Turcke, Chtd.

J. R. Simplot Company

The Stern Family Foundation

Katherine H. Troutner

Dr. Sam Taylor

For further information:

*The Andrus Center for Public Policy*

Boise State University

P.O. Box 852, Boise, Idaho 83701

(208) 426-4218 Fax (208) 426-4208

[www.andruscenter.org](http://www.andruscenter.org)