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Communications on this subject should
be addressed to

THE LEGAL SECRETARY
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

12 March 1986

Mark Addison Esq
Private Secretary to the
Prime Minister
10 Downing Street
London SW1

Prime Minister 4
Nicely written and
worth reading.

JWS
18/3

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Dear Mark,

... The Attorney General has asked me to forward to you a copy of the First Annual Report of the Fraud Investigation Group. If you consider that it will be of interest to the Prime Minister, you will no doubt place it before her. Otherwise, it can be regarded as a useful source of defensive briefing as and when it may be required.

You may note the continuing pressure of the caseload upon the FIG and it seems inevitable that the position will have to be reviewed in the near future despite the increase in establishment announced last December. But it would be premature to initiate such a review in advance of the outcome of the deliberation of the Chief Secretary's Group considering the Roskill recommendation for the establishment of a unified prosecution and investigation unit. If that recommendation is adopted, FIG will cease to exist in its present form at least.

A copy of this letter goes to Bill Fittall.

Yours sincerely

Steph Wooler

S J WOOLER

enc.

FRAUD INVESTIGATION GROUP

FIRST ANNUAL REPORT

Volume of Work

The Roskill Report and the Levi Report¹ have both recently stressed the significant increase in serious fraud in the last few years. The following tables show that the experience of the fraud divisions of the DPP in 1985 reflected the trend.

1. Number of cases reported to DPP :

1983	304
1984	408
1985	593

2. Number of cases committed for trial :

1983	25
1984	45
1985	93

During 1985, 150 prosecutions were begun. 55 trials on indictment were completed, of which 42 resulted in conviction, 13 in acquittal.²

It will be appreciated that the figures in the preceding sentence bear little relation to one another, since it is very rare

1 The Incidence, Reporting and Prevention of Commercial Fraud

2 A conviction for this purpose is defined as a case where a plea or verdict of guilty is entered upon one or more counts in respect of one or more defendants.

for a fraud case to be concluded within a year from the commencement of proceedings.

The words of my predecessor, John Wood in his report on the first six months of FIG remain true. It is far too soon to assess the effect the formation of FIG has upon criminal trials. In twelve months from now, however, a more informed appraisal may perhaps be possible.

The Cost of Fraud

Dr. Levi reported that recorded fraud has increased by an average of five per cent annually since 1980, and it seems a fair assumption that the "dark figure" of unrecorded fraud has not lagged behind.

The cost of fraud to the economy has been variously estimated and the present writer has too limited a view of the problem to make a useful contribution to the debate, but the fraud divisions were recently required to assess the total sums at risk in cases reported to them in 1985.³

Dr. Levi has demonstrated the difficulties inherent in such calculations. Indeed, an approximation is all that is possible. One reason is that in any sizable enterprise which has suffered heavy financial loss some proportion of that loss is due to non-criminal causes such as honest misjudgement, negligence or muddle. Again, one victim may prefer to attribute part at least of his loss to another's criminality than to his own failure of business acumen, while another may prefer to

3 "At risk" refers to sums unlawfully obtained or the subject of unlawful conspiracies or attempts to obtain.

conceal loss caused by fraud lest his reputation suffer. Or again, the scope and complexity of the victim's commercial operations may render him unable - however honest his intentions - to quantify the loss caused by fraud when the police are called in. At the end of a thorough investigation even with expert accounting assistance they in their turn are often reduced to an estimate pitched between appreciably different figures. Cases of corruption pose special problems. The size of the bribe is likely to be small compared to the contract in contemplation or even with the expected margin of profit. And if the work requires to be done, and is done with reasonable competence, how is the loss to be measured (in the absence of deliberate inflation of cost by the contractor)?

Nonetheless when all such qualifications have been entered it is currently estimated that the total sum at risk in fraud cases reported to the Director in 1985 was between £1,400 million and £1,600 million. Without inviting any conclusion to be drawn from the fact the writer can report that the total operational costs of the fraud divisions in the same year fell just under £1½ million.

Resources

A. Manpower

In language of commendable restraint my predecessor in his earlier report declared that his professional officers were carrying too great a case load, and warned that "efficiency will not be achieved where professional officers cannot give proper attention to their cases". His warning was sounded when the average case load of each professional officer in the fraud divisions was about thirty.

The importance of the professional officer of the DPP to the investigation and pursuit of serious fraud cases may perhaps be gathered from the fact that in all the fraud cases prosecuted by the Director (not merely in the FIG cases properly so-called) he acts as the "Case Controller". The comments under this heading in the Roskill Report precisely delineate the role and function of the professional officer from the moment that the Director assumes responsibility for the supervision of a fraud investigation.⁴

The average case load of the professional officer in these divisions is now about thirty-eight.

Even before the appearance of the Roskill Report ministers had publicly pledged the provision of nine more lawyers and support staff (to include three accountants) for FIG and the search for these reinforcements was put in hand. The planning and staffing requirements of the emergent Crown Prosecution Service however have severely depleted the numbers of suitable lawyers available and new staff for FIG have not been found as quickly as one would wish. Nonetheless three of the nine lawyers are now in post and an advertisement has recently been published calling for barristers and solicitors with at least four years experience in criminal work to join FIG on short-term contracts. A search within the Government service is being made for the three accountants and will be extended to the private sector if necessary.

On the accountancy side a very welcome addition to strength has been the arrival of two Examiners D (HEO) from the Insolvency Service.

⁴ Paragraphs 2.65 and 2.66

They will be joined by a third in April, and the fraud divisions would like to take this opportunity to express their appreciation of the unstinting co-operation and help which the Insolvency Service have given them by selecting and making available these Examiners.

Another development foreshadowed in John Wood's report has been the setting up of panels of senior accountants prepared to assist police in their investigations on a case-to-case basis at fees substantially lower than they could expect to earn in private practice. This scheme is already proving of value, and a number of current investigations in London and the provinces are benefitting from it.

Yet the need for three more accountants to serve full-time with FIG remains and should be satisfied as a matter of priority. The suggestion in the Roskill Report that "the adequacy of the accounting staff in post must be the subject of scrutiny by the Fraud Commission when it is in place" is one which only postpones indefinitely the solution of a problem which is already apparent, and urgently so.⁵

B. Equipment

Fraud lawyers and their supporting staff require more working space than their colleagues in other areas, because of the amount of paper generated by their cases and the need to house more secure cupboards and tables. The meeting of this basic demand poses problems for administrators, endeavouring to balance competing claims for accommodation. The recent move to Furnival Street has at least secured for the fraud divisions adequate room for their present staff, as well as for the reinforcements mentioned above. It has to be remembered, however,

that the recruitment of those additional members is designed to "reduce a case load that has been described as monstrous to one that can be described by the word 'tolerable'", in the words of Lord Mishcon in the House of Lords on 14 January.⁶ If the significant increase in cases reported to the Director in recent years continues then the present accommodation will not be adequate for such additional staff as may quite soon be required.

The importance of adequate technical aids is being recognised and the fraud divisions are being dragged (to the undisguised relief of their members) into the contemporary world. Fax and telex have been installed, the microfiche is in full use, and various types of computer are on trial - the latter being required not merely for such purposes as case-tracking or the storage of information on known fraudsters but as an adjunct to the investigation process. The value of one's own computer in purely financial terms can be guessed from the fact that in one current investigation FIG has already paid over £5,000 for computerised schedules produced outside, and this in a case where further such schedules will be necessary as enquiries progress.

Training

Side by side with the procurement of adequate human and technical resources runs the need for effective training. Not the least of the many insights for which we are indebted to the Roskill Report is its insistence upon adequate training for all those involved in the investigation, preparation, presentation and trial of serious fraud cases.

⁶ Hansard (HL) 14 January, 1986, Vol.469, No.26, Col.989.

Two courses of basic training in accountancy have now taken place, conducted by Miss Jane Allan FCA of the Member Services Directorate of the Institute of Chartered Accountants in England and Wales. They were attended by lawyers and senior non-professional officers in the fraud divisions and by senior detective officers and this mix of students enhanced their practical value, which has been clear.

Various courses on the use of computers, both as investigative aids and as instruments of fraud, are under comparison and it is intended that the most suitable for FIG purposes will become part of the regular training programme of the fraud divisions. Such courses are not cheap but those who work in FIG fully endorse the comment in the Roskill Report that money spent on training is money well spent.

It has also been agreed that Mr David Baldwin CA who has rendered invaluable service to the Director in fraud investigations in recent years will conduct short training sessions for professional and non-professional staff later this year in the "modern effective techniques of presenting complex information to a lay audience such as visual display and projection systems" enjoined by the Roskill Report.⁷

Co-operation

The Roskill Report expressed the belief that (in dealing with serious fraud) there is "a degree of institutional reluctance among the organisations concerned to work fully and effectively together".⁸

The present writer is glad to report that since becoming Controller of FIG he has experienced nothing of the kind. Whether full and active co-operation among the agencies involved is a phenomenon of recent

7 Paragraph 6.64

8 Paragraph 2.47

birth or not, it is now the norm. Indeed, it is quite certain that without it results would be markedly more discouraging. Given the pressure placed upon them by inadequate resources the members of FIG would wish me to place on record their appreciation of the willingness to work fully and effectively with them displayed by their colleagues in the police, DTI, and - less often only because less often involved - the revenue departments. This is not to claim that present methods are foolproof or to deny the need always to improve lines of communication and mutual support : it is the imputation of lack of will which is rejected.

The policy inaugurated by my predecessor of explaining the aims and problems of FIG by lectures, conferences and interviews with reputable journalists continues and has stimulated a sympathetic response from members of the business community. This has been particularly evident in the accountancy profession. The senior officers of the Institute of Chartered Accountants in England and Wales have volunteered to help with training courses tailored to our needs and have canvassed the possibility of senior accountants joining FIG for short-term contracts when retiring from their firms. In the last year there has also been a perceptibly more helpful approach by the profession to the vexed question of the reporting of suspected fraud to the authorities by outside auditors.

The Roskill Report

By far the most important and heartening development in the last year, however, has been the appearance of the Roskill Report. In the course of one's first reading the conviction grew that here at last was a masterly and comprehensive analysis of the problems that beset the investigation and prosecution of serious frauds.

As the first warm glow of Yuletide approval yielded to a colder appraisal in the bitter February just endured it was perhaps inevitable that some doubts would be raised.

For example, while the feasibility of a Fraud Unit is rightly even now under consideration a note of caution may be permitted. The picture of a hand-picked permanent body with enhanced powers of investigation, instant recourse to all relevant skills and talent, the narrow professional or departmental considerations of the past all swept away in the very act of its creation - this is a vision as entrancing as the Holy Grail, but before it is grasped the pilgrim will need to overcome formidable problems of scope, recruitment, powers, remuneration and control. The Fraud Commission appears even less likely (and it must be said worthy) of realisation.

Again, while the Director welcomes Recommendation 82 (the setting up of the Fraud Trials Tribunal), the controversy which it has already engendered raises the question whether the thorough and imaginative scheme of reform which the Report presents in its specific, evidential and procedural sections may be endangered by association.

Such a consequence would be deplorable. The proposals set out in Chapter 4 (Committal Proceedings), Chapter 5 (Rules of Evidence), Chapter 6 (Preparing for Trial), Chapter 7 (Composition of the Jury) and Chapter 9 (The Conduct of the Trial) contain such a compelling and realisable programme that its implementation - subject to one vital condition - must have a rapid influence upon the campaign against serious fraud.

Envoi

That condition is the early and sustained provision of adequate resources to the agencies concerned, FIG among them.

It is a precept of strategy that one reinforces success.

The Attorney General was kind enough to declare in the House of Commons on 12 January that, "So far FIG has been a great success story. Indeed it has been so successful that it is almost overwhelming".⁹

The figures quoted in the first section of this report lend substance to that claim, for they disclose that a unit whose resources were already overstretched at the beginning of 1985 yet succeeded in committing for trial in that year more than twice as many serious fraud cases as in 1984 while dealing with an inflow of cases nearly half as large again. Meanwhile the success rate in trials completed exceeded 70%.

During 1985 not one extra lawyer or non-professional officer could be found for its staff, and there can be no doubt that a serious effect upon the health of more than one of those in post has resulted.

Dr. Levi has observed that, "Prosecutions for fraud are not self-generating: they require detailed investigation, case reports and preparation for trial. It follows logically that as long as case-loads are high and staff resources low, few cases can be prosecuted, however high the level of agency motivation to take fraudsters to court". Quite.

9 Hansard (HC) 13 January 1986, Vol.89, No.34, Col.770.

The Roskill Report being prefaced by a misapprehension of a verse from Psalm 84, perhaps FIG may close its first annual report by an appeal to the Sermon on the Mount.

"By their fruits you shall know them.

Do men gather grapes of thorns, or figs of thistles?"

Matthew 7:16.

Dorian Williams.

D.G. WILLIAMS

Controller.

