

Covering

TOP SECRET

16

Prime Minister ?

Ref. A085/1201

PRIME MINISTER

Two supplementary points :-

- i. A revised version of the Security Commission Report has been prepared (Flag B) relegating the evidence critical of the management and organisation of the Security Service to an Appendix D, which would not be published;
- ii. You will have to decide whether the leader of the Opposition should see the full Report.

Oversight of the Security Service

I think you may need a meeting with the Lord President, Home Secretary, Sir Robert Armstrong, Sir Anthony Duff - and perhaps the Foreign Secretary who

The purpose of this memorandum is to examine the case for instituting some system of external oversight of the work of the Security Service; and the form which such oversight might take. What is in mind here is some system which does not detract from, but complements and supports, the responsibilities of Ministers in this regard.

Agree?

FERB

27.4

2. Of the three security and intelligence agencies, it is the Security Service which gives rise to the greatest political and public attention. This is partly because of the general fascination which counter-espionage has for the general public; at a deeper level it is because, while the other two agencies are concerned with gathering intelligence about foreigners, the Security Service gathers intelligence ("snoops") not only on foreigners in this country but also on British citizens thought to be involved in espionage, terrorism or subversive activity. Its activities and operations are recognised as protecting the home base, but also as liable to affect the rights of British citizens.

3. The range of activities of the Security Service are publicly defined in the 1952 directive to the Director General, which still remains in force (copy attached as Annex A). The Director General is personally responsible to the Home Secretary for ensuring that the Security Service carries out its duties within the letter and spirit of that directive, and for the efficient management and operation of the Service. Financial control and accountability are provided by the Committee of Permanent Secretaries on the Intelligence Services (PSIS) reporting to the

Prime Minister and the Home Secretary, and through the processes associated with the Secret Vote, for which the Secretary of the Cabinet is the Accounting Officer.

4. It has always been held that the need to maintain effective secrecy about details of the Security Service's activities and operations precluded any form of external oversight. On the whole Parliament has accepted that the Service is responsible to the Home Secretary and the Prime Minister, and that Ministers, as (in a sense) the representatives of Parliament, should and can be trusted to exercise proper control and should not be required to account for their stewardship by the normal Parliamentary processes that apply to ordinary departmental Ministers. In discharging their responsibility the Home Secretary and the Prime Minister are supported by a small number of officials in the Home Office and the Cabinet Office, and in particular by the Permanent Under Secretary in the Home Office and by the Secretary of the Cabinet and the Intelligence Co-ordinator who are in constant contact with the Security Service, particularly on operational and financial business. Ministers are also supported by the work of the judicial monitor of interception (to become a Commissioner when the Interception of Communications Bill becomes law), whose remit can take him into the details of a case for interception and the arrangements in the Security Service for handling intercepted material.

5. This small group of Ministers and officials constitutes the existing "external oversight" of the Security Service, and is qualified to exercise that oversight by the regularity and frequency of the contacts and by the high degree of confidence that subsists between them and the senior management of the Service. Moreover, they not only represent the Parliamentary and public interest in their contacts with of the Service; they also have the responsibility of safeguarding the interests of the Service in Parliament and the outside world. Their importance to the Service in this regard ensures the readiness of the Service

to share information with them and to do all that can be done to satisfy them that Ministers can honourably reassure Parliamentary and public opinion about the propriety of the Service's activities.

6. These arrangements are secret, except in the most general outline, and are operated in secret. In practice Parliament and the public are asked to trust the Prime Minister and the Home Secretary to see that all is well. The question is whether these arrangements do, or at any rate should, satisfy reasonable Parliamentary and public opinion, or whether they can no longer be regarded as doing so and the time has come to supplement them with some form of non-governmental external oversight.

7. There are regularly recurring expressions of the view that there should be some form of external "accountability" for the Security Service; and these expressions of view are not confined to left-wing organisations and people whose motive might be to undermine the effectiveness of the Service, but extend to responsible people who would have no such motive, such as Mr Callaghan and Dr David Owen.

8. The pressure for some form of external accountability has been revived by the introduction of the Interception of Communications Bill, in the course of debates in which speeches in this sense have been made by Mr Callaghan and Sir Edward Gardner (among others). The different proponents of change argue their case on somewhat different grounds. Some are concerned with the propriety of the operations and activities of the Security Service. Others are more concerned with policy and objectives: Mr Callaghan argues that there would be advantage in some independent discussion between the Director General of the Security Service "and a group of outsiders, whom I will not define more closely than that at present, about the objectives, targets and priorities of MI5 from time to time and, indeed, fairly regularly". Another proposal, from Sir Edward Gardner,

claiming the support of Mr Callaghan, Mr Rees and senior Government backbenchers, was that there should be an independent commissioner to whom a discontented or troubled member of the Security Service could turn if he thought that there was impropriety or abuse of authority, so that the allegation could be independently investigated. This proposal is likely to be taken up again when the Bill reaches the House of Lords.

9. The pressure is likely to be renewed by the publication in due course of the Security Commission's report on the Bettaney case, which is critical of some aspects of the personnel management of the Security Service. The report, as prepared for publication, goes on to record that the Commission "received much evidence of a more general character relating to the internal organisation and management of the Security Service, some of it highly critical The very fact of the Service's comparative isolation makes it the more important that those responsible at the higher levels for management should maintain a self-critical attitude and be constantly alert to the need to keep the Service's organisation, practices and procedures under review It is true that the Service tends to be inflexible and resistant to change in management matters, this will no doubt take time to be eradicate". The Commission say earlier that nothing in their report "is intended in any way to call in question the professional and operational efficiency of the Security Service, which we believe to be of a high order". Nevertheless, their comments about management generally are plainly not restricted to personnel management as such: they will be read as strengthening the case for external scrutiny and even for accountability, as well as the case advanced by Sir Edward Gardner for some external outlet for the troubled member of the Service.

10. This is therefore a good time to consider whether some form of external oversight should be instituted, and if so whether that should be announced when the Security Commission's Report is published.

11. The Security Service itself is feeling rather embattled, amidst the pressures generated by the Pincher and Wright attempts to reopen the Hollis affair, by the Bettaney affair, by the Interception Bill, and by the Channel 4 television programme featuring the revelations of Miss Cathy Massiter. Furthermore, while accepting that there is a need for a fundamental re-examination of the organisation and management of the Service, senior and middle-ranking managers in the Service are critical of the Security Commission for accepting and indeed encouraging the criticisms made to them without seeking the views of a representative cross-section of the Service. Senior management in the Service would accept, and even welcome, the introduction of some system of external oversight if it effectively reinforced the efforts of Ministers to recreate a body of reasonable Parliamentary and public opinion which supported the Service and its purposes without creating unacceptable risk of damage to the security and effectiveness of its work.

12. The problem is to devise a system that would meet both of those requirements.

13. There are two broad areas to which external oversight might be directed: to the objectives and purposes of the Security Service's work (broadly speaking, whether it is implementing the directive in a sensible way), and to the management of the Service. Though it is the second area to which the Security Commission's recommendations in its Bettaney Report are directed, it is the first area which is of primary concern to interested Parliamentary and public opinion. We do not believe that the management of the Service requires external oversight, or would indeed benefit greatly from it (given the unusual nature of the

work of the Service, to which there is no even remotely comparable analogue in the private sector). We believe that its shortcomings in organisation and management can be remedied by the new Director General, reporting to the Home Secretary and supported by him and by the group of officials referred to in paragraph 4 above. If the Director General feels the need for assistance from outside the Service in this area, he can call on resources and services available within the Government. We do not therefore recommend, and this note does not further consider, the introduction of external oversight for the management of the Security Service.

14. As to the work of the Security Service, any system of external oversight would have to be such as not to warp or impair the responsibilities of the Director General to Ministers and of Ministers to Parliament. It would not be concerned with, and should not be informed about methods of operation; those are rightly among the most jealously guarded secrets of the Service and can involve breaches of the law, and they are not divulged even to Ministers and civil servants except where there is a compelling operational reason for doing so.

15. Subject to that limitation an oversight body might function as follows:-

- (a) It would have the general task of enquiring and reporting (to the Prime Minister) on whether the Service had got its priorities and detailed objectives right and took sensible decisions about target areas against which it should deploy its resources. Although it would have access, for illustrative purposes, to information about individual targets, its task and reports would inevitably be focused at some level of generality.

- (b) It could receive a report once a year from the Director General about the objectives and priorities of the Service, and then look into particular aspects of or questions raised by that report, interviewing and cross-examining the Director General and other members of senior management of the Service, and perhaps officials from the Home Office and the Cabinet Office, and then reporting its conclusions to the Prime Minister. It could also be used to inquire ad hoc into major issues arising in between annual reviews.
- (c) It could consist of a group of three senior Privy Counsellors, with at least two of its members selected from people in the main political parties. These might best, but need not necessarily, be people who had held senior Ministerial office, preferably as Home Secretary, and who therefore started with some familiarity with the special problems and peculiarities of the Service and with the need to protect its effectiveness. The third member might be a non-political Privy Counsellor, like Lord Hunt of Tanworth or Sir Michael Palliser.

16. Such a system raises the following questions:-

- (a) Would the limitations on its remit (notably, the exclusion of methods of operation) be workable and would they impair its political usefulness? There would be some presentational advantage in moving even to an oversight body with the remit we have described, since it would allay any Parliamentary or public concern that the Security Service had got its priorities wrong, eg on subversion, or that it was over-zealous and harassing in its selection of targets. But some critics would undoubtedly seize on any limitation, particularly one which excluded for instance the allegations in the Channel 4 programme of improper surveillance. As to workability, there would need to be some give and take

between the body and the Director General about how far they could go. Sir Antony Duff believes that on balance the limitation would be workable.

(b) Even with the restriction excluding methods of operation, would the body find that everything the Security Service did was within the terms of the directive? There must be some risk here, given the age of the directive itself. There is the particular problem of the activities of the Security Service which are more clearly defined in the unpublished, supplementary directive (copy attached). Ultimately the oversight body would want to certify that they had found nothing that went beyond the published directive. It would be very difficult for them to suppress any doubts about this on the basis that an unpublished document provided the necessary authority.

(c) Even if methods of operation are excluded, illustrative information about individual targets would be very sensitive. There would be bound to be some unease about extending outside Government the circle of people to which very sensitive information was to be entrusted. The unease would be compounded if the Government of the day could not count on being able to control the appointments to the group: if an Opposition party were given some degree of say on the choice of its "representative" on the group, an irresponsible Opposition could make it difficult for the Government to prevent the appointment of an irresponsible "representative". If on the other hand the group was to be denied information about individual targets, even on an illustrative basis, its members could feel that they were being denied the information which they needed to carry out the task assigned to them, and the group's political credibility would be weakened.

(d) This illustrates the dilemma inherent in this whole issue. Is it satisfactory to give to the group of Privy Counsellors a role which is for all practical purposes the role which ought to be exercised by the Home Secretary and the Prime Minister? Can an oversight body be expected to be merely advisory and helpful, or if the Home Secretary is to be put into commission, in effect, is it politically realistic to expect that the body will not at some stage make life difficult for the Government on a matter which is in the end totally central to the Government's responsibilities? Or would the trend be to make it difficult to hold the line against pressures to allow the group to report direct to Parliament - or to set up a Select Committee that could report to Parliament?

17. We have considered variations of the scheme in paragraph 15 to see whether the difficulties just mentioned could be eased:-

(i) The oversight body could consist instead of a group of three non-political persons, who might include a retired civil servant, a senior industrialist, possibly an academic (but it would be better to keep the judiciary out of this). Some of the difficulties in the foregoing paragraph would be less compelling: non-politicians are less exposed to the pressures of political and public life (including the media and the pressure groups), and could more readily be given a right of at least partial access to information about individual targets and methods of operation. But it is questionable whether the appointment of a group of non-politicians reporting to the Home Secretary would satisfy the pressures in Parliament and elsewhere for some kind of external accountability. It would be claimed that, if it was possible to trust a group of non-political persons with the Security Service's

innermost secrets, it should also be possible to trust a group of responsible senior political figures with them.

- (ii) We have considered whether a less difficult alternative might be to make the Security Commission the body responsible for external oversight. That would be some way from the Security Commission's present function, which is to consider on an ad hoc basis, as and when cases are referred to them, individual breaches of security anywhere in Government, not just in the Security Service, and to consider whether they suggest the need for changes in existing security arrangements. We do not know whether existing Commissioners would be prepared to accept such an extension of their functions. Nonetheless, the Commission is part of the present landscape; an extension of its remit on these lines could be presented as an extension of its role in the Bettaney affair (though it was concerned in that case with allegations of managerial inefficiency rather than with allegations of impropriety; and it could be strengthened by the addition to its number of two senior Privy Counsellors and former Ministers, or indeed of two non-political figures from outside the public service for the purpose of this part of its remit. It would build on an existing body, removed from Parliament, and might be less likely to lead to early demands for accountability to Parliament through a group of Privy Counsellors or a Select Committee. But it would not avoid the difficulties which we have identified.

18. There would be a danger that setting up external oversight by a group of non-political figures would concede the principle of external oversight without satisfying the demands of Parliamentary and public opinion, would thus fail to provide the

reassurance which the Security Service would hope to derive from a system of external oversight, and would make it impossible to resist demands for a system of Parliamentary oversight which could put the secrecy and the effectiveness of the Service at risk.

19. On the other hand, if those risks were thought to be acceptable, Sir Antony Duff believes that an oversight body on the lines of paragraph 15 would be a bonus as far as the Security Service is concerned; and that it would be possible to have a manageable relationship with it.

20. If the difficulties are felt to exclude the introduction of any form of external oversight of the Security Service, it would seem that in present circumstances the only course, in the interests of maintaining the secrecy and operational effectiveness of the Security Service, is to stick to the line that has been followed hitherto, that the Director General is accountable to the Prime Minister and the Home Secretary, and that Parliament can and should continue to trust those Ministers to exercise the necessary political control of the Service.

21. There remains the question of the response to the Security Commission's Report on the Bettaney affair and its criticisms and recommendations, mainly in the area of internal management. We should much prefer a response to the effect that, with a new Director General appointed from outside the Service, the right course must be to give him a period of months in which to take stock of the Service, its problems and its needs, and to make up his mind about what changes he wants to make in the light of the Security Commission's report; and then to ask him to report in, say, September 1985 to the Home Secretary and the Prime Minister.

22. If it was felt that this was not by itself an adequate response, it would be possible (as the Home Secretary suggested in his minute of 8 March 1985) to announce that the Security

Commission would receive and be asked to consider in, say, six months' or a year's time a report on the progress that had been made in dealing with the criticisms and recommendations on management matters in its Bettaney Report and in providing internal outlets for anyone in the Service who believes that something is going wrong. This could help greatly in the House of Lords when Sir Edward Gardner's proposal is revived.

23. This idea presents certain difficulties, based on three considerations:

- (1) As has already been indicated, the Security Commission is not intended to be a continuous monitor of the Security Service; it is a panel of people on whom we call ad hoc from time to time to report on particular breaches of security and consider whether changes of procedure are called for. To invite the Security Commission to review progress of management changes would thus be to give it a new role, and would begin to look like the first step towards making the Security Service in some sense accountable to the Commission.
- (2) If we wanted to create this degree of external accountability for the management of the Security Service, it is doubtful whether we should want to use the Security Commission for the purpose, at any rate as now constituted. Its members do not have, and could hardly claim, any special qualification to review questions of financial or personnel management, and might well not feel comfortable with the task.
- (3) If we announced that the Security Commission was going to review progress in six months' or a year's time, that would provide a basis for renewed questions at that time, and

demands for a statement on the Security Commission's Report. That would seem likely to make it inevitable that the issue was kept open and brought back into public discussion.

24. Attached as Annex B is a draft of a possible Government response to the Security Commission's Report. This has been deliberately drafted as a "minimalist" response, so that Ministers can take a view about its credibility. If it was decided to announce a reference to the Security Commission in six months' or a year's time for a progress report, the draft could readily be amended accordingly: a form of words is suggested in square brackets in paragraph 10 of the draft.

25. Whatever the response to the Commission's report, the criticisms they set out will be regarded as important and of public interest. You will wish to consider whether the response should take the form of an oral statement or a Written Answer to an arranged Question. There are precedents for giving responses to Security Commission reports as Written Answers, and that procedure has the advantage of giving time for the report and the response to be digested before supplementary questions are asked. But a written statement might be criticised as inadequate, in the face of the criticisms set out in the report; and an oral statement would provide opportunities for ripostes to criticisms and reassurances as to the professional effectiveness of the Security Service.

26. If Ministers decide on a response which rests on the need to give the new Director General time to find his bearings and make up his mind about what he wants to do, the sooner it is announced the better: the new Director General has already been in office for nearly two months, and the story will begin to wear a little thin if it is kept on ice for too long.

27. I am sending copies of this minute and the annexes to the Lord President and the Home Secretary.

ReA

ROBERT ARMSTRONG

26 April 1985

I **THE DIRECTIVE TO THE DIRECTOR GENERAL OF
THE SECURITY SERVICE**

(Denning, para.238)

On 24 September, 1952, Sir David Maxwell Fyfe, then Home Secretary, issued this Directive to the Director General of the Security Service, which is the governing instrument today:

"In your appointment as Director General of the Security Service you will be responsible to the Home Secretary personally. The Security Service is not, however, a part of the Home Office. On appropriate occasion you will have right of direct access to the Prime Minister.

The Security Service is part of the Defence Forces of the country. Its task is the Defence of the Realm as a whole, from external and internal dangers arising from attempts at espionage and sabotage, or from actions of persons and organisations whether directed from within or without the country, which may be judged to be subversive to the State.

You will take special care to see that the work of the Security Service is strictly limited to what is necessary for the purposes of this task.

It is essential that the Security Service should be kept absolutely free from any political bias or influence and nothing should be done that might lend colour to any suggestion that it is concerned with the interests of any particular section of the community, or with any other matter than the Defence of the Realm as a whole.

No enquiry is to be carried out on behalf of any Government Department unless you are satisfied that an important public interest bearing on the Defence of the Realm, as defined in paragraph 2, is at stake.

You and your staff will maintain the well-established convention whereby Ministers do not concern themselves with the detailed information which may be obtained by the Security Service in particular cases, but are furnished with such information only as may be necessary for the determination of any issue on which guidance is sought."



DEPARTMENT/SERIES <i>rem 19</i>	Date and sign
PIECE/ITEM <i>1954</i> (one piece/item number)	
Extract details: <i>Supplementary directive 13th of December 1965</i>	
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	<i>A.C.</i> <i>18/05/23</i>
TEMPORARILY RETAINED	
MISSING AT TRANSFER	
NUMBER NOT USED	
MISSING (TNA USE ONLY)	
DOCUMENT PUT IN PLACE (TNA USE ONLY)	

DRAFT RESPONSE BY THE PRIME MINISTER

On 22 February I received the report of the Security Commission on their inquiry into the case of Michael Bettaney. The report is being presented to Parliament as a Command paper this afternoon.

2. The Commission have ^{fully} examined ~~every aspect of~~ Bettaney's career in the Security Service, with the object of identifying any errors on the part of management in relation to Bettaney's employment.

3. The Commission find that the process of recruiting Bettaney was carried out consistently with the procedures operating at the time. There is in fact no reason to doubt his loyalty at that time, or to suppose that he had at that stage even contemplated the possibility of turning spy. / The Commission make a number of criticisms of errors by the Security Service in relation to the employment of Bettaney. In particular, they conclude that there came a point in October 1982 when there should have been, but was not, a very full investigation of Bettaney's lifestyle, which would

probably have led to the removal of his positive vetting clearance and the cessation of his employment in the Security Service.

4. ~~It remains the case, however, that~~ Bettaney's attempts to get himself recruited as an agent of the RIS were not successful, and that, though those attempts involved some disclosure of classified information, no serious damage was done to the interests of national security. [The Security Service investigation which led to Bettaney's eventual conviction was ^{effective and} ~~swift, skilful and~~ ~~conclusive.~~]

5. In the light of their investigation the Commission make a number of recommendations for changes in positive vetting procedures in the Security Service.

6. In the course of their investigation the Commission received evidence of a more general character which was critical of various aspects of the internal organisation and management of the Security Service. They did not seek to examine those criticisms, but have recorded their impression of aspects of organisation and

management which seem to them to require examination and reassessment. The last chapter of the report makes some suggestions for changes in management attitudes and arrangements, and indicates a number of matters which in the Commission's view call for particular consideration.

7. My Right Hon Friend the Home Secretary and I are determined to see that these criticisms and suggestions are thoroughly examined and that action is taken to remedy any management weaknesses.

8. As my Hon Friend the Minister of State, Home Office informed the House on 13 March, a new Director General of the Security Service has recently been appointed. He is a man from outside the Service, and a public servant of great skill and distinction. My Rt Hon Friend the Home Secretary and I have the greatest possible confidence in him.

9. The new Director General will consider the general management criticisms with the utmost care and attention, and also the Security Commission's own criticisms of errors made by the Security

Service in relation to Bettaney's employment. He is already taking stock of the Service and its needs. By the end of the year he will have set in hand, in consultation with my Rt Hon Friend and me, the changes which are judged to be necessary.

[10. I propose thereafter to arrange for his conclusions and proposed measures to be referred back to the Security Commission, ^{for any further comment they may wish to make} ~~so that they can judge, and report to me as necessary, on the measures being taken to improve the organisation and management of the Service.]~~

11. Hon Members, on both sides of the House, have expressed concern about the handling of members of the Service who are troubled over particular matters and activities within the Service. The Director General has been asked to consider, and to report to my Rt Hon Friend and me, what developments he proposes by way of internal outlets for the expression of grievances or anxieties of individual members of the Service.

12. The new Director General will give effect to the Security Commission's recommendations on positive vetting procedures.

13. Finally, I emphasise that the criticisms of management do not extend to operations or overall efficiency. I am glad to say that the Commission say that nothing in their report is intended in any way to call in question the professional and operational efficiency of the Security Service, which they believe to be of a high order. Our freedoms depend on these guardians of our security, and we are very greatly in their debt.