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Statement of Rep. Christopher Shays August 24, 2004

An old maxim of military strategy warns, “he who protects everything protects nothing.”

Nevertheless, the United States today attempts to shield an immense, and growing, body of secrets using an incomprehensibly complex system of classifications and safeguard requirements. As a result, no one can say with any degree of certainty how much is classified, how much needs to be declassified or whether the nation’s real secrets can be adequately protected in a system so bloated it often does not distinguish between the critically important and the comically irrelevant.

This much we know: there are too many secrets. Soon after President Franklin Roosevelt’s first Executive Order on classification in 1940, the propensity to overclassify was noted. Since then, a long and distinguished list of committees and commissions has studied the problem. They all found it impossible to quantify the extent of overclassification because no one even knows the full scope the federal government’s classified holdings at any given time. Some estimate ten percent of current secrets should never have been classified. Others put the extent of overclassification as high as ninety percent.

During the Cold War, facing a monolithic foe determined to penetrate our national secrets, overclassification may have provided a needed security buffer. But the risk/benefit calculation has changed dramatically. Against a stateless, adaptable enemy, we dare not rely on organizational stovepipes to conclude, in advance, who should have access to one piece of an emerging mosaic. Connecting the dots is now a team sport. The Cold War paradigm of “need to know” must give way to the modern strategic imperative – the need to share.

The National Commission on Terrorist Attacks Upon the United States (“the 9/11 Commission”) concluded that:

“Current security requirements nurture overclassification and excessive compartmentation of information among agencies. Each agency’s incentive structure opposes sharing, with risks (criminal, civil, and internal administrative sanctions) but few rewards for sharing information. No one has to pay the long-term costs of over-classifying information, though these costs—even in literal financial terms— are substantial.”

The National Archives’ Information Security Oversight Office (ISOO) reported that in 2003 more than 14 million documents were classified by the 3978 federal officials authorized to do so. They classified eight percent more information than the year before.

But recently declassified documents confirm the elaborate and costly security applied to much information is simply not worth the effort or expense. A former dictator’s cocktail preferences and a facetious plot against Santa Claus are no threat to national security in the public domain, yet both were classified. The most recent ISOO report correctly concludes, “Allowing information that will not cause damage to national security to remain in the classification system, or to enter that system in the first instance, places all classified information at needless increased risk.”

Current classification practices are highly subjective, inconsistent and susceptible to abuse. One agency protects what another releases. Rampant overclassification often confuses national security with bureaucratic, political or diplomatic convenience.

The dangerous, if natural, tendency to hide embarrassing or inconvenient facts can mask vulnerabilities and only keeps critical information from the American people. The terrorists know their plans. Fewer people classifying fewer secrets would better protect national security by focusing safeguards on truly sensitive information, while allowing far wider dissemination of the facts and analysis the 9/11 Commission says must be shared.

Any discussion of intelligence reform must include a new approach to classification, one that sheds Cold War shackles and serves the strategic need to share information. Our witnesses this morning bring impressive experience and insight to this important issue, and we look forward to their testimony.

Welcome.