



Intelligence and Security Committee

Interim Report 2000-01

Chairman:

The Rt Hon Tom King CH MP

Intelligence Services Act 1994

Chapter 13

Presented to Parliament by the Prime Minister

by Command of Her Majesty

MARCH 2001

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From the Chairman: the Rt. Hon. Tom King, C.H., M.P.

**INTELLIGENCE AND SECURITY
COMMITTEE**

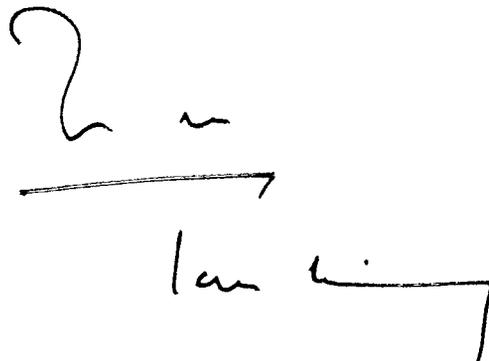
70 Whitehall
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21 March 2001

The Rt. Hon. Tony Blair, M.P.
Prime Minister,
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I enclose the Interim Report of the Intelligence and Security Committee on the current year 2000/2001. In view of the likelihood of the early dissolution of Parliament, we decided to make this report on our work to date since the last Report and to summarise the work of the Committee for the whole Parliament. We are reporting to you in unclassified terms so that publication can take place in time for next week's debate on Intelligence and Security. Some matters are referred to separately in a confidential annex.



TOM KING

INTELLIGENCE AND SECURITY COMMITTEE

INTERIM REPORT

The Rt. Hon. Tom King, CH, MP (Chairman)

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INTELLIGENCE AND SECURITY COMMITTEE

Interim Report

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Introduction

1. This Interim Report covers the period from August 2000 to March 2001. The Committee has decided to report to you, anticipating the dissolution of Parliament, to record our work to date since our last Report and also to summarise the work of the Committee in the whole Parliament. We are reporting to you in unclassified terms in order that publication can take place quickly: some matters are referred to in a confidential annex.

2. After the last election, Parliament returned on 14 May 1997 but the Committee was not appointed until 30 July 1997. It was only possible to have a brief meeting before a three-month recess so parliamentary oversight did not begin until November 1997. The Committee strongly recommends avoiding a similar delay in the appointment of the new Committee so that there is the minimum break in oversight.

3. The Committee is established under the Intelligence Services Act 1994 to examine the expenditure, administration and policy of the United Kingdom's three Intelligence and Security Agencies: the Secret Intelligence Service (SIS), the Government Communications Headquarters (GCHQ) and the Security Service. Committee members are notified under the Official Secrets Act 1989 and operate within the 'ring of secrecy'. We report directly to you on our work, and through you to Parliament. Since its formation in 1994, the Committee has met over 200 times.

4. In preparation for this Report, the Committee has met 20 times and we have taken evidence from witnesses, including:

- the Heads of SIS, GCHQ and the Security Service, together with a number of their staff;
- the Attorney General;
- officials from the Cabinet Office, the Ministry of Defence, the Home Office, HM Customs and Excise, the National Crime Squad and the National Criminal Intelligence Service.

5. We met you, the Home Secretary, the Cabinet Secretary and officials on 23 November 2000 to discuss the Committee's Annual Report 1999-2000¹ and other matters; and the Government Response to our Report² was presented to Parliament in December. The Committee's Report and the Government Response are due to be debated in the House on 29 March 2001.

6. As in previous years, the Chief of Defence Intelligence gave evidence to the Committee and we had informal sessions with the three Agencies at their headquarters.

1. Cm 4897, November 2000

2. Cm 5013, December 2000

We conducted a full Committee visit to the Defence Intelligence Staff. We also conducted sub-group visits to the Security Service.

7. As part of the Committee's programme of reviewing different approaches to oversight and to respond to the interests of other countries in our system of oversight, we visited Germany and Slovakia. This month we visited Russia at the invitation of the Security Committee of the State Duma. In the UK we received a visit from the Czech parliamentary oversight Committee and Mr Demeter, the Hungarian Minister without portfolio. We also met Mr Ivanov, Secretary of the Security Council of the Russian Federation, and Mr Rogozin, the Chairman and members of the International Affairs Committee of the State Duma, during their visits to the UK. The Chairman also met the Chairman and Rapporteur of the European Parliament's Temporary Committee on Echelon. The Committee took part in a one-day conference on Intelligence Oversight, arranged by the Royal United Services Institute and the Security and Intelligence Studies Group.

Programme of Work

8. In our last Annual Report³ we identified a number of issues that would form the basis of this year's programme. These were:

- the role of the centre in the co-ordination of the Agencies;
- whether individuals should have rights in connection with the destruction or otherwise of any file held on them and protections against having inaccurate information gathered, stored and used against the individual's interests;
- the details and progress of the GCHQ New Accommodation Programme (NAP);
- staff matters, in particular staff views and the handling of complaints within the Agencies;
- the arrangements between the Security Service and Law Officers for referring prosecutions;
- the Agencies' work against Serious Crime;
- the work of the Efficiency Advisor and his recommendations, in particular Joint Working; and,
- what Internal Audit is undertaken by the Agencies.

9. We proposed to continue our work on Information Warfare and also how well the Agencies are preparing themselves for the future. We also reported that we had tasked the Investigator to conduct investigations into the Secure Communications in the FCO and the Scientific and Technical Research and Development funded by the Agencies.

3. Cm 4897, November 2000

10. During the period covered by this interim report we managed to take evidence on the majority of the issues listed above. We took evidence on:

- the work of the Efficiency Advisor, on Joint Working and Public Service Agreements;
- the role of the DIS in supporting National Requirements;
- the role of the centre in the co-ordination of the Agencies;
- the Agencies’ work against Serious and Organised Crime;
- the details and progress of the GCHQ NAP.

11. The Investigator completed his reports into Secure Communications in the FCO and the Scientific and Technical research and development supported by the Agencies. At the request of the Security Service, the Committee agreed that the Investigator conduct an investigation into specific management and financial matters within part of the Service and he reported to us in February 2001.

12. In the Mitrokhin Inquiry Report⁴ we highlighted the fact that the Security Service system for consulting the Law Officers on Official Secret Acts offences had been changed and that new criteria for referral, under a new system, were under trial. In our last Report⁵ we undertook to monitor this new system and report to you. We, therefore, took written evidence on these new arrangements between the Security Service and Law Officers. We followed this up by tasking the Investigator to confirm these arrangements and he is due to report in April 2001.

13. We have continued to look at different systems of oversight, including the use of Inspectors-General in American, Australian, Canadian and New Zealand intelligence and security agencies. These Inspectors-General manage complaints within the agencies, the Internal Audit functions and the systems to ensure the agencies operate lawfully. The Committee requested memoranda from the three UK Agencies on how the roles discharged by the Inspectors-General in other countries are met in the UK Agencies. We have tasked the Investigator to follow up the evidence and he is due to complete his report in the summer.

14. In respect of the other subjects on the work programme at this stage in the year, we have not yet addressed Information Warfare or the issues in connection with personal files.

Central Intelligence Machinery

15. The Committee remains concerned that despite your assurance in December that the Ministerial Committee on the Intelligence Services (CSI) would “meet shortly”⁶, it has not

4. Cm 4764, June 2000

5. Cm 5013, December 2000

6. Cm 5013, December 2000

done so. The Committee was also concerned that the Intelligence Co-ordinator's Annual Report on the Agencies' Performance was not sent to the Prime Minister or any CSI members.⁷ **We believe that it is important for the senior cabinet ministers to be properly briefed on the overall performance of the Agencies and we repeat our recommendation that CSI meets at least annually to review this.**

16. We note that the Joint Intelligence Organisation within the Cabinet Office is seeking an IT Champion. This was one of the Committee's recommendations in our Annual Report last year⁸ and you acknowledged the need for the Cabinet Office to play an enhanced central role in the development of the UK Intelligence Messaging Network.⁹ We will continue to examine this area.

17. In our last annual Report, we recommended that the UK remained aligned with the US on a particular matter within the field of DIS. We have taken evidence that work is in hand, although it is not clear to us how any UK involvement would be funded. We once again look to you for an assurance that the UK will remain fully committed to this work.

Employment Tribunals

18. Over two years ago we recommended the establishment of a special Employment Tribunal to hear any Agency staffs' cases. **We are disappointed that the necessary regulations are still not in place as we submit this report to you.** It is very unfortunate that the Government has been unable to fulfil their earlier pledge to bring in both legislation and regulations "without delay". The Committee has written to the Secretary of State for Trade and Industry, who is responsible for these matters, expressing our regret at the delay in introducing these important rights to the employees of the country's Intelligence and Security Agencies.

Commissioners and Tribunal

19. A key element of public accountability of the Agencies is that individuals who believe that they may have a legitimate grievance against an Agency are able to make their complaint to a Tribunal. We have noted that the Tribunals under the Security Services Act 1989 and the Intelligence Services Act 1994 have been amalgamated with the Interception of Communications Tribunal in the Regulation of Investigatory Powers Act 2000 as the Investigatory Powers Tribunal, which came into being in October 2000.

20. We wrote to you in December to express our concern at the problem in the Tribunals over the processing of complaints. In the letter we noted that for a significant period in 2000 the Tribunal did not have sufficient secretariat to enable it even to open the mail, let alone process and investigate complaints. In your response you acknowledged that there

7. *Evidence from Peter Ricketts, January 2001*

8. *Cm 4897, November 2000*

9. *Cm 5013, December 2000*

had been a problem but that steps were now being taken to address the matter. **The next Committee will need to examine progress on this.**

21. We were grateful to the Commissioners, Sir Swinton Thomas and Lord Justice Simon Brown for giving evidence to the Committee in December. We asked them if they objected to the Committee seeing the Confidential Annexes to their reports to you. They noted that it was for you to decide to release them to us and not them. **We, therefore, ask you to reconsider your earlier refusal to pass the Annexes to the Committee.**

Investigator's Reports

22. The Investigator completed his report into Secure Communications in the FCO in December, concluding that the FCO had improved its emergency secure communications capability. This investigation stemmed from the Committee's Report on Sierra Leone, which highlighted the lack of secure communications between the High Commissioner and Whitehall. **The Committee endorsed the Investigator's conclusions and we are pleased that the situation is now much improved.**

23. The Committee was also asked by the Security Service to deploy the Investigator to report on certain specific management and financial matters within the Service. The Committee agreed to deploy the Investigator and he reported to us in February. We endorsed his findings and have asked the Director General to comment.

24. As we described in our last report, we tasked the Investigator to investigate Scientific and Technical Research and Development supported by the Agencies. This work has now been concluded, with the Investigator reporting to us in March. We have discussed the report and have forwarded it to the Agencies for comments. These will be considered by the new Committee.

25. As mentioned earlier in the Report, following our visit to the US last year, the Committee requested memoranda from the three UK Agencies on how the roles discharged by the Inspectors-General in other countries are met in the UK Agencies. We have tasked the Investigator to follow up the evidence and he is due to complete his report in the summer.

Expenditure

26. **The Committee was disappointed that Ministers declined to make public the individual Agency budgets. We still believe that the disclosure of the information within the context of the Single Intelligence Vote is possible without compromising national security or being prejudicial to the continued discharge of the Agencies' functions, which are the only criteria for removing this information from our published Report. The next Committee will need to return to this matter.**

27. We have also noted that the NAO has begun to examine various aspects of the Private Finance Initiative contract for the new building at GCHQ. We will await the report with interest. **We strongly support the New Accommodation Programme but we expressed concern that the service GCHQ provides during the transition period may not meet with customer requirements and that it may not be able to avoid significant overruns in time and money. We recognise that significant progress has been made in project management and review but we do remain concerned at the scale of the challenge that GCHQ faces. We recommend that the next Committee returns to this.**

28. **The Committee was disappointed that the Chief Secretary to the Treasury has so far declined to give evidence to the Committee on the Treasury's view of the Intelligence and Security Agencies.** He has prayed in aid the standard practices with Select Committees. However the ISC is not a Select Committee and we are charged under statute to oversee, as well as other matters, the finance of the Agencies. In addition, the Chief Secretary initiated a report into intelligence flows against Serious and Organised Crime and the Agencies' Efficiency Advisor reports to him. This refusal does not sit very comfortably with your assurance that Departments would provide the ISC with the fullest co-operation, and will need to be addressed.

Serious and Organised Crime

29. The Committee took evidence from Mr Hellowell, the UK Anti-drugs Co-ordinator, the National Crime Squad, the National Criminal Intelligence Service, HM Customs and Excise and the Intelligence Section of the Immigration and Nationality Directorate of the Home Office. The evidence was looking at the support currently being provided by the Intelligence and Security Agencies to these law enforcement agencies in the fight against serious and organised crime.

30. The Committee also noted the recommendation from the Treasury Select Committee¹⁰ that we examine the adequacy of co-operation between the Security Service and HM Customs and Excise in the context of tobacco and alcohol smuggling. We took evidence¹¹ from both organisations on the areas in which they are currently co-operating. Particular areas include the provision of Security Service surveillance teams and technical assistance to HM Customs and Excise, representation on the various specific committees and in organisations such as the National Technical Assistance Centre.

Drugs

31. The Committee heard that all three Agencies were providing vital intelligence to prevent drugs from reaching the UK. We were also told that the resources allocated to this task were being increased over the next three years and that staff secondments between the different organisations had also resulted in improved results. HM Customs and Excise

10. HC 41, 12 December 2000 Work of the Treasury Committee and Treasury Sub-Committee, *First Report Session 2000-2001*

11. *Evidence from HM Customs and Excise and Security Service, February 2001*

are now the lead law enforcement agency in the fight to prevent drugs reaching the UK, working in concert with all the other organisations. We note that the Security Service has been tasked by the Co-ordinated Inter-Agency Drugs Action Group, which is chaired by HM Customs and Excise, to provide assessments and analysis of the Cocaine and Heroin trade. The JIC has its own unit responsible for reporting on the drugs trade and other serious and organised crime. We have been assured that these two units do not duplicate each others work.

Tobacco Smuggling

32. Tobacco smuggling and excise evasions deny the Exchequer revenue. HM Customs and Excise told us that whilst systems such as x-ray machines at ports are useful, secret intelligence on major smuggling operations allows whole operations to be tracked and wound-up. The Committee was concerned to hear that large consignments of cigarettes continue to be exported from the UK, only to be smuggled back into the country via a staging country or countries.

Organised Immigration Crime

33. The Committee has been concerned for some time about the smuggling of people, and we have questioned the Agencies on this subject in the past few years. The Agencies have previously indicated that this matter was not, in terms of a National Requirement, a significant order of priority, although they were doing some work on the subject. The Committee noted that the Agencies are now devoting more effort to prevent organised immigration crime (OIC). The Committee notes that the National Crime Squad (NCS) has the lead in this matter within the UK and that work by the National Criminal Intelligence Service (NCIS) has called for a more co-ordinated approach to fight OIC. We believe that the close co-operation between the Nationality and Immigration Directorate, NCS and NCIS has resulted in better use of the Agencies and we were told that a number of smuggling operations have been disrupted in Europe, with the assistance of the relevant national authorities.

Other Matters

34. One of the characteristics of the intelligence and security field is the frequent, often sensational but unsubstantiated reports that appear in the media. The Committee takes an interest in such matters and seeks to determine which require action by the Committee. A case in point is the allegation of support for a plot to overthrow Colonel Gaddafi. We intended to report to you on this matter but are not yet fully in a position to do so. **We believe that the Committee's Report on the Mitrokhin Archive demonstrated our competence in this area, providing an objective view of events with conclusions and recommendations for future work and any necessary changes.**

Future of OSA

35. The Committee has been concerned over a number of years that the Official Secrets Acts are not capable of protecting the secrets they are designed to protect. The traditional threat of espionage from hostile and foreign governments has not receded, whilst other threats such as chequebook journalism have increased. Disclosures are now increasingly being made, sometimes anonymously, on media such as the Internet, with no obvious redress by the authorities in the UK. The injunctions taken out by the Government are civil matters and tend only to prevent disclosure in the UK. **We believe that the new Committee could examine the Official Secrets Acts and recommend changes to ensure that the Acts protect secret information.**

Conclusions and Recommendations

36. On the basis of the evidence we have taken, our conclusions and recommendations are as follows:

- A. We believe that it is important for the senior cabinet ministers to be properly briefed on the overall performance of the Agencies and that the Ministerial Committee on the Intelligence Services (CSI) meets annually, as we previously recommended.
- B. We regret the delay in introducing the right to an Employment Tribunal to the employees of the country's Intelligence and Security Agencies.
- C. We were concerned that for a significant period in 2000 the Tribunals did not have sufficient secretariat support, although you have assured us that steps have been taken to address the matter. The new Committee will need to examine progress on this.
- D. We ask you to reconsider your earlier refusal to pass the Confidential Annexes of the Commissioners' Reports to the Committee.
- E. The Committee is pleased that the FCO has improved its emergency secure communications capability.
- F. The Committee was disappointed that ministers declined to make public the individual Agency budgets. The next Committee will need to return to this matter.
- G. We recommend that the next Committee continues to monitor the GCHQ New Accommodation Programme.
- H. The Committee was disappointed that the Chief Secretary of the Treasury has so far declined to give evidence to the Committee on the Treasury's view of the Intelligence and Security Agencies.

- I. We believe that better co-ordination in dealing with organised and serious crime, together with increased funding, has allowed the Agencies' contribution to be increased.
- J. One of the characteristics of the intelligence and security field is the frequent, often sensational but unsubstantiated reports that appear in the media. The Committee takes an interest in such matters and seeks to determine which require action by the Committee. We believe that the Committee's Report on the Mitrokhin Archive demonstrated our competence in this area, providing an objective view of events with conclusions and recommendations for future work and any necessary changes.
- K. We believe that the new Committee could examine the Official Secrets Acts and recommend changes to ensure that the Acts protect secret information.

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