



Intelligence and Security Committee

Annual Report 2003–2004

Chairman:

The Rt. Hon. Ann Taylor, MP

Intelligence Services Act 1994

Chapter 13



Intelligence and Security
Committee
Annual Report 2003–2004

Chairman:

The Rt. Hon. Ann Taylor, MP

Intelligence Services Act 1994

Chapter 13

Presented to Parliament by the Prime Minister

by Command of Her Majesty

JUNE 2004

©Crown Copyright 2004

The text in this document (excluding the Royal Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be addressed to The Licensing Division, HMSO, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax: 01603 723000 or e-mail: licensing@cabinet-office.x.gsi.gov.uk

From the Chairman: The Rt. Hon. Ann Taylor, MP

**INTELLIGENCE AND SECURITY
COMMITTEE**

70 Whitehall
London SW1 2AS

26 May 2004

Rt. Hon. Tony Blair, MP
Prime Minister
10 Downing Street
London SW1A 2AA

Dear Tony,

In September 2003 the Committee produced a unanimous Report following our inquiry into *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*. I now enclose the Intelligence and Security Committee's Annual Report for 2003–04.

This Report records how we have examined the expenditure, administration and policies of the three intelligence and security Agencies. We also report to you on a number of other Agency related matters and the wider intelligence community.

*Yours sincerely,
Ann.*

ANN TAYLOR

THE INTELLIGENCE AND SECURITY COMMITTEE

The Rt. Hon. Ann Taylor, MP (Chairman)

The Rt. Hon. James Arbuthnot, MP

The Rt. Hon. Alan Howarth CBE, MP

The Rt. Hon. The Lord Archer of Sandwell, QC

The Rt. Hon. Michael Mates, MP

The Rt. Hon. Kevin Barron, MP

The Rt. Hon. Joyce Quin, MP

The Rt. Hon. Alan Beith, MP

The Rt. Hon. Gavin Strang, MP

i. The Intelligence and Security Committee (ISC) 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 Security Service, the Secret Intelligence Service (SIS) and the Government Communications Headquarters (GCHQ). The Committee also takes evidence from the Security and Intelligence Co-ordinator, the Chairman of the Joint Intelligence Committee (JIC) and the Defence Intelligence Staff (DIS), as well as departments and other organisations that receive secret intelligence from the Agencies.

ii. The Prime Minister, in consultation with the leaders of the two main Opposition parties, appoints the Committee from members of both Houses of Parliament. Nominations are put forward by the Government and Opposition parties' whips, in a broadly similar way to the nomination of select committee members in the House of Commons.

iii. The members are notified under the Official Secrets Act 1989 and, as such, operate within "the ring of secrecy". The Committee sees significant amounts of classified material in carrying out its duties and it takes evidence from Cabinet Ministers and senior officials – all of which is used to formulate its Reports.

iv. The Committee is required by the Act to produce an Annual Report on the discharge of its functions, which the Prime Minister is required to lay before Parliament, and the Committee can and does produce other Reports on specific topics. When laying a Report before Parliament, the Prime Minister, in consultation with the Committee, excludes any parts of the Report (indicated by the *** in the text) that would be prejudicial to the continuing discharge of the functions of the three intelligence and security Agencies. To date, no material has been excluded without the Committee's consent.

CONTENTS

The Intelligence and Security Committee	Page iv
Glossary	Pages 3–4
Introduction	Pages 5–10
The Threat	Pages 5–8
The Limitations of Intelligence	Pages 9–10
Work Programme	Page 10
Expenditure and Resources	Pages 11–19
Spending Review 2004	Pages 11–12
Public Service Agreements	Pages 12–13
Security Service	Pages 13–14
Secret Intelligence Service	Pages 14–15
Government Communications Headquarters	Pages 15–17
<i>New Accommodation Programme</i>	<i>Pages 16–17</i>
Serious Organised Crime	Pages 17–18
BBC Monitoring	Pages 18–19
Administration	Pages 20–21
Staff	Page 20
Legal Matters	Pages 20–21
Policy	Pages 22–24
International Co-operation on Terrorism	Pages 22–23
Relations with the Media	Page 24
Special Branch	Page 24
Weapons of Mass Destruction	Pages 25–26
Iraq	Pages 25–26
Libya	Page 26
Joint Terrorism Analysis Centre	Pages 27–28
Counter-espionage	Pages 29–30
The Intelligence Community	Pages 31–35
Ministerial Involvement	Page 31
Security and Intelligence Co-ordinator	Pages 31–32
Joint Intelligence Committee and Assessments Staff	Page 32
Defence Intelligence Staff	Pages 32–33
SCOPE	Pages 33–34
Information Assurance and Communications	Pages 34–35

Collection	Pages 36–38
Requirements and Priorities	Page 36
Collection Gaps	Pages 37–38
Assessment	Pages 39–40
Other Matters	Pages 41–43
Postal Screening	Page 41
Acts of Parliament	Pages 41–43
<i>The Official Secrets Acts</i>	<i>Pages 41–43</i>
<i>The Regulation of Investigatory Powers</i>	<i>Page 43</i>
<i>Act 2000</i>	
Conclusions and Recommendations	Pages 44–48
Annex A – Those Who Have Given Oral Evidence	Pages 49–50

GLOSSARY

CESG	Communication, Electronics and Security Group
CIA	Central Intelligence Agency
CIG	Current Intelligence Group
CNI	Critical National Infrastructure
CSI	Ministerial Committee on the Intelligence Services
CSIA	Central Sponsor for Information Assurance
DIS	Defence Intelligence Staff
DOP(IT)	Ministerial Sub-committee: Defence and Overseas Policy (International Terrorism)
FCO	Foreign and Commonwealth Office
FBIS	Foreign Broadcast Information Service (US organisation)
GCHQ	Government Communications Headquarters
GSIA	Government Strategy for Information Assurance
IT	Information Technology
ISC	Intelligence and Security Committee
JARIC	Joint Air Reconnaissance Intelligence Centre
JIC	Joint Intelligence Committee
JTAC	Joint Terrorism Analysis Centre
LOC	Limited Operational Capability (part of the SCOPE programme)
MoD	Ministry of Defence
NAO	National Audit Office
NCIS	National Criminal Intelligence Service
NISCC	National Infrastructure Security Co-ordination Centre
PFI	Private Finance Initiative

POAC	Proscribed Organisation Appeals Commission
PSAs	Public Service Agreements
PSIS	Permanent Secretaries' Committee on the Intelligence Services
PSX	Ministerial Sub-committee: Public Services and Public Expenditure
RICs	Regional Intelligence Cells
R&P	Requirements and Priorities
SDAs	Service Delivery Agreements
SIA	Single Intelligence Account
SIAC	Special Immigration Appeals Commission
Sigint	Signals Intelligence
SIS	Secret Intelligence Service
SO	Official Committee on Security
SOCA	Serious Organised Crime Agency
SO(IS)	Information Systems Security Policy Sub-committee of SO
SR2000	Spending Review 2000
SR2002	Spending Review 2002
SR2004	Spending Review 2004
TIDO(H)	Official Committee on Domestic and International Terrorism (Home)
TIW	Temporary Intelligence Watch
TRANSEC	Security Division of the Department for Transport
TTIC	Terrorist Threat Integration Centre (US organisation)
UKIMN	UK Intelligence Messaging Network
WMD	Weapons of Mass Destruction

INTRODUCTION

1. The period from May 2003 to May 2004 has been an extremely difficult one for the intelligence and security Agencies and the whole of the UK intelligence community. Not only have they been faced with greater threats and challenges but they have, perhaps more than ever before, been subjected to intense public scrutiny of elements of their work. This has meant that the ways in which intelligence is authorised, collected, analysed, assessed, disseminated and used have been examined and criticised in a way that has put a spotlight on those used to working in the background.

2. During this time the Agencies have continued to fulfil their statutory duties: operating at home and around the world, alone or with international partners, and gathering intelligence to identify, monitor, report and disrupt threats to the UK and its interests. Their task is to inform decision-makers and allow the formulation of policy to be based on more information than is available from open sources.

3. The work of the Agencies, most of which is necessarily unpublicised, is primarily focused on international terrorism, on preventing the proliferation of Weapons of Mass Destruction (WMD) and associated technologies and on the protection of UK interests, including deployed forces. It is often undertaken at great personal risk in places such as Afghanistan and Iraq. **Most of the hard work that the Agencies do every year will never be made public. The staffs of the Agencies are to be commended for what they have done in difficult circumstances: in particular we should record that UK Force Commanders in the Gulf reported to us that they had been well served by the intelligence community during military action.**

The Threat

4. Since the end of the Cold War, the demands on the intelligence and security Agencies have changed significantly: the threats have become more numerous and varied. Initially, there was a belief, now recognised as misplaced, that this was an opportunity to reduce the Agencies (and the Armed Forces) as the threat was seen to have diminished. But, in a world no longer dominated by opposing super powers, new threats emerged, such as terrorism inspired by Islamic extremism, and organised crime increased considerably. Meanwhile, old threats, such as espionage, remained ever present.

5. The Agencies do not provide what is known in the USA as “Homeland Security”. The US Department of Homeland Security defines its mission thus:¹

“We will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the nation. We will ensure safe and secure borders, welcome lawful immigrants and visitors, and promote the free-flow of commerce.”

6. In the UK these functions are the responsibility of the Home Office, the Cabinet Office, other government departments and the police. They are under the direction of the Home Secretary assisted by Ministers and the Security and Intelligence Co-ordinator. While all the Agencies have a role to play in protecting the UK and its interests, the Security Service takes the lead in protecting national security. Part of the Service’s function is defined in the Security Service Act 1989 as being:

“the protection of national security and, in particular, its protection against threats from espionage, terrorism and sabotage, from the activities of agents of foreign powers and from actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means.”

7. The Security Service, in co-operation with the intelligence and law enforcement Agencies, does its utmost to ensure that threats to the UK and its interests are identified, tracked, disrupted or frustrated. Information on the threat, from terrorism and other activities, is now available on the Security Service’s website,² as are details of protective security measures.

8. Terrorism is currently the biggest threat to the national security of the UK and its interests and the Agencies are operating in an extremely difficult and hostile environment. The Prime Minister stated in a speech on 5 March 2004:

“the [security] threat we face is not conventional. It is a challenge of a different nature from anything the world has faced before.”

9. It has become evident that terrorist organisations exist in many countries – with terrorists either already trained or volunteering to be trained to attack. They are fanatical in their determination to succeed and some are ready to commit suicide in pursuit of their goals. Increased numbers of terrorists, together with their sympathisers and financiers, have been identified in the UK and abroad through good work in the field, intelligence analysis and international co-operation. The Director General of the Security Service said:³

¹ Department of Homeland Security website: www.dhs.gov/dhspublic

² www.mi5.gov.uk

³ 16 October 2003

“...the scale of the problem... has become more apparent as the amount of intelligence collected and shared has increased...”

“...The absence of an attack on the UK... may lead some to conclude that the threat has been reduced or been confined to parts of the world that have little impact on the UK. This is not so. The initiative generally rests with the terrorists. The timing of any attack is of their choosing and for them patience is part of the struggle.”

10. The number of people willing to become involved in terrorism is rising, which some argue is a consequence of military action by Coalition Forces in Iraq and Afghanistan and a perceived failure to address Palestinian/Israeli issues. Terrorist organisations are still attempting to acquire chemical, biological and nuclear materials, as well as the technology to produce them. Should they become better able to use these materials, the threat to the UK, its citizens and its interests would escalate and our ability to cope with such attacks would be in question.

11. The Prime Minister said⁴ that before the 11 September 2001 terrorist attacks on the USA he:

“had started to become concerned about... the increasing amount of information about Islamic extremism and terrorism that was crossing my desk. Chechnya was blighted by it. So was Kashmir. Afghanistan was its training ground. Some 300 had been killed in the attacks on the USS Cole and the US Embassies in East Africa. The extremists seemed remarkably well financed. It was very active. It was driven not by a set of negotiable political demands, but by religious fanaticism.”

12. He continued:

“September 11th was for me a revelation. What had seemed inchoate had come together... But what galvanised me was that it was a declaration of war by religious fanatics who were prepared to wage that war without limit... When I spoke to the House of Commons on 14 September 2001 I said: ‘We know that [the terrorists] would, if they could, go further and use chemical, biological or even nuclear weapons of mass destruction... We have been warned by the events of 11 September, and we should act on the warning.’ From September 11th on, I could see the threat plainly. Here were terrorists prepared to bring about Armageddon.”

⁴ 5 March 2004

13. The UK, as well as our allies, under-estimated the capability and growth of these international terrorists prior to the East African Embassy bombings in 1998, which caused some 5,000 casualties. When we took evidence from the Home Secretary in 2002 he told us,⁵ and we agreed, that:

“...the international assessment of the threat, not just in the UK, post the bombing of the US Embassies in East Africa in ’98, underestimated what potentially might happen and the level of the threat, particularly to the US...”

In evidence to us this year, Sir David Omand said that:

“...my own hunch is that round about 1999–2000 we probably under-estimated the extent to which there were radicalised individuals here in the UK.”

14. As we concluded in our *Annual Report 2001–2002*:⁶

“...with hindsight... the scale of the threat and vulnerability of Western states to terrorists with this degree of sophistication and a total disregard for their own lives was not understood.”

15. As a result, we believe, of recognising that the scale of the threat had been underestimated, the Agencies reassessed the challenge presented by international terrorism to the national security of the UK and its interests. The result of this reassessment process in 2003 was to increase dramatically the size of the Security Service.

16. We recommended in the *Annual Report 2001–2002*⁷ that:

“The Agencies must be given sufficient resources to enable them to not only fill the staff vacancies that have been created [by the transfer of staff to cover terrorism] but also to expand sufficiently to ensure that they can meet the new demands now being placed on them.”

17. The funding of the Security Service, as well as the Secret Intelligence Service (SIS) and the Government Communications Headquarters (GCHQ), had already been increased in the Spending Review 2000 and the Spending Review 2002 (SR2000 and SR2002) and the number of staff increased from 2001. However, the growth planned in late 2003 marks a step change in the Security Service’s capability, which we believe is overdue. We return to this underestimation, collection gaps and increases in staff numbers and capability later in this Report.

⁵ Cm 5542

⁶ Cm 5542

⁷ Cm 5542

The Limitations of Intelligence

18. The purpose of acquiring intelligence is to inform policy-makers and thus enable them to make decisions based on more information than is openly available. It is in the nature of secret intelligence that there are limitations to what can be collected and to the completeness of the picture it presents. The process by which intelligence is collected and used is known as the intelligence cycle. In its simplest form, the cycle essentially involves the establishment of requirements, the allocation of resources and effort, the collection, and then the analysis and assessment of the intelligence, which in turn informs the development of requirements – thus completing the cycle.

19. The requirements for intelligence collection are based on judgements of what needs to be collected to identify threats and counter them. Before secret information can be collected, the Agencies have to identify who has access to the material, how the material is transmitted and how it is stored. Only then can it be collected. The Agencies cannot know everything about everyone, nor can they intercept and read every communication (which in any event would be a gross violation of human rights). There will always be gaps in the Agencies' knowledge. There are basically four types of collection gaps: the Agencies know that an area could be of interest but are not collecting intelligence because of priorities and resource limitations; they allocate resources without success; they are unaware of any threats in these areas; or they lack the technical capability to collect against known threats.

20. In most cases the Agencies cannot instantly collect intelligence when they are given a new requirement – there is a time lag between agreeing the requirement and actually collecting the intelligence because technical methods may need to be redirected and sources established. An additional factor is that any intelligence obtained needs to be examined and its accuracy established.

21. It would be a failure, having collected accurate intelligence, not to analyse or assess it correctly. The analysis and assessment process is designed to judge the accuracy of individual reports and then to “join the dots”, thus establishing the pattern of activity or planning. Too few reports, of doubtful accuracy, means that it is considerably more difficult, even impossible, to identify accurately the true picture. Failing to highlight the uncertainties, and gaps associated with the limited amounts of intelligence collected, could mean too firm an assessment was made, which in turn would influence policy-makers disproportionately.

22. A great deal has been spoken and written about “*intelligence failures*”. The UK's intelligence and security Agencies collect secret intelligence on threats only when they are authorised to collect it and, obviously, the analysis or assessment of this material can only occur when it has been collected. Secret intelligence will never give complete certainty about all events in the world, but it is important that threats are identified as

early as possible and that resources are allocated to countering them. If, for whatever reason, this does not happen and an unpredicted event occurs, people will accuse the Agencies of having failed. If no material is collected, a gap exists and it is virtually impossible to assess the threat. While the Agencies endeavour to do all that they can, the telling phrase of one terrorist must be borne in mind:

“We only have to be lucky once: you must be lucky all the time.”

Work Programme

23. As well as fulfilling our statutory remit of examining the expenditure, policy and administration of the three intelligence and security Agencies, the Committee examined a number of other matters:

- a. Iraq: intelligence and assessments on Iraqi WMD;
- b. The Joint Terrorism Analysis Centre (JTAC);
- c. Counter-espionage;
- d. GCHQ’s New Accommodation Programme; and
- e. The new Joint Intelligence Committee (JIC) Requirements and Priorities system and Ministerial involvement in the process.

24. The Committee produced a special Report *Iraqi Weapons of Mass Destruction – Intelligence and Assessments* in September 2003: the remaining matters are covered here. We also continued to examine the wider UK intelligence community, the work of the Central Sponsor for Information Assurance (CSIA), the SCOPE IT programme, the Official Secrets Acts and postal interception. We took evidence from the Foreign, Home, Defence and Transport Secretaries and the Chief Secretary to the Treasury, as well as the Agency Heads and senior departmental officials. Details of our witnesses can be found in Annex A.

25. Our Investigator produced reports on *The Agencies’ Security Policies and Procedures*, which was an update of a study he had conducted for us three years ago, and *The Provision of Intelligence to Deployed Forces*. He has started work on a report on *The Agencies’ Work to Support/Safeguard the UK’s Economic Wellbeing*.

26. Within the UK, the Committee visited the three Agency Headquarters, JTAC, the GCHQ station at Bude, the SIS Training Facility, the Defence Intelligence Staff (DIS), the Assessments Staff in the Cabinet Office and BBC Monitoring at Caversham. We have also discussed oversight matters with representatives of the following countries: Afghanistan, Argentina, Australia, Bulgaria, Canada, India, Jamaica, Kenya, New Zealand, Pakistan, Singapore, South Africa, South Korea, Sweden and the USA.

EXPENDITURE AND RESOURCES

Spending Review 2004

27. As this Report is being written, we still await the outcome of the Spending Review 2004 (SR2004). During his evidence session with us, the Chief Secretary to the Treasury told us that:

“The overall responsibility of the Treasury is, of course, to help create the conditions for increased long-term economic prosperity in the UK and to ensure that we do so in the light of the changes and challenges that face us globally, so that the role of the Agencies is obviously critical to that. We value and respect their work and the men and women who carry out that work and we have, I believe, with the Committee [ISC] a common sense of the importance of ensuring that the Agencies are appropriately funded for the demands that we place on them...”

28. We acknowledged in previous Reports that the funding for the Agencies has risen in real terms as a result of SR2000 and SR2002 by 9% and 7.8% respectively, representing what the Chief Secretary called:

“a real commitment on the part of the Treasury to ensuring that the Agencies have the resources that they need to do their valuable work.”

The annual Net Resource and Capital Requirements for the Agencies and Single Intelligence Account (SIA) can be seen in the table:

All figures in £ million.

	2001–02	2002–03	2003–04	2004–05	2005–06
SIA Total					
Resource	908.9	940.0	1,130.9	1,111.7	1,156.3
Capital	107.7	121.8	533.4	184.1	198.9
GCHQ					
Resource	***	***	***	***	***
Capital	***	***	***	***	***
SIS					
Resource	***	***	***	***	***
Capital	***	***	***	***	***
Security Service					
Resource	***	***	***	***	***
Capital	***	***	***	***	***

Notes:

1. Figures for 2001–02 and 2002–03 are outturns, figures for 2003–04 are estimated outturns and figures for 2004–05 and later are forecasts.
2. The figures no longer include the costs of the SIS and Security Service pension schemes, which are now included in the Principal Civil Service Pension Scheme.
3. The figures include the £79 million claims from the reserves for 2001–02, 2002–03 and 2003–04.
4. In January 2003 HM Treasury retrospectively reduced the capital charge from 6% to 3.5% and all figures have been adjusted accordingly.
5. The capital value of GCHQ's New Building comes onto the balance sheet in 2003–04.
6. The figures for 2004–05 and 2005–06 include an additional £***.
7. The figures for 2005–06 include an additional £*** for GCHQ, £*** for the SIS and £*** for the Security Service for additional payments of accruing superannuation liability charges resulting from accounting changes.

29. The Chief Secretary told us that he had received a letter from Sir David Omand in October 2003, which set out Sir David's assessment of the increased challenge and threat. The Chief Secretary said that the letter had not "*come out of the blue*", as his staff have a close working relationship with the Agencies. He continued that his response to Sir David had taken the form of a mini PSX (the Ministerial Sub-committee on Public Services and Public Expenditure), in which they worked together "*in order to ensure that they [the Agencies] were funded to meet that threat.*" This resulted in a significant increase in funding to the Security Service in 2005–06.

30. The increase for the Security Service, which built on the earlier increases in SR2000 and SR2002, was announced by the Home Office in a series of briefings given to the media during the Parliamentary recess in February 2004. The Home Secretary also covered it in Parliament the following week as part of the required debate on the report of the committee of Privy Counsellors on the Anti-Terrorism, Crime and Security Act 2001.

Public Service Agreements

31. The Committee took evidence from the Agencies, their responsible Secretaries of State and the Chief Secretary to the Treasury on the structure and usefulness of the Public Service Agreements (PSAs) that had been drawn up for the Agencies. The PSAs are the agreements between the Agencies and the Treasury and outline the level of service that Agencies will provide over a three-year period. The current PSAs run until 2005–06.

32. The Committee has, in previous Reports, expressed reservations about the PSAs drawn up for the Agencies, in that it is very difficult to state other than in the most general terms what an intelligence collection agency should collect, disrupt and monitor. In its response to our *Annual Report 2002–2003*, the Government stated that:⁸

⁸ Cm 5838

“The Agencies are fully engaged with HM Treasury in the development of PSAs and SDAs [Service Delivery Agreements] and in ensuring they are meaningful and provide effective management tools with greater focus on outcomes.”

33. When we took evidence from the Chief Secretary to the Treasury this year, he told us that:

“I have found with the Agencies that they... have found PSAs useful in terms of focusing minds and attention... and that they [PSAs] are a part of an array of management tools in order to improve and drive performance.”

34. The Agency Heads agreed that the PSAs were useful top level management tools, in that they obliged the Agencies to measure inputs and outputs, but they do not help in the detailed allocation of resources. We believe that some of the targets are comparatively meaningless and that the JIC Requirements and Priorities are more useful to the allocation of resources. Indications that the Security Service was not going to be able to meet its PSA targets for ***.

We recognise that PSAs can be useful in helping to measure and deliver the business objectives of the Agencies. Both HM Treasury and the Agencies are clear that they still need to develop more useful PSAs but progress has been made. We will continue to monitor the development of the PSAs and the Service Delivery Agreements (SDAs) that stem from them.

Security Service

35. The Security Service made the transition to the resource-based accounting system successfully and smoothly. As mentioned earlier it was allocated significant additional resources in a mini PSX in October 2003. These resources will raise the Service’s net cash requirement from £*** in 2003–04 to £*** in 2004–05, with the number of staff increasing from *** to *** in the same period and a target of *** by 2007–08.

36. The Security Service identified to us the need for additional accommodation ***. It also plans to develop ***.

In planning to provide the extra accommodation ***, which it will need by ***, it had taken note of GCHQ’s experience in the New Accommodation Programme to reduce the need for new office space. Some £*** has been allocated to *** in 2005–06 but, while possible sites have been identified, a final decision has not yet been taken; therefore the actual costs have not been estimated.

37. We have been told that ***

***. **We are concerned that** ***

***. **We will return to this matter.**

38. The Security Service allocated 66% of its resources in 2003–04 to counter-terrorism (41% to international and 25% to Irish). In 2004–05 the allocation is 67%, but because of the significant increase in funding, that slight percentage increase represents a £*** increase in funding to this task. Funding for protective security work in the same period rises by £***, although the percentage of resources remains similar at just below 12%. The allocation of resources to counter-espionage and providing external assistance will fall from 10.7% to 10.2% and 2.7% to 1.9% respectively, while the allocation to counter-proliferation and serious crime will rise slightly to 2.7% and 6.4% respectively.

39. The committee of Privy Counsellors appointed to review the Anti-Terrorism, Crime and Security Act 2001, under the Chairmanship of Lord Newton of Braintree, reported in December 2003. As part of its consideration of the legislation covering the detention of people pending deportation (Part 4 Immigration and Asylum), the review recommended that the Government should examine the scope for more intensive use of surveillance and asked that we took account of this while scrutinising the intelligence and security Agencies. We are doing this.

Secret Intelligence Service

40. The SIS has successfully made the transition to the resource-based accounting system, having allocated an appropriate level of staff resources. The National Audit Office (NAO) has had no serious concerns about the accounts and they have all been produced on time. We note that the SIS has a contingent liability of £*** to cover the cost of ***

***. It also has a significant amount of cash in hand, made available to it ***

***.

41. In 2002–03 the SIS underspent by £***, due to a number of projects being behind schedule and an overestimate of its non-cash expenditure. In 2003–04 the underspend will turn out to be higher – an estimated £*** – due to a delay in *** and the fact that it has not been able to operate as freely in Iraq as estimated.

42. At the start of 2004–05, the SIS increased its direct allocation of operational effort to counter-terrorism to almost ***, which is over three times the 2000–01 figure. When the indirect effort is also taken into consideration (work in overseas stations to promote

counter-terrorism liaison, for example), the figure rises to around ***% of SIS's total effort. Operational effort allocated to counter-proliferation has increased to over ***% and the allocation to crime to ***%, but that allocated to the Middle East and North Africa, the Balkans and Central Europe, Russia and the Former Soviet Union and Asia is being reduced.

Government Communications Headquarters

43. In our last Annual Report,⁹ we were unable to comment fully on the 2002–03 financial year because GCHQ's Resource Account had not been produced by the time we reported. We did, however, express our anxiety that the NAO would qualify the Resource Account for the third year running – which we believed “*would be a significant failure of management*”.

44. The account was produced in October 2003 and, for the first time for three years, the NAO did not qualify it. **This is a significant improvement, which the Committee welcomes. We note, however, that the NAO still believes that GCHQ needs to take further managerial action to ensure that the account remains unqualified.**

45. The main reason for the previous qualification of the Resource Account was the problems GCHQ had in reconciling its asset register with actual equipment held. In December 2000 the Government,¹⁰ responding to the Committee's concerns on this matter in our *Annual Report 1999–2000*,¹¹ stated that GCHQ:

“is confident that its systems for asset tracking should now be fully adequate to support the needs of resource accounting.”

46. Unfortunately this proved not to be the case, as the accounts were qualified for three years. We note the steps that GCHQ have taken to ensure that assets are tracked and the fact that the Director GCHQ, Dr David Pepper, his board advisers and the GCHQ staff have now achieved this basic measure of control of public money. The recent agreement by HM Treasury that GCHQ can increase the threshold above which it needs to track equipment to that of the Ministry of Defence (MoD) (£10,000) will help GCHQ. This change still ensures that over 92% of the gross book value of the register is captured. Lower value items continue to be tracked and accounted for using different systems.

⁹ Cm 5837

¹⁰ Cm 5013

¹¹ Cm 4897

47. In compiling this Report, we examined the actual expenditure for 2002–03, the planned expenditure for 2003–04 and the forecast expenditure for 2004–05 and 2005–06. GCHQ underspent its resource allocation for 2002–03 by £*** and its capital allocation by £***. The resource underspend was a direct result of delays to the *** programme (£***), lower than predicted depreciation costs (£***), and lower administration costs. The capital underspend was caused by a combination of an overestimate of the required funding in 2002–03 for the New Accommodation Programme, and what the Director described as “*a rigorous review of the construction in progress figures*”. In addition, the reallocation of staff to counter-terrorism tasks delayed development work in other areas, which meant that funding was not used and development work was delayed.

48. The situation has improved in 2003–04 in the capital spending programmes, where it is anticipated that the underspend for the year will be £***. However, there is expected to be a significant resource underspend of £***. This has been caused principally by a further delay in *** (£***); the early drawdown of £*** for the New Accommodation Technical Transition allocated in SR2000 (but which will not be used until 2004–05); and lower than predicted depreciation costs (around £***).

49. Counter-terrorism work was GCHQ’s single largest allocation of effort in 2003–04 at **%, and is due to increase by half as much again in 2004–05 to **%. In order to support this large increase, GCHQ is reducing its allocation to collection in all its geographical areas, with the exception of *** and ***. The allocation of resources to counter-proliferation and weapon systems is also being reduced proportionally, but serious crime work remains constant at **%.

New Accommodation Programme

50. GCHQ took possession of the New Building in September 2003 and it was officially opened by Her Majesty The Queen on 25 March 2004. Staff members have been moving in and we note that, so far, GCHQ’s customers have continued to receive the agreed intelligence coverage in this transition period.

51. The construction, under a Private Finance Initiative (PFI) with IAS Limited, has been a success. In our *Annual Report 1998–1999*¹² we recommended that the NAO report on the New Accommodation Project (as it was then known) and a report was duly published in July 2003. It covers the award of the PFI and GCHQ’s views on how the programme developed.

52. One aspect of the New Accommodation Programme caused us concern as far back as 2000. We criticised the huge increase in estimated costs for the technical transition to the New Building from £40 million to £308 million and warned that the management of

¹² Cm 4532

the project represented a very substantial additional responsibility for GCHQ. The NAO notes,¹³ and we agree, that while Ministers had knowledge of the full cost of the technical transition when they agreed the PFI deal:

“It is only possible to speculate whether Ministers would have approved the wholesale redevelopment of the Cheltenham sites had they known the full cost of the technical transition when they considered GCHQ’s original appraisal.”

53. The Committee welcomed the appointment of Sir Edmund Burton in 2000 by the then Cabinet Secretary to report and advise GCHQ on these matters – and he made an important contribution to the programme and its restructuring. This input, together with the determination and commitment of GCHQ staff, enabled GCHQ to deliver the New Accommodation Programme within the agreed timescale. GCHQ maintains that the option selected has provided overall the best value for money.

54. The increase in work on counter-terrorism and Information Assurance has caused staff numbers to be higher than originally predicted when the New Accommodation Programme began. Currently, the New Building is running at 105% occupancy – it is due to rise to over 111% in 2005–06 – and it is planned that up to 500 staff will remain on the retained Oakley site for a number of years. Not all the staff will be in the building at the same time due to leave, courses or detached duty and thus over-occupancy is possible if it is well managed. **We note that planning has not been completed nor have resources been allocated to transfer the staff from the retained Oakley site when it is handed over to the developers. We will monitor this situation.**

55. **GCHQ has successfully managed the PFI contract, which has provided them with an excellent facility, and the fact that the sigint service to customers has been maintained during the transition is welcome, reflecting the planning work prior to the move into the New Building.**

Serious Organised Crime

56. It was unfortunate that, because of the pressures on the Agencies to counter-terrorism, the overall resources allocated to fighting serious organised crime fell after the 11 September 2001 attacks on the USA. Only the SIS was able to devote additional resources to crime during this time. The other Agencies plan to increase the percentage of resources allocated to this task in 2004–05, the first increase since 2001.

57. We have previously reported on the links between the Agencies and the law enforcement agencies, such as the National Criminal Intelligence Service (NCIS), the National Crime Squad and HM Customs and Excise, and how the Agencies provide them

¹³ C&AG’s Report Government Communications Headquarters (GCHQ): New Accommodation Programme (HC 955, Session 2002–03)

with both intelligence and technical support. We have also suggested that the allocation of increased funding to tackle elements of serious organised crime, such as drugs and tobacco smuggling, would result in a net benefit to the Exchequer. There have been successes during the year and the Agencies continue to work with and train members of the law enforcement agencies in *** and disrupting criminal organisations.

58. However, with the overall reduction in the Agencies' resources available for countering serious organised crime, support has not been provided to the extent that the Committee or the Home Secretary had hoped. For example, on several occasions the ***

***. While recognising the pressures on the staff of the Agencies, **we note that the Agencies make a valuable contribution to the fight against serious organised crime and welcome the additional resources being allocated to this task.**

59. The formation of the new body, the Serious Organised Crime Agency (SOCA), will have an impact on the Agencies, which the Government is currently assessing. We noted the paper¹⁴ produced by the Home Office, *One Step Ahead – A 21st Century Strategy to Defeat Organised Crime*, in which the aims for SOCA were announced. In order for the SOCA capability to be “*one step ahead*” of the criminals, it will mean:

“...building on the intelligence capability already available across law enforcement and security and intelligence agencies, and providing real incentive to the whole community dealing with organised crime to produce regular and high quality intelligence, share it effectively and use it to drive operational decisions.”

60. As part of this work a group, led by the NCIS, will produce a new national intelligence requirement by June 2004. **We will monitor how this requirement for crime-related intelligence will feed into the JIC Requirements and Priorities for secret intelligence and we will take evidence on the impact that the formation of SOCA will have on the Agencies.**

BBC Monitoring

61. The intelligence community draws on a wide range of open sources, but a particularly useful one is the coverage of the world's media by BBC Monitoring. In partnership with its US counterpart – the Foreign Broadcast Information Service (FBIS) – it covers about 150 countries and 100 languages. Together, they track more than 3,000 international media outlets. BBC Monitoring produces, on average, 1,000 reports a day for its customers, including government departments and the Agencies.

¹⁴ Cm 6167

62. The Committee visited Caversham Park to see the range and depth of topics, subjects and areas that it covers. Currently the £26 million annual cost of running BBC Monitoring is funded by £22 million from the four main stakeholders (the Foreign and Commonwealth Office (FCO), MoD, Cabinet Office and the BBC World Service) and £4 million from other sources, including commercial organisations. We were told by BBC Monitoring that it was providing significantly greater reporting of material relevant to customer needs, particularly on terrorism, to the satisfaction of its customers. However, we also learnt that the stakeholders' funding had been frozen since 2002, despite the extra demands being put on it and the availability of significant additional resources devoted to counter-terrorism elsewhere in government. **BBC Monitoring provides a valuable service both to government departments and to the Agencies. It has adapted well to the need to report on the growing number of terrorism-related media sources.**

63. The FCO is reviewing its allocation of funding to BBC Monitoring, with a view to cutting it significantly. We wrote to the Foreign Secretary to highlight the importance of the BBC Monitoring/FBIS coverage of the world, and the damage to this relationship that any reduction in funding would cause. The Foreign Secretary, in his reply to us, stated that a decision had yet to be taken and that he was aware of the consequences. Committee members also initiated a Westminster Hall debate on BBC Monitoring and we wrote to the Prime Minister with our concerns.

64. The Prime Minister told us that he recognised the value and quality of the service that BBC Monitoring provides. However, he told us that while the FCO would be retaining BBC Monitoring's reporting on high priority areas, it was seeking to reduce coverage elsewhere and that the other stakeholders were unable to compensate for this reduction. With respect to funding, agreement had now been reached that BBC Monitoring funding would be maintained at its current level until the end of 2005–06, by which time a strategic review would have been completed. This would align customer requirements better with available resources and agree a new funding regime for the future. The Prime Minister stated that the review would fully involve US partners and that a final decision on BBC Monitoring funding levels would not be taken until the review finally reported. **We welcome the decision, taken since we raised this issue, to maintain BBC Monitoring's funding at its current level until the end of 2005–06. We believe that the overall level of funding should reflect the value of BBC Monitoring to the Government, the Agencies, and US relationships as a whole, and we will continue to take an interest in this matter.**

ADMINISTRATION

Staff

65. The Committee questioned the Agencies on their recruitment programmes and their work on increasing diversity within their staffs. The SIS told us that its challenging programme of growth was currently proving successful, and that it was succeeding in recruiting staff of a suitable quality. GCHQ and the Security Service expressed the same opinion, save that the recruitment of some linguists was still a problem.

66. Where there are targets for either women in senior management or the recruitment of ethnic minorities the Agencies have failed to meet them. **While we welcome the progress so far in improving the number of women in senior positions, greater efforts need to be made.**

67. We have previously noted that the additional nationality requirements, which are part of the vetting process, have prevented some members of ethnic groups from joining the Agencies. GCHQ is establishing a specialist office in which staff (particularly linguists) who can not be granted the highest levels of security clearance are able to work on appropriate material. It is planned that *** will work in this office and the ***.

We believe that, while the Agencies are taking steps to improve their recruitment of ethnic minorities, the effect of the additional nationality requirements on successful recruiting needs to be examined further.

68. Mr John Scarlett has been appointed by the Foreign Secretary to replace Sir Richard Dearlove on his retirement as 'C' or Chief of the SIS. The candidates were interviewed by a four-member board, chaired by Sir David Omand, and the interviews were carried out in the normal way for the appointment of a Permanent Secretary. We are content with this appointment process.

69. A total of three members of staff at GCHQ and the SIS, who objected to working on the Iraq conflict, were moved to other work either at their own request or as the result of a management decision. We have been told that the staff members and the Agencies were content with these arrangements.

Legal Matters

70. The Agencies are again increasing staff in their legal departments. We have previously reported on the importance of having properly qualified legal staff in the Agencies, not only to ensure that all staff know and understand their legal obligations, but also to ensure that the Agencies themselves operate within the law and are properly represented.

71. All of the Agencies have provided secret intelligence to the Special Immigrations Appeals Commission (SIAC), the independent judicial body set up by the Special Immigration Appeals Commission Act 1997. It hears appeals in the few cases where the Home Secretary personally directs that a person be deported from the UK on national security grounds, or be excluded from the UK on grounds that would be conducive to the public good. SIAC's role was extended to hear appeals from those certified under Part 4 of the Anti-Terrorism, Crime and Security Act 2001, pending their removal from the UK. In all of these cases SIAC can sit in closed session to hear sensitive information. The Proscribed Organisation Appeals Commission (POAC), which hears appeals against the proscribing of organisations under the Terrorism Act 2000, can also consider intelligence from the Agencies. All this involves additional work for the Agencies. **We recommend that a cross-Agency review of legal matters, in consultation with the Attorney General, be undertaken to ensure that staff members are being correctly trained and that best practice is being followed.**

72. The arrest and charging of Ms Katharine Gun, who worked at GCHQ, attracted considerable publicity as a prosecution was first mounted and then discontinued. We have discussed this case with the Foreign Secretary, the Attorney General and the Director of Public Prosecutions. We also saw a note from counsel concerning his advice. We agree that the case had to be discontinued for evidential reasons not in any way related to the Attorney General's advice on the lawfulness of invading Iraq. We are concerned that in the initial stages of the investigation there was a misunderstanding between GCHQ and prosecuting counsel about ***

***.

Measures to prevent such misunderstandings in the future should be considered by the review we suggest in paragraph 71 above.

POLICY

International Co-operation on Terrorism

73. The Committee took evidence in February this year from the three Agency Heads on international co-operation on terrorism. The SIS and Security Service have very good bilateral relationships with a wide range of countries, many of which go back long before the attacks on the USA on 11 September 2001. The Director General stressed that it was important to remember that for many years the Agencies had been liaising with allies over international terrorists, such as Carlos “the Jackal” in the 1970s and the Lockerbie bombing in the 1980s.

74. The Director General described the UK’s work on this subject in the post-11 September environment as a continuum with expansion, rather than a kick-start. The Heads of both the SIS and Security Service stressed that the main developments after the 11 September attacks were a key change in American attitudes and the fact that some countries that had ***
***.

75. GCHQ continued to collect essential intelligence, guided by leads from other agencies and other countries, as sigint co-operation with our allies has flourished. The exchange of information ***
***.

76. All the Agencies, together with their counterparts in a number of countries, work very closely together, ***.

The Joint Terrorism Analysis Centre (JTAC), because it allows all counter-terrorism intelligence to be processed centrally, has significantly improved the UK intelligence community’s ability to warn of terrorist attacks, and this concept is now being copied by several countries. Obtaining and understanding the actual intelligence remains difficult, but valuable progress is being made.

77. During the year, we also questioned the Prime Minister about a number of terrorism-related allegations involving the UK and its intelligence and security Agencies. We asked if any US prisoners had been or were being held on Diego Garcia. He replied that the US authorities and the British Representative on Diego Garcia had confirmed that there were not, and never had been, any terrorist detainees held on the island nor on any of the vessels anchored there. The Prime Minister added, in response to other questions, that the Agencies had interviewed detainees in Guantanamo Bay and elsewhere to gather information that might prove valuable in the protection of the UK and its citizens from terrorism. He told us in May this year:

*“...that information gleaned from interviews in Guantanamo Bay and Bagram has made an important contribution to identifying and countering threats from Islamic extremist terrorist activity in the UK and elsewhere. It has enabled the identification of key terrorist organisations ****

****. Interviews in Iraq have produced intelligence leads that have facilitated follow-on operations and arrests leading to the disruption of planned attacks against British and other coalition forces and against civilian targets.”*

78. We also wrote to the Prime Minister to ask if any of the Agencies’ staff or military intelligence personnel had been involved in or witnessed any abuse of detainees in Afghanistan, Iraq or Guantanamo Bay. He replied just as we were completing this Report. In his letter, the Prime Minister gave us as full an answer as he could because it had not yet been possible to speak to all the officers involved. He undertook to inform us if any further information of relevance emerged, stating that:

“On this basis:

- a. Interviews of detainees conducted or observed by UK intelligence personnel have, with the following exception, been conducted in a manner consistent with the principles laid down in the Geneva Convention. In June 2003, two *** interviewed an Iraqi detainee *** at ***. The detainee was brought in hooded and shackled by the US military, and remained so during the one-hour interview. The *** understood these measures to be for security purposes, and did not report it at the time since they were not then aware that hooding was unacceptable. The detainee showed no signs of distress and made no complaint of being hooded or otherwise during the interview.*
- b. Some of the detainees questioned by UK intelligence personnel have complained – either during their detention or subsequently – about their treatment in detention.*
- c. UK intelligence personnel interviewing or witnessing the interview of detainees are instructed to report if they believe detainees are being treated in an inhumane or degrading way. None of those involved witnessed any evidence of detainee abuse of the type that the US authorities have acknowledged has occurred in Iraq. But on a few occasions SIS and Security Service staff did become aware, either through their own observations or comments from detainees, that some detainees were being held in austere conditions or treated inappropriately. The concerns of these staff were passed on to the US authorities, either locally or via intelligence or diplomatic channels.”*

79. **We will take evidence on all these matters.**

Relations with the Media

80. In our Report on *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*,¹⁵ we stated that:

“It is vital that the JIC’s and the Agencies’ credibility and effectiveness are not degraded or diminished by the publication of their product in an inappropriate manner. We will examine the Agencies’ relationship with the media and the use of intelligence-derived material by the Government to brief the public, taking account of any relevant recommendations of the Hutton Inquiry.”

81. We have continued this work, but we are not yet ready to report with our findings and conclusions. We would welcome the views of the media on how successful the relationship is between the Agencies and themselves.

Special Branch

82. In our Report last year, we commented on the close links between the Security Service and police special branches. The Home Office, while developing the plans for SOCA,¹⁶ is:

“...simultaneously taking steps to improve the co-ordination of police special branches which support the Security Service in disrupting terrorist activity in the UK and working with HM Customs and Excise and the Immigration Service to ensure border security.

“A new national co-ordinator of Special Branch was appointed in October 2003 to bring this about. He is Bryan Bell, a former Assistant Chief Constable of Cleveland. A top priority of the co-ordinator will be to press ahead with the development of eight new RICs [Regional Intelligence Cells] with central funding of £3 million a year to act as clearing houses for intelligence in their regions. Our national security will be further significantly enhanced through the national co-ordination and prioritisation of Special Branch operations, including surveillance, intelligence and investigations.”

83. We welcome the fact that police special branches are planning to work in a more co-ordinated manner and we will take evidence next year on the usefulness of these developments in the context of the Security Service’s work.

¹⁵ Cm 5972

¹⁶ Cm 6167 One Step Ahead – A 21st Century Strategy to Defeat Organised Crime

WEAPONS OF MASS DESTRUCTION

Iraq

84. The Committee unanimously reported in September 2003 on *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*¹⁷ and there was widespread media comment on some of our observations and conclusions. We stated in the Report that:

“The purpose of this Report is to examine whether the available intelligence, which informed the decision to invade Iraq, was adequate and properly assessed and whether it was accurately reflected in Government publications. This Report does not judge whether the decision to invade Iraq was correct.”

85. We record in paragraphs 145 to 147 that we were not aware of eight relevant JIC papers when we completed that Report but since then we have received them and can state that knowledge of them would not have led us to change the conclusions and criticisms in the Report. However, we might well have included material from these papers.

86. The Government, while welcoming our Report, stated that it would respond when Lord Hutton had reported on his *Inquiry into the Circumstances Surrounding the Death of Dr David Kelly CMG*.¹⁸ Consequently, the Government’s Response to our Report¹⁹ was not published until 3 February 2004.

87. The Committee is not satisfied with the Government’s Response. It emphasised only four key conclusions while either rejecting or failing to address fully many of our other conclusions and recommendations. We regard this as extremely unsatisfactory and we recommend that the Government explicitly address each of our recommendations and conclusions in future Responses. Our dissatisfaction was increased by the Government’s decision to allow such little time for parliamentary debate on two such significant reports.

88. By the time of the debate on 4 February 2004, the Government had set up another body, under the chairmanship of Lord Butler of Brockwell, to review the intelligence and assessments relating to WMD programmes within countries of concern, including Iraq, and how they are used within Government. This body, known as the Butler Review, is asked to report before the summer recess and includes among its five members two members of this Committee. During the debate the Prime Minister stated:

¹⁷ Cm 5972

¹⁸ HC 247

¹⁹ Cm 6118

“I want to make clear, incidentally, that I personally would have been happy for the Intelligence and Security Committee to conduct this inquiry [the Butler Review]. That was within its statutory remit, and it does an excellent job. But I was pressed hard for a committee of the type headed by Lord Franks after the Falklands conflict, and I agreed to that.”²⁰

89. We await the report of the Butler Review and we will follow up relevant points as necessary.

Libya

90. We have previously reported on the work that the Agencies undertake to counter the proliferation of WMD. One of the major achievements was the agreement by Libya to disband and destroy their WMD capability announced on 19 December 2003 by the Libyan Foreign Minister and endorsed by President Gadaffi. Libya’s subsequent admission of inspectors to oversee this dismantling was the culmination of months of work by the SIS, together with the FCO and Central Intelligence Agency (CIA).

91. The detailed intelligence on Libya and its procurement activities, collected by the UK and the USA from all sources over a significant period of time, enabled the UK and USA to demonstrate to the Libyan authorities that they knew about their WMD programmes. Consequently, when the inspectors went to Libya the Libyan authorities, while they tried, were not able to hide their programmes and full disclosure was eventually achieved. **This was a major intelligence success.**

²⁰ *Hansard Column 776, 4 February 2004*

JOINT TERRORISM ANALYSIS CENTRE

92. In our Report, *Inquiry into Intelligence, Assessments and Advice prior to the Terrorist Bombings on Bali 12 October 2002*,²¹ the Committee concluded that the Security Service had not correctly assessed the threat to British interests from terrorist groups in Indonesia and that the threat assessment system needed to be improved if it were to be of greater use to customer departments. We acknowledged in the Report that the Security Service had already been looking at these issues before the terrorist bombings took place. The formation of the Joint Terrorism Analysis Centre (JTAC), which addressed some of our concerns, was announced in the Government's Response to our Report.

93. We welcomed the establishment of JTAC, together with the introduction of a new threat assessment system, in our *Annual Report 2002–2003*. It brought together cross-community expertise on terrorism, with members from the Security Service, SIS, GCHQ, DIS, the police, the Security Division of the Department for Transport (TRANSEC) and others. The Committee visited JTAC in November 2003 and we were impressed by the speed and efficiency with which the operation had been set up and by the degree to which the different organisations had been integrated and were co-operating with each other. We were also briefed on the links that JTAC is establishing with the Terrorist Threat Integration Centre (TTIC) in the USA and similar organisations that are being created elsewhere in the world.

94. Now that JTAC has been established for a year, we have been encouraged by the response from both Ministers and departmental officials to its product and assessments. We have taken evidence from the Foreign, Home and Transport Secretaries, as well as Sir David Omand and the Agency Heads, on JTAC's contribution to protecting the UK.

95. We asked the Transport Secretary about the work of TRANSEC and how it linked to JTAC and to his office. He told us that, at that time, he was talking to the Director of TRANSEC more than any other director in his department and that he found JTAC assessments "*useful*". He continued:

"I think that the JTAC system that we have, whereby all the intelligence is brought together and somebody sits back and says 'what does this all mean?' is very important."

96. TRANSEC also uses JTAC assessments to support work to improve security both in the UK and abroad. When questioned about the role of intelligence and the cancellation of flights to the USA and Saudi Arabia at the beginning of the year, the Secretary of State did not indicate that he had any concerns about the way that the matter had been handled in the UK.

²¹ Cm 5724

97. Sir David Omand told us that he was “*hugely*” impressed by the value added by JTAC products as they set individual intelligence reports in context. The reports and assessments fill the gap in detailed intelligence for short-term decision-making that Ministers found useful at the operational level. Sir David continued:

“The work I’ve seen so far has been of a very high quality and that is largely because each of the three Agencies gave up their experts to JTAC so that it has been staffed by people who know the most about it and because of that there is a very high degree of ‘buy-in’ by the Agencies to JTAC.”

98. **The introduction of JTAC has been a success.** It produces assessments that inform Ministers who have to make decisions based on threat intelligence. JTAC, both as a facility and a way of operating, is not yet fully developed. We are seeking reassurances that proper career planning, management and training are taking place to ensure that JTAC can continue to be staffed by a suitable mix of experienced staff from a wide range of Agencies and departments. As this mix has been important for JTAC’s initial success, we believe it needs to be maintained.

99. We have previously reported on the great deal of work done by the Agencies and departments to counter the proliferation of WMD and their associated technologies. This is guided by the counter-proliferation strategy, under the control of a group chaired by the Prime Minister’s Foreign Policy Adviser. **Following the success of JTAC, we suggest that the Government should consider setting up a similar analysis and assessment body to support counter-proliferation work.**

COUNTER-ESPIONAGE

100. A number of countries and organisations continue to try to obtain classified information relating to defence, foreign policy and other government matters, as well as to steal commercial secrets. They are also trying to penetrate the UK's intelligence and security Agencies. In the Cold War, the prevention of espionage was one of the main activities of the Security Service and it remains one of its statutory functions. The Security Service, working with Departmental Security Officers and Security Officers in companies, ensures that staffs are briefed about espionage threats, and a number of serious attempts have been disrupted successfully.

101. The threat from espionage did not disappear when the Cold War ended. As the Security Service's own website shows, countries such as Russia and China still want to acquire both classified material and technology for exploitation by their own industry. For example, Russia tasks its intelligence services to collect intelligence "*to promote the economic development, scientific-technical progress and military-technical backup for the Russian Federation Security*" (Russian Federation Federal Law on Foreign Intelligence adopted by the State Duma on 8 December 1995). The Security Service continues to work with the other Agencies, departments and companies to counter attempts to conduct espionage against the UK, although it is worth noting that the Security Service had already reduced counter-espionage effort. In the Government's Response to the Committee's *The Mitrokhin Inquiry Report*,²² it was stated that:

"The Government notes however that counter-espionage resources had been reduced after the Cold War and, at the end of 1992–93, the Security Service was also responding to significant new responsibilities in countering the threat from Irish Terrorism groups. Thus, there were limited resources at that time to deal with more than two hundred leads revealed in the Mitrokhin papers..."

102. In the Committee's *Annual Report 1999–2000*²³ we stated that:

*"Just over 20% of the Security Service's work is directed against hostile activity by foreign intelligence services. The Committee was told once again of the significant Russian activity in the UK. Other countries mentioned in this context include ***."*

103. However, following the terrorist attacks on the USA in September 2001, the Committee noted in the *Annual Report 2001–2002*²⁴ that:

²² Cm 4765

²³ Cm 4897

²⁴ Cm 5542

“...counter-espionage accounted for 16% [of the Security Service’s effort]. During the year, two individuals, Rafael Bravo and Ian Parr, were arrested under the Official Secrets Acts. Bravo, a security guard at a BAe Systems site, was convicted and jailed earlier this year. It remains the case, in the post-Cold War era, that individuals will sell secret information for financial gain and that this threat to UK national security needs to be constantly guarded against.”

104. The Security Service had been redirecting resources from counter-espionage to support its work against terrorism in the UK. We further reported in our *Annual Report 2002–2003*²⁵ that the allocation of effort to counter-espionage was due to fall again that year – it actually fell to 12% (a fall of £***). The amount spent on counter-espionage was reduced because the Security Service could not find enough resources for it due to the pressures elsewhere. The Director General told us in April 2003 that:

*“There’s not less of it [espionage] about, we are doing less work on it, we are being more selective about the priority cases. It is something I have discussed with the Home Secretary: I recently gave him a summary *** and he is well aware that we are carrying some risk here. The plan is to back-fill when we can but the problem is that the international counter-terrorist work is moving and expanding at such a rate that it’s not clear ***.*

*This is an area where I think we might be able to ***, in particular, because the problem, as I’ve said to you before about counter-espionage, is that if we don’t do it nobody does.”*

105. When we took evidence on this matter from the Director General earlier this year, she confirmed that counter-intelligence work once again was being allocated fewer resources. The allocation had reduced to 11%, which was an effective reduction of £*** on the planned expenditure, despite the additional money provided to the Security Service by HM Treasury. We were told that the Security Service was using *** and that they were advising and warning possible targets of their vulnerabilities. She believed that while ***, the risk was being managed to reduce its impact and reduce the vulnerability of the UK to hostile espionage from states and other organisations alike. However, the Director General told us that she hoped to start increasing the funding in this area in 2004–05 by £***, which would slow, but not halt, the relative decline – it would then represent 10% of the Security Service’s resources.

106. We remain concerned that, because of the necessary additional effort allocated to counter-terrorism by the Security Service, significant risks are inevitably being taken in the area of counter-espionage.

²⁵ Cm 5837

THE INTELLIGENCE COMMUNITY

107. While the Prime Minister had previously undertaken to ensure that departments were as helpful as possible in providing evidence relevant to the Committee's remit, the Government wrote in December 2003 to clarify our relationship with the wider intelligence community. This stemmed from our work in these areas since the establishment of this Committee in 1994, and the aim of the letter was to acknowledge more formally the Committee's relationship with the JIC, including the Assessments Staff, and the DIS. The JIC Chairman and the Chief of Assessments Staff would continue to give evidence to us on the JIC's work. The DIS would assist the Committee in respect of work under the Chief of Defence Intelligence's control and of relevance to the Committee. **We welcome the clarification and acknowledgement of the relationship between this Committee and the JIC, Assessments Staff and the DIS.**

Ministerial Involvement

108. The Committee was pleased to note that the Ministerial Committee on the Intelligence Services (CSI) met for the first time since 1995 on 18 December 2003. CSI is chaired by the Prime Minister and consists of the Deputy Prime Minister, the Chancellor of the Exchequer and the Foreign, Home and Defence Secretaries. The Committee has been calling for CSI to meet for nearly eight years, as such a meeting allows members to discuss the intelligence and security Agencies in a strategic way rather than in relationship to a single issue or crisis. A number of Ministers who attended the meeting said that they had found it useful, particularly in setting the strategic goals for the Agencies. We hope that future CSI meetings will build on this.

109. Other Ministerial committees, particularly the Defence and Overseas Policy Committee and its International Terrorism Sub-committee, known as DOP(IT), also discuss intelligence and security matters. Additionally, as we have previously reported, ad hoc groups of Ministers, including the "War Cabinet", meet to discuss specific matters.

Security and Intelligence Co-ordinator

110. The Committee welcomed the appointment of Sir David Omand as the Security and Intelligence Co-ordinator and during the year we have taken evidence from him on a number of topics. Sir David is now effectively the Prime Minister's adviser on security and intelligence-related matters, a task he has taken from the Cabinet Secretary. His responsibilities cover all the work of the Agencies, together with counter-terrorism policy and UK resilience. He is also the Accounting Officer for the SIA. The appointment of Sir David to this Permanent Secretary-level post has resulted in additional time being spent on SIA issues and has strengthened the central capability to co-ordinate the work of the

Agencies. He also acts as a senior interlocutor with overseas counterparts, and he has taken a leading role in developing the integrated national counter-terrorism strategy.

111. Sir David also plays an important role in other committees, such as the Permanent Secretaries' Committee on the Intelligence Services (PSIS) and the Official Committee on Security (SO). He supports the Ministerial Sub-committee on Consequence Management and Resilience. It is not his role to advise the Prime Minister on the available intelligence or the assessments. That is the job of the JIC Chairman.

Joint Intelligence Committee and Assessments Staff

112. The Committee took evidence from Mr John Scarlett, JIC Chairman, on the new JIC Requirements and Priorities system (details can be found in paragraphs 127 to 130), the working systems of the Assessments Staff and the procedures for production of JIC papers. We found these sessions valuable and we welcome the formalising of the relationship that we now have with the JIC and the Assessments Staff.

113. Following Mr Scarlett's appointment as 'C', a new JIC Chairman must be appointed. The previous Committee, in its *Annual Report 1999–2000*,²⁶ made the following comments:

“The Committee believes that the person appointed to this joint position [JIC Chairman and Intelligence Co-ordinator] will have to be at least as senior as the Agency Heads in order to be able effectively to co-ordinate the Agencies. It is for consideration that the post should be filled from within the intelligence community rather than the Diplomatic Corps. We believe that the joint position of JIC Chairman/Intelligence Co-ordinator will only be successful if the post holder has sufficient authority and influence to formulate and implement [intelligence and security] policy, as well as offering guidance to the Agencies.”

114. The creation of a separate Security and Intelligence Co-ordinator at Permanent Secretary level enhanced the ability to organise a collective policy for intelligence and security. The appointment of someone from outside the Diplomatic Corps as JIC Chairman has, in our opinion, been a success. **The Committee believes that candidates for the position of JIC Chairman should be drawn from as wide a field as possible.**

Defence Intelligence Staff

115. The Committee visited the Defence Intelligence Staff (DIS) for briefings on its collection activities; particularly the ability of the Royal Navy to collect a wide range of material while deployed ***

²⁶ Cm 4897

***. In terms of resources, 80% is related to collection activities and 20% is allocated to the analysis of intelligence collected from all sources. **We will look further into the work of the DIS, particularly at how its analysis work links with that of the Assessments Staff and at how its collection effort supports national requirements.**

SCOPE

116. SCOPE is a complex programme aimed at fundamentally changing the way the intelligence community interacts. It will be underpinned by a secure web-enabled information system, designed to work up to and including ***, linking the main producers and consumers of intelligence and providing a central intelligence repository and database drawing from and supplying ten departments and Agencies. The SCOPE programme will build on the current messaging system, the UK Intelligence Messaging Network (UKIMN), as well as delivering additional functionality, such as shared databases and the ability of the intelligence community to work across organisational boundaries.

117. The Cabinet Office, through the JIC Chairman, centrally manages the SCOPE programme, with a mix of programme staff from departments, the Agencies and the private sector. We reported last year²⁷ that SCOPE would be introduced in phases, with full roll-out commencing in 2005. The aim is that the modular and phased approach will deliver significant benefit even before the most ambitious elements of the programme have been introduced. However, we concluded that:

“Now that the SCOPE programme has both agreed requirements and sufficient funding, it needs to start delivering working systems that improve interdepartmental and Agency communications.”

118. This year we were told that, as part of this Early Delivery Programme, a new secure network within HM Customs and Excise was introduced and successfully connected to the UKIMN. Additionally, a prototype system, carrying the most highly classified material, was successfully demonstrated and work was carried out on the UKIMN to improve its reliability, usability and security.

119. Current work is focused on a project, known as Limited Operational Capability (LOC), which will deliver new types and formats of intelligence material in a web-based system between two organisations. The competition is currently being run for SCOPE systems integration, with four suppliers selected to bid for the contract.

120. A number of important lessons have been learnt from these early elements of the programme, all of which are standard management principles:

²⁷ Cm 5837

- a. partners must own the programme completely and accountability for delivery must be clear;
- b. there must be adequate resources for the programme in terms of both project management and business change;
- c. all plans must be produced well in advance of the implementation date and must be fully integrated; and
- d. engagement with the Agencies, especially the security accreditors, must take place early on.

121. Despite the success that the SCOPE programme has had in the past year in delivering working systems and in securing greater departmental engagement in the programme, the Committee remains concerned that the following points have not yet been fully addressed by the SCOPE team and the customer departments:

- a. Not all the security issues have been resolved, including some that could limit the programme.
- b. Departments, particularly the MoD, and the Agencies are having difficulty funding and developing effective systems to integrate SCOPE with their internal IT systems to the extent they wish.
- c. The implications of the business change processes have not been identified, nor has training been developed to maximise the benefits SCOPE can bring to the intelligence community.
- d. There is uncertainty about the cost of the programme and therefore it is not clear if sufficient funds to complete it will be available.

122. Despite the progress made on the SCOPE programme to date, the Committee believes that these points need to be addressed as a matter of some urgency if the ambitious SCOPE programme is to be a success.

Information Assurance and Communications

123. The Committee once again took evidence from the Central Sponsor for Information Assurance (CSIA), the e-Envoy Mr Andrew Pinder, and the Head of the Communication, Electronics and Security Group (CESG, which is part of GCHQ). We saw the Director of CSIA and the Head of the National Infrastructure Security Co-ordination Centre (NISCC). In our previous Annual Report we highlighted that a number of essential common good projects had not been funded and this was either delaying their development or the Agencies were having to fund them out of their allocated resources – a situation that we described as “*unacceptable*”.²⁸

²⁸ Cm 5837

124. We were told that the Minister for the Cabinet Office is responsible for the Government Strategy for Information Assurance (GSIA), which was agreed last year. Some funds have been allocated for future work, although most did not come from the centre. Of the £*** needed in 2005–06, only £*** was centrally allocated, the remainder being obtained from departments through negotiation. The estimated requirement to implement the GSIA is £*** in 2006–07 and £*** in 2007–08, of which £*** is available from existing allocations but the source of the remainder needs to be identified. Full funding will cover only essential work, and any additional amount would be used to promote awareness of the need for Information Assurance in both the public and private sectors and to develop ways of reducing vulnerabilities. **We continue to believe that it is unacceptable for common good work to be funded by departments and will monitor the results of SR2004 to see if the CSIA is given the necessary funding to carry out this important work properly.**

125. We note that all government departments have nominated a member of their board to be responsible for Information Assurance. The SO and its Information Systems Security Policy Sub-committee (SO(IS)) have played an important role in implementing the GSIA. We took evidence on the vulnerability of the Critical National Infrastructure (CNI) to electronic attack and noted that this threat to the CNI from *** was assessed on the basis of ***. The threat of electronic attack by *** was assessed to be lower than that posed by ***, which surprised us given the ***

***. We were also informed that the JIC had not assessed the threat to the CNI from electronic attack since 2002. Capabilities to attack the CNI exist, and, while both NISCC and CESG sought to reassure us that they were reducing the vulnerability of the CNI to technical attack, we were not convinced. **We recommend that the threat to the UK's Critical National Infrastructure and vulnerability to electronic and other attacks should be examined by the JIC and considered by Ministers.**

126. When we discussed the matter of mobile secure communications with Ministers, we were told that the situation had improved but was not yet satisfactory. **We remain concerned about the ability to communicate *** to Ministers when they are out of London, particularly as they may need to make important decisions rapidly. We do not consider that the current communications systems yet provide a sufficiently reliable capability.**

COLLECTION

Requirements and Priorities

127. We have previously reported on the process for setting the requirements and priorities (R&P) for the Agencies to collect secret intelligence, with customers indicating their requirements and a collective decision taken on priorities. Last year²⁹ we noted that an improved method for setting the R&P was being developed, partly at the request of HM Treasury. We also concluded that Ministers were not sufficiently engaged and we recommended that the new process, which was due to be introduced in 2003, needed to involve Ministers collectively in setting the R&P for secret intelligence.

128. The old system had three orders of priority, with the Agencies required to allocate resources to all First Order of Priority tasks, some to the Second Order and none to the Third Order. In reality, collection on Third Order tasks was handled by allies or on an opportunity basis. The new R&P system is a single list of seven bands of priority, with Band 1 being the highest priority through to Band 7 as the lowest (where intelligence will be collected on an opportunity-only basis). The band of a particular area or subject can be raised by the JIC through the declaration of a Temporary Intelligence Watch (TIW), and it is expected that TIWs will generally be short term. The R&P paper guides the Agencies on resource allocation but the Agencies themselves have responsibility for determining details of collection and allocation of resources within the framework. Additionally, each requirement for intelligence has been linked with either the sponsor's PSA targets or departmental objectives.

129. This new process was agreed by the JIC in February 2003 and all the Agency Heads regard it as a significant improvement. *The UK's Requirements and Priorities for Secret Intelligence 2004–2007* were endorsed by the JIC in September 2003 and by Ministers at the meeting of CSI in December 2003. The paper “*provides specific guidance on tasking, consistent with the Intelligence Agencies' statutory functions as set out in the Intelligence Services Act 1994 and the Security Service Act 1989 (amended in 1996)*” and will be revised on an annual basis. It is also intended to inform the Joint Air Reconnaissance Intelligence Centre (JARIC) on intelligence R&P and the annual Key Targets of the Defence Geographic and Imagery Intelligence Agency, of which JARIC is a part.

130. By taking and endorsing the new Requirements and Priorities (R&P) in a meeting of CSI, the Government has “collectively engaged Ministers in setting the R&P” as we recommended in last year's Annual Report.³⁰ We welcome this and trust that it will continue. We also note that the main users of the R&P system have welcomed the introduction of the new system.

²⁹ Cm 5837

³⁰ Cm 5837

Collection Gaps

131. With the continuing and growing emphasis on counter-terrorism and related work, all three Agencies have had to reduce their effort in almost all other areas. The SIS and GCHQ have reduced their coverage of ***, some parts of *** and ***. In the case of the SIS, the consequences of the reduction in effort will not be immediately apparent, but within 18 months, as new sources are not recruited or identified, the amount of reporting will fall. This decline has already started in areas where effort was reduced in previous years. ‘C’ told us that he was particularly worried about collection on *** and *** and that the SIS was now “*behind the curve*” in these areas. Additionally, he was concerned that the SIS ***. The effect of the GCHQ reduction was immediate, as the resources were reallocated, and the Director General of the Security Service told us that ***.

132. We recommended in the *Annual Report 2001–2002*³¹ that:

“The Agencies must be given sufficient resources to enable them to not only fill the staff vacancies that have been created [by the transfer of staff to cover terrorism] but also to expand sufficiently to ensure that they can meet the new demands now being placed on them.”

And we said last year that:³²

“...with the focus on current crises, the Agencies’ long-term capability to provide warnings is being eroded. This situation needs to be addressed and managed by Ministers and the JIC.”

133. The Government responded in June 2003³³ that it was:

“...confident that the Agencies’ capabilities are adequately resourced, and that the balance is correct between the crucial work they do against current threats and their work on longer-term concerns, both of which are invariably closely related.”

134. Four months later, in October 2003, the Government reacted to a reassessment of the challenge and threat posed by international terrorism by providing significant additional funds. The reassessment became necessary because the scale of the challenge posed by the threat had previously not been fully appreciated. These funds will allow the Security Service to increase staff by a further 50% over four years.

³¹ Cm 5542

³² Cm 5837

³³ Cm 5838

135. We believe that this situation mainly derives from the history of cuts in the 1990s as part of the post-Cold War budget realignment, which put the Agencies on the defensive. When international terrorism began to spread in the mid 1990s, the Agencies felt that they could not ask for additional resources, not least because they were already being accused of inventing new tasks for themselves. A turning point could have been the East African Embassy bombings in 1998, which first demonstrated the power of Usama Bin Laden and the Al Qaida network, but this resulted in no significant changes to priorities or resources.

136. Funding was increased in SR2000, although not by the total amount requested, and since September 2001 HM Treasury has provided the Agencies with the majority of the funds that they have sought. In the period 2000–03, the Agencies had some notable successes against terrorist targets and there were no successful attacks on the UK mainland by international terrorists. But these terrorists successfully attacked the UK’s and other countries’ interests around the world.

137. Having “*under-estimated the extent to which there were radicalised individuals here in the UK*”,³⁴ the Security Service did not identify the need to increase its size as rapidly as it now must. Similarly, the Agencies did not understand “*the scale of the threat and vulnerability of Western states to terrorists with this degree of sophistication and a total disregard for their own lives*”,³⁵ and therefore probably did not increase their effort against these targets sufficiently rapidly. However, the ability of the Agencies to grow quickly is tempered by the time it takes to recruit and train suitable staff, which can take a period of years. It was partly for this reason that the Agencies did not spend all the additional funds they were given after September 2001.

138. Because the scale of the challenge posed by the threat at the turn of the millennium was under-estimated, the Agencies did not seek an increase of the size that we now see until 2003. This was too late and it is why they do not have the level of resources that they need for all their priority requirements. We hope that the period of under-expansion has now been ended by the significant increase in funding for the Security Service. However, we remain concerned that the SIS and GCHQ will need further additional funds if the collection gaps are to be reduced and the UK’s ability to identify, monitor and disrupt threats from abroad is to be improved.

³⁴ Sir David Omand, 2004

³⁵ Cm 5542

ASSESSMENT

139. The Committee visits the Assessments Staff and we are briefed on its work in the preparation and production of JIC papers by both the Chief of the Assessments Staff and the JIC Chairman.

140. JIC papers are normally produced in a three-week cycle, based on an agreed forward work programme, although they can be produced in a much shorter timescale if necessary. Almost all of the papers are produced to meet the requirements of a customer department, although the JIC itself commissions some. Between four and six JIC or Current Intelligence Group (CIG) papers, normally limited to four sides of A4, are taken during the weekly JIC meeting. Intelligence allies participate in the process as appropriate.

141. The Assessments Staff desk officer drafts the paper, which takes account of the previous JIC papers on the subject and draws on intelligence, together with diplomatic and open source reporting. The draft paper is then circulated to the Agencies, departments and other interested bodies (such as law enforcement agencies) depending on the topic. A CIG meets to discuss the draft, under the chairmanship of one of the Deputy Chiefs of the Assessments Staff, and a further draft is circulated after the CIG meeting. Further comments are then received before it is taken by the JIC. Once the paper has been agreed by the JIC, it is issued to relevant Ministers and other senior policy-makers.

142. CIG Assessments are produced in the same way as JIC papers but are issued under the authority of the Chief of the Assessments Staff and noted by the JIC. The same is true of Immediate Assessments, which provide rapid analysis of major developing events for policy-makers. Important intelligence is also flagged up in the form of Intelligence Updates and other notes, particularly during crises.

143. The Assessments Staff is drawn from the main intelligence producers and customers in Whitehall, together with other interested groups such as the law enforcement agencies. The normal posting is for three years and all members of the Assessments Staff (desk officers, Deputy Chiefs and the Chief of the Assessments Staff) are appointed through the standard interview process, with applicants applying for these widely advertised positions.

144. The Committee has seen many JIC papers, particularly during our work on Iraqi WMD, on the terrorist bombings on Bali in 2002 and on the 11 September 2001 attacks on the USA. In our report *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*, we said, separately, that we saw all the JIC assessments relating to Iraqi WMD from August 1990 to September 2002 and that the JIC produced eight assessments on Iraqi-related matters during the period October 2002 to March 2003.

145. **These two statements have now proved to be erroneous because in May of this year we were given a further eight JIC papers relating to Iraqi WMD and UN inspections that dated from these periods, which a subsequent check had revealed had not been given to us last year. This causes us considerable concern.**

146. Last year we saw 93 assessments on Iraqi WMD and related matters. The papers we have since been given are: five produced between August 1990 to September 2002; and three produced between October 2002 and March 2003. **We have read the recently provided papers. We are satisfied that knowledge of them would not have led us to change the conclusions, including those that were critical, in our Report. However, we might well have included further material from these papers.**

147. **We have received an apology and we accept that there was no deliberate attempt to withhold information from us. However, we are concerned that some internal systems and record-keeping within the Cabinet Office's Intelligence and Security Secretariat are defective and we will return to this issue.** The Committee now regularly receives lists of JIC papers. We are also examining other aspects of the JIC process, such as the relationship between JIC papers and their readers (Ministers and other policy and decision-makers), including the format, content and usefulness of the papers as well as the structure, training and resources of the Secretariat. We will take into account any points raised by the Butler Review.

OTHER MATTERS

Postal Screening

148. Last year the Committee reported concerns about the possible threat to national security posed by the importation of firearms, drugs and other dangerous goods into the UK by post. When we discussed our concerns with the Home Secretary, he said that the matter was being followed up in a number of committees, including the Ministerial Sub-committee on Protective and Preventive Security and the Official Committee on Domestic and International Terrorism (Home) (TIDO(H)).

149. We have investigated the current situation and we will write to the Prime Minister separately with our detailed findings and concerns. **We remain concerned that, despite our warning over two years ago, this potential vulnerability in national security remains.**

Acts of Parliament

The Official Secrets Acts

150. The Committee has been considering the Official Secrets Acts and their effectiveness. In last year's Annual Report³⁶ we stated that:

“...we believe that the legislation could benefit from a review, as it does not seem to produce a balanced regime.”

151. We have discussed these Acts with the Prime Minister and, more recently, with the Attorney General. While the Home Secretary has told us that a formal review of the Acts has yet to take place, we understand that work is in hand to assess the implications of recent case law on the Official Secrets Acts and other legislation, particularly in light of the Katharine Gun case. We believe that there are a number of issues for review, particularly when considering current or former members of the Agencies and other people notified under section 1 of the Official Secrets Act 1989:

a. **Defences in prosecutions for unauthorised disclosure**

Duress is normally available in criminal proceedings (unless specifically excluded by statute). No one has suggested to us that this defence should not continue to apply to a prosecution for unauthorised disclosure.

³⁶ Cm 5837

A wider defence that the perpetrator acted in the public interest would be a different matter. The Franks Committee in 1971 concluded that such a defence would not be appropriate. In *R. v Shayler* it was rejected by the Court of Appeal and the House of Lords agreed.

However, the Courts have developed a defence which falls between these two situations, known as “necessity of circumstances”. While it is wider than the traditional defence of duress, and narrower than the public interest defence, its precise boundaries are far from clear. It is not obvious whether such a defence should exist and, if so, how it could be defined with the clarity which would be required in a criminal case.

There is also scope for discussion as to whether there should be a defence of prior publication, in that the contents of the alleged unauthorised disclosure are already in the public domain, for example on the Internet. If such a defence were to be available, the circumstances in which it should apply, and what its limits should be, would need to be clearly established.

b. Receiving information

Subsection (1) of section 5 of the 1989 Act was clearly intended to make it an offence for someone to whom information has been wrongfully disclosed to disclose it further without lawful authority, if further disclosure would be damaging. However, the subsection, as drafted, refers to information where a Crown servant or government contractor has disclosed the information and it does not include a reference to a person who was formerly, but is no longer, a Crown servant or government contractor. It is for consideration that the words “or has been” should be included in section 5 to cover the receipt of information from former Crown servants or government contractors.

c. The duties of a recipient of unauthorised disclosure

A person who is wrongfully given a classified document, or other article containing classified information, is under an obligation to return it to its rightful owner, since to retain it may amount to theft, and they would in any event be liable to a civil action for its return. Crown servants and those authorised to receive classified material are under a heavier duty (Official Secrets Act 1989, section 8). But the question arises as to whether there should be statutory offences of the unauthorised recipient failing to take reasonable care of the classified material, and of failing to notify some specified authority of its whereabouts.

d. The payment of money for unauthorised disclosure

Payment by the media for classified material is the subject of increasing concern. Consideration should be given to creating a specific offence of offering a reward for the unlawful disclosure of information, whether as an inducement for the disclosure

or as a subsequent reward for having disclosed it, and whether it should be an offence to accept or solicit such a reward.

e. **Penalties**

There are startlingly inconsistent sentences for broadly similar offences, while the existing legislation fails to distinguish between offences which vary considerably in the seriousness of their consequences. Offences under the 1911 Act (spying in prohibited places) carry a penalty of up to 14 years' imprisonment (1920 Act, section 1). Offences under the 1989 Act carry sentences no higher than two years' imprisonment.

Disclosing the names of agents, and thus endangering their lives, may require a substantially heavier penalty than is currently available under the 1989 Act. Consideration should therefore be given to the introduction of a more gradual series of penalties.

152. The existing legislative position has developed over a number of years and there are four Official Secrets Acts (1911, 1920, 1939 and 1989). It has given rise to such anomalies as the contrast between the penalties provided by the 1911 Act (as amended) and those under the 1989 Act. A further problem is raised by the expression in the 1911 Act, "*useful to an enemy*", which raises not only problems of construction, but the danger of giving unnecessary offence to states with which the UK is not at war. **We believe that the time has come to consider whether a new Act would be the proper way forward.**

The Regulation of Investigatory Powers Act 2000

153. We have been in discussion with the Prime Minister and other Ministers on whether intercepted material should be available for use in prosecutions rather than solely for the purpose of intelligence gathering. Currently, section 17 of the Regulation of Investigatory Powers Act 2000 generally prevents any information obtained under an interception warrant being used in prosecutions. It further provides that no evidence shall be adduced in legal proceedings to suggest, *inter alia*, that an interception warrant has been issued, thus excluding evidence that any interceptors acted lawfully.

154. The Home Secretary told us, as long ago as February 2003, that the Home Office had been leading a review of these provisions and would, in due course, recommend a way forward to Ministers. We note that the Home Office paper on the formation of the Serious Organised Crime Agency³⁷ states that this review is expected to be completed by June 2004. We will comment further on these matters and any impact on the work of the Agencies.

³⁷ Cm 6167 One Step Ahead – A 21st Century Strategy to Defeat Organised Crime

CONCLUSIONS AND RECOMMENDATIONS

155. The Committee has made the following conclusions and recommendations in this Report:

- A. Most of the hard work that the Agencies do every year will never be made public. The staffs of the Agencies are to be commended for what they have done in difficult circumstances: in particular, we should record that UK Force Commanders in the Gulf reported to us that they had been well served by the intelligence community during military action.

Expenditure and Resources

- B. We recognise that Public Service Agreements (PSAs) can be useful in helping to measure and deliver the business objectives of the Agencies. Both HM Treasury and the Agencies are clear that they still need to develop more useful PSAs but progress has been made. We will continue to monitor the development of the PSAs and the Service Delivery Agreements that stem from them.
- C. We are concerned that ***

***. We will return to this matter.
- D. That the National Audit Office (NAO) did not qualify GCHQ's resource account is a significant improvement, which the Committee welcomes. We note, however, that the NAO still believes that GCHQ needs to take further managerial action to ensure that the account remains unqualified.
- E. Planning has not been completed nor have resources been allocated to transfer GCHQ staff from the retained Oakley site to the New Building when the site is handed over to the developers. We will monitor this situation.
- F. GCHQ has successfully managed the PFI contract, which has provided them with an excellent facility, and the fact that the sigint service to customers has been maintained during the transition is welcome, reflecting the planning work prior to the move into the New Building.
- G. The Agencies make a valuable contribution to the fight against serious organised crime and we welcome the additional resources being allocated to this task.

- H. We will monitor how the new requirement for crime-related intelligence will feed into the JIC Requirements and Priorities for secret intelligence and we will take evidence on the impact that the formation of the Serious Organised Crime Agency will have on the intelligence and security Agencies.
- I. BBC Monitoring provides a valuable service both to government departments and to the Agencies. It has adapted well to report on the growing number of terrorism-related media sources.
- J. We welcome the decision, taken since we raised this issue, to maintain BBC Monitoring's funding at its current level until the end of 2005–06. We believe that the overall level of funding should reflect the value of BBC Monitoring to the Government, the Agencies, and US relationships as a whole, and we will continue to take an interest in this matter.

Administration

- K. While we welcome the progress so far in improving the number of women in senior positions, greater efforts need to be made.
- L. While the Agencies are taking steps to improve their recruitment of ethnic minorities, the effect of the additional nationality requirements on successful recruiting needs to be examined further.
- M. We recommend that a cross-Agency review of legal matters be undertaken, in consultation with the Attorney General, to ensure that staff members are being correctly trained, that best practice is being followed and that measures are taken against misunderstandings occurring during prosecutions.

Policy

- N. The Prime Minister has informed us that, with one exception, all interviews conducted or observed by UK intelligence personnel have been conducted in a manner consistent with the principles laid down in the Geneva Convention, but that some detainees questioned by them have complained about their treatment while in detention. While the UK intelligence personnel never witnessed any evidence of detainee abuse of the type that the US authorities have acknowledged has occurred in Iraq, on the few occasions that they became aware that detainees were being held by the US authorities in austere conditions or treated inappropriately, the concerns were passed on to the US authorities. We will take evidence on all these matters and the usefulness of information obtained from interviews.

- O. We welcome the fact that police special branches are planning to work in a more co-ordinated manner and we will take evidence next year on the usefulness of these developments in the context of the Security Service's work.

Weapons of Mass Destruction

- P. The Committee is not satisfied with the Government's Response to its Report *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*. It emphasised only four key conclusions while either rejecting or failing to address fully many of our other conclusions and recommendations, which we regard as extremely unsatisfactory.
- Q. In its future Responses to this Committee's Reports, the Government should explicitly address each of our conclusions and recommendations.
- R. Libya announced on 19 December 2003 that it was disbanding and destroying its WMD capability. Libya's subsequent admission of inspectors to oversee this dismantling was the culmination of months of work by the SIS, together with the FCO and CIA. This was a major intelligence success.

Joint Terrorism Analysis Centre

- S. The introduction of the JTAC has been a success and we suggest that the Government should consider setting up a similar analysis and assessment body to support counter-proliferation work.

Counter-espionage

- T. We remain concerned that, because of the necessary additional effort allocated to counter-terrorism by the Security Service, significant risks are inevitably being taken in the area of counter-espionage.

The Intelligence Community

- U. We welcome the Government's clarification and acknowledgement of the relationship between this Committee and the JIC, Assessments Staff and the DIS.
- V. The Committee believes that candidates for the position of JIC Chairman should be drawn from as wide a field as possible.
- W. We will look further into the work of the DIS, particularly at how its analysis work links with that of the Assessments Staff and at how its collection effort supports national requirements.

- X. Despite the progress made on the SCOPE programme to date, a number of points need to be addressed as a matter of some urgency if the ambitious SCOPE programme is to be a success.
- Y. It is still unacceptable for common good work on Information Assurance to be funded by departments and we will monitor the results of SR2004 to see if the Central Sponsor for Information Assurance is given the necessary funding to carry out this important work properly.
- Z. The threat to the UK's Critical National Infrastructure and vulnerability to electronic and other attacks should be examined by the JIC and considered by Ministers.
- AA. We remain concerned about the ability to communicate *** to Ministers when they are out of London, particularly as they may need to make important decisions rapidly. We do not consider that the current communications systems yet provide a sufficiently reliable capability.

Collection

- BB. By taking and endorsing the new Requirements and Priorities (R&P) in a meeting of the Ministerial Committee on the Intelligence Services, the Government has "*collectively engaged Ministers in setting the R&P*" as we recommended last year.³⁸ We welcome this and trust that it will continue. We also note that the main users of the R&P system have welcomed the introduction of the new system.
- CC. Because the scale of the challenge posed by the threat at the turn of the millennium was under-estimated, the Agencies did not seek an increase of the size that we now see until 2003. This was too late and it is why they do not have the level of resources that they need for all their priority requirements. We hope that the period of under-expansion has now been ended by the significant increase in funding for the Security Service. However, we remain concerned that the SIS and GCHQ will need further additional funds if the collection gaps are to be reduced and the UK's ability to identify, monitor and disrupt threats from abroad is to be improved.

Assessment

- DD. Two statements we made in our Report *Iraqi Weapons of Mass Destruction – Intelligence and Assessments* to the effect that we saw all the relevant JIC papers produced between August 1990 and March 2003 have now proved to be erroneous. In May of this year we were given a further eight JIC papers relating to Iraqi WMD

³⁸ Cm 5837

and UN inspections that dated from the period, which a subsequent check had revealed had not been given to us last year. This causes us considerable concern.

EE. We have read the recently provided papers. We are satisfied that knowledge of them would not have led us to change the conclusions, including those that were critical, in our Report *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*. However, we might well have included further material from these papers.

FF. We have received an apology and we accept that there was no deliberate attempt to withhold information from us. However, we are concerned that some internal systems and record-keeping within the Cabinet Office's Intelligence and Security Secretariat are defective and we will return to this issue.

Other Matters

GG. We remain concerned that, despite our warning over two years ago, the potential vulnerability in national security caused by the importation of dangerous goods into the UK by post remains.

HH. We believe that the time has come to consider whether a new Official Secrets Act would be the proper way forward.

THOSE WHO HAVE GIVEN ORAL EVIDENCE

Ministers

Rt. Hon. Jack Straw, MP – Foreign Secretary
Rt. Hon. David Blunkett, MP – Home Secretary
Rt. Hon. Geoff Hoon, MP – Defence Secretary
Rt. Hon. Alistair Darling, MP – Transport Secretary
Rt. Hon. Paul Boateng, MP – Chief Secretary to the Treasury
Rt. Hon. The Lord Goldsmith, QC – Attorney General

Officials

GOVERNMENT COMMUNICATIONS HEADQUARTERS

Dr David Pepper
Other officials

SECRET INTELLIGENCE SERVICE

Sir Richard Dearlove, KCMG OBE
Other officials

SECURITY SERVICE

Hon. Eliza Manningham-Buller
Other officials

NATIONAL INFRASTRUCTURE SECURITY CO-ORDINATION CENTRE

Director

CABINET OFFICE

Sir David Omand, KCB
Mr Andrew Pinder
Mr John Scarlett, CMG OBE
Other officials

MINISTRY OF DEFENCE

Lt. Gen. Andrew Ridgway, CB CBE

FOREIGN AND COMMONWEALTH OFFICE

Mr William Ehrman
Mr Robert Chatterton-Dickson
Other officials

HOME OFFICE

Mr Mark Neale

Other officials

DEPARTMENT FOR TRANSPORT

Officials

HM TREASURY

Mr Jonathan Stephens

Other officials

NATIONAL AUDIT OFFICE

Mr Martin Daynes

Mr Bob Burwood

LEGAL SECRETARIAT TO THE LAW OFFICERS

Mr David Brummell

Other officials

CROWN PROSECUTION SERVICE

Mr Ken Macdonald, QC

