

One People Oration

Secret Service? National Security in an Age of Open Information

One of the interesting things about being head of MI5 was meeting the heads of many other security and intelligence services throughout the world. You soon learnt that there is a crucial distinction between those security chiefs who see it as their job to keep their people safe, and those who see it as their jobs to keep their President safe from the people. To put it another way, some secret agencies serve their society and some serve their political masters.

In the UK the position is clear - the role of the secret agencies here is to serve the people by protecting them from national security threats such as terrorism. The secret agencies are to be servants not masters, and they are expressly forbidden from acting in the interests of any political party. What is more operational decisions such as who is investigated and how, cannot be made by Ministers but rest with the professional heads of the agencies. National security in Britain today is citizen-centric: protecting the citizen from threats that only government capabilities can address. This approach to national security is reflected in the government's counter terrorism strategy, CONTEST, whose stated aim is that "people can go about their lives freely and with confidence".

We are fortunate in this country to have a long tradition of public service which, while not always fashionable, still has meaning. It is this tradition that the Westminster Abbey Institute seeks to foster and celebrate and the Institute is right to do so. We should celebrate the fact that so many young (and sometimes not so young) people choose to devote their working lives to public service of many sorts. In the same way we should celebrate the remarkable number of voluntary organisations that we are fortunate to have in this country working for the public good. This same public service ethos lies behind the instinct for balance and accuracy demonstrated in the best of our journalism. And we see it also in the willingness of people to serve in the intelligence and security services, where public acknowledgement is necessarily rare but the demands on the time, ingenuity and sometimes courage of the members of the agencies can be considerable. I would mention,

by the way, that the only public monument to the work of the intelligence agencies is to be found in the cloisters of the Abbey here.

So I think it right to speak of “Secret Service”. But at the heart of secret service is an awkward truth – which is that in order to be able to serve the people effectively the secret agencies need to keep secrets from the people they serve. This awkward proposition derives from the fact that a small minority of the people are engaged in the very activities that the agencies are fighting against.

It is easy today to say that there are no secrets any more. Easy but not true. There are secrets, and it can be vital to the public interest that they remain secret. In that sense they are the nation’s secrets, not the secrets of a particular organisation. For example, if MI5 and the Police are aware of plans by a terrorist group to mount an attack, it is very important that the group do not know that they are under surveillance, so that they don't act precipitately, or run away to a safe haven overseas. The investigation must be brought safely and secretly to a point where all the conspirators are known and there is the best prospect of bringing evidence against them in court. Or again, if an ingenious technique has been discovered that enables the National Crime Agency to identify predatory paedophiles who are live streaming child abuse on the dark web, then it is in the interests of their potential victims that the existence of the ingenious technique is not revealed, so that the abusers cannot circumvent the technique and continue with their abuse. More widely, if we believe that the nuclear deterrent is a necessary part of our security against military attack or blackmail, then the whereabouts of our submarines has to remain secret if they are to undertake their deterrent role.

So I would contend that there are secrets that it is in the public interest to protect. But that facet of the public interest is in contention with other, equally valid, forms of the public interest such as the freedom of the media, freedom of information, due accountability, and fair and open justice in the courts.

Secrecy is not fashionable at the moment and provokes suspicion. The current fashion is for transparency and disclosure. Traditional understandings of secrecy and even privacy are changing. Social media and the internet encourage us to share a great deal more information about ourselves, either directly or with our notional consent, and reduced levels of trust in established institutions mean we expect public figures and institutions to do likewise and share information whether that means meeting exacting Freedom of Information rules or putting their personal tax returns into the public domain (unless you are Donald Trump).

This new information environment has had undeniable benefits. Child abuse that had been hidden for decades has been revealed. Abuse of expenses by parliamentarians was famously exposed not by auditors or oversight committees but by a free press. The effectiveness of government policies can be scrutinised in the light of actual evidence rather than conjecture or assertion, and often Freedom of Information is the tool that enables the media to obtain the evidence needed to undertake this scrutiny.

But this is a tricky world in which to run a secret organisation – one that needs not only to protect its own secrecy, but also to intrude into that of other people. If sunlight is the best disinfectant, how does that work for a necessarily secret organisation?

The Security Service that I joined in 1980 was not an institution where the word sunlight sprang readily to mind. It did not exactly throw wide the doors and welcome scrutiny. The existence of the Service was avowed but very little else about it was. Who worked for it? Where were its offices? What was its budget? What did it do? What was its relationship with government? All of these were secret. And MI5 was the most open of the UK's three intelligence services. MI6 in those days was not avowed at all (despite having a big building in Lambeth) and GCHQ was acknowledged only as a research centre for Foreign Office communications.

MI5's relations with the media in those days were minimal. The Legal Adviser occasionally had lunch with a trusted contact in the broadsheet press, but that

was it. Otherwise press relations were consigned to the D Notice Committee, which managed the gentlemanly arrangement whereby the media voluntarily agreed not to publish damaging information on defence and security matters – an arrangement that still exists in a modified form today.

But despite this lack of sunlight, MI5 did not, in my experience, harbour the terrible infections that one might expect would arise without disinfectant. It was a bit fusty, a bit old fashioned and maybe not terribly efficient, but I don't think that the lack of sunlight had actually led to anything much worse than that. The fundamental values of the Service were pretty decent, if unspoken, despite the inward looking culture. So the sunlight of scrutiny might be a form of disinfectant, but it is not the only way to preserve the integrity of an organisation. Something else was keeping people, broadly speaking, on the strait and narrow.

Of course, our secret services today are a great deal more forthcoming than they were. The relationship between the intelligence services and the media, one important aspect of greater openness, has moved on a long way since I joined MI5 over thirty five years, and in ways that I believe have been beneficial to both sides. In the old days, a paradox sat at the centre of the relationship. The agencies would not communicate with the media. As a result the only voices that the media heard were those of the ill-informed or ill-intentioned. Consequently much of the reporting on intelligence matters was also ill-informed or hostile. This reinforced the perception of some in the agencies that, as the media were ignorant and hostile, what was the point of talking to them?

There were those who benefited from this stalemate. I can remember reading, as an undergraduate, Chapman Pincher's racy and revelatory book "Inside Story". This told you a great deal more about MI5 than was officially admitted. It was Pincher, the veteran spy watcher at the Daily Express, who revealed that Sir Roger Hollis had been a Soviet agent. In reality Hollis hadn't been a Soviet agent, as later and better sourced research from the likes of Professor Christopher Andrew demonstrated but in those days not everything that appeared in the Daily Express was necessarily true.

The way out of this stalemate between the secret agencies and the media required that a degree of trust should be established on both sides. On the part of the Agencies, trust that it would be possible to share more information with the media without that information being misused or distorted, and on the part of the media trust that the agencies would be prepared to be honest rather than play manipulative or self-serving games. Essentially what was required was for both sides to recognise that they had a mutual interest in truthful information reaching the public.

The agencies had gradually recognised that, in the modern political environment, attempting to maintain total invisibility and inscrutability was no longer a viable strategy. With the death of deference and with increasing suspicion of established institutions it became important to the agencies that their story, which they considered a good story, should be heard by the public. If not, then their ability to recruit staff, to win the support of government and to be provided with the tools to do their job would be progressively eroded. Equally they had genuine constraints on what they could say, and they had real secrets that it remained in the national interest to keep.

The more serious media outlets, for their part, had an interest in really understanding the nature of covert national security threats and how the intelligence agencies went about their work of countering those threats. Only if they had this understanding could they in turn keep their readers, viewers or listeners informed. Spying, of course, has long had an intrinsic interest to the media because it has a whiff of intrigue and excitement about it which helps to spice up stories. But as 9-11 and its aftermath propelled the work of the intelligence agencies from the shadows to the top of the news in an unprecedented way, there needed to be better informed reporting about what had become quite an important bit of the government activity.

Both sides were starting to recognise that the wider public good required them to develop a more mature relationship. Democracy, which it is part of MI5's job to uphold, cannot flourish without a well-informed public, a point well made by Andrew Marr in his book "My Trade":

“If you live your life without news then you become a sort of political zero, with no grip on the world around you...But if the news is well made, if it faithfully reflects the big facts of the world around us, then it can empower us.”

Conversely democracy cannot flourish where insecurity undermines peoples’ willingness to make decisions freely and to exercise their rights. So freedom and democracy require both security and openness.

From the late 1990s, in addition to explaining themselves more openly through booklets, occasional public utterances by heads of agency etc, the agencies, initially MI5 but in due course all three agencies, decided that, though they would not establish press offices, they would develop relationships with the editors of major news outlets and with nominated journalists at most newspapers and broadcasters. This arrangement was described by the Intelligence and Security Committee of Parliamentarians in the following terms:

“a number of media outlets have a journalist ‘accredited’ to the Security Service and/or the SIS; these journalists are able to contact the Services for guidance. In turn, they are briefed by the Security Service or the SIS about matters relevant to the Services. The agreement between the Agencies and journalists is that all these contacts are off-the-record and must not be quoted directly”

The arrangement, of course, has its critics. David Rose, himself formerly one of the “accredited” journalists, condemned the system in a long New Statesman article entitled “Spies and Their Lies”. He judged the system to be “gravely damaging for journalists and spooks alike” – for journalists as they opened themselves to the risk of manipulation by the agencies, a risk they continued to take because they did not want to lose their access to the information flow, and dangerous for the agencies because they could not openly deny false stories, and did not benefit from the accountability and “sunshine” that a more open approach to the press would afford them.

Similarly the current system fails the test set by by Heather Brooke, Professor of Journalism at City University – herself an investigative journalist - who insists that real information consists of “what you can see and what can be tested”, and that journalists should approach government in a spirit of scepticism – “I want to see the evidence”.

For my part I agree that too close an alignment is not actually in the public interest. Cronyism and back scratching are invidious. The Leveson Inquiry made very clear the problems that can arise when a relationship becomes too cosy. But deep dyed cynicism about the motives of either side is also corrosive, damaging and just plain wrong.

So we find ourselves today in a position where the media know and report a great deal more about the secret world than was the case a generation ago, and where flows of Information from the government side to the media are much greater than they were, though some critics see the current arrangements as potentially corrupting, and a great deal of secrecy still pertains.

On a personal note, I would say that my own experience at MI5 was that in general the media took a pretty responsible attitude to reporting on our activities. There were occasions when journalists would stumble upon some piece of information the publication of which would be genuinely damaging to national security. Normally, if we explained privately why the publication of the information would be damaging, the story would be spiked. We could not insist on this but there was a shared recognition that the public interest overrode the interests of publication. Conversely there were plenty of very unwelcome and, in our view, misleading stories which we could not argue placed national security directly at stake even though we would much have preferred them to go away. In these cases we might try to explain why a story was misleading or unfair, but usually the story would appear anyway.

Given that the intelligence agencies cannot give a full public account of their activities, and that the media have only limited insight into what is going on, other arrangements are needed to provide assurance that the agencies are not

getting up to mischief. These have developed in the last twenty years, and have been given greater impetus by wider developments in areas such as Freedom of information legislation, agency engagement with the Courts which has meant using intelligence as evidence, and the development of human rights law which has led to a much wider expectation of accountability on the part of the agencies for how they go about their business and how they use the powers provided to them.

Each of these competing public goods has to be held in balance with the needs of security, and how to achieve this balance has been the subject of debate, dispute and decision in recent years.

Freedom of information legislation can empower citizens and help curb abuses of power. But you cannot have an unfettered right to freedom of information while also protecting the necessary secrets of the intelligence agencies. The decision of parliament in that case was to exclude the intelligence agencies from the scope of the legislation.

The handling of secret material in the courts has evolved through a series of steps, against the background both of the more demanding disclosure regime now in place, and the need to use intelligence as evidence. The position in the criminal courts is generally straightforward – if the prosecuting authorities want to rely on secret evidence then it has to be laid before the court. There is no provision for secret evidence in the criminal courts. In this case it has been judged that the fundamental importance of a fair trial trumps any public good there may be in using undisclosed evidence to prosecute a terrorist or criminal, a judgement that I fully support, despite the occasional frustrations it may cause.

The position in the civil courts is more complex. The courts may accept in certain circumstances that it is possible to provide a fair civil proceeding even where some evidence is not visible to one of the parties, though only with the appointment of a Special Advocate, that is, a specially appointed but vetted lawyer who has full access to the relevant material and represents the interests of the party excluded from seeing the underlying material.

Importantly the excluded party will be given a gist of the evidence, and the judge maintains the duty to ensure that the overall interests of justice are maintained in his or her court throughout the process. This procedure is controversial and has been challenged but has so far been found to deliver justice within a human rights framework.

The third area of contention is over accountability – how to ensure that the agencies are properly accountable for their actions without those actions being made public in ways that would damage the public interest. As well as the day to day relationship between the agencies and their respective Ministers there is oversight from parliamentarians through the Intelligence and Security Committee, which has evolved over the twenty years of its existence into a much more active and powerful body than it was at first. It has always been the case that the Committee operates within the ring of secrecy, but its aim is to assure those outside that ring that the activities of the agencies are properly accountable, effective and well directed.

Some media and political commentators enjoy throwing stones at the ISC and complain that it is toothless and has been captured by the system. I note, however, that some of those making such claims do not appear actually to have read some of the more recent ISC reports, which go into considerable detail about agency operations and sometimes agency failings. It is always easy for those looking in from the outside to claim that the system doesn't work, but that will always be the case if your benchmark is that you want to see all the evidence with your own eyes. In fact, of course, the quantities of material that are available to the courts and oversight bodies in today's digital world are mind-boggling and their problem is at least as much how to make sense of the enormous quantity of material available as it is obtaining access to that material in the first place.

The problem with this sort of accountability by proxy is that it does require you, as a member of the public, to rely on some office holder or committee to look at the evidence on your behalf and tell you if there is anything amiss. This fails what I might call the Heather Brooke test - "I want to see the evidence". So far we have not been able to find a model that is wholly reassuring to a

determined sceptic, and I doubt that one exists. If you reveal publicly the totality of what the secret agencies do then they are no longer secret and their value is undermined. If you do not reveal the totality then you have to place some degree of trust in others whose job it is to ensure that the agencies are doing the right thing.

The question then becomes who do you trust to look at the evidence on your behalf? Paradoxically, such polling as I have seen suggests that people have remarkably high levels of trust in the agencies, despite, or maybe because of, the modest amounts of information available about the agencies. Judges are generally seen as being trustworthy and independent. Journalists and politicians are some way behind. But to some degree judges, politicians and journalists all have to be involved in the actual accountability system.

In recent years we have placed more and more reliance on judges as the ultimate check and safeguard on government activity, and even occasionally on public policy. We do have exceptionally independent and capable judges in this country who deserve our support and that of the Lord Chancellor, but I am rather troubled about the weight that we are putting on the judiciary in terms of public trust in the way we run our society. The response to the recent Investigatory Powers Bill was instructive. The Bill places considerably more weight on the role of judges in overseeing the use of intrusive powers by the agencies, a change that some commentators had been demanding. But as soon as the Bill was published some of its critics who had been calling for judicial involvement in the authorisation process retargeted their guns on the judiciary itself and started to ask which judges would undertake this new role and, by implication, whether all judges could be trusted to act dispassionately. If the integrity of the judges gets tarnished we will be left in a very difficult and exposed position since they are increasingly the last bulwark against cynicism and mistrust across a swathe of public life.

So with this panoply of oversight mechanisms, media strategies, court challenges and so on, what space is left for investigative journalists and for that folk hero, the whistle-blower?

I would say first that I think the term whistle-blower is over-used. Just because an insider reveals secrets does not make them a whistle-blower. To my mind a whistle-blower is an insider who in good faith tries to raise concerns through the appropriate channels about activities that they believe to be contrary to the public interest but, unable to do so, reveals that information publicly. The government has accepted that there may be circumstances in which members of the agencies feel that they have come across malpractice and that it is in the public interest that their voice is heard. That is why any insider can go to an outside figure, known as the Staff Counsellor, who is not a member of the intelligence services and stands outside the management line (currently this is Julian Miller, a former deputy national security adviser in the Cabinet Office). The Staff Counsellor can then pass on any concerns, without revealing the source, to the management of the agencies or escalate them elsewhere in government.

The existence of this approved escalation channel means that I can think of very few circumstances indeed where it would be right or necessary for an insider to go public on concerns. I am thus highly sceptical of the ethical case for whistleblowing on intelligence matters in the UK context. An insider who has access to sensitive material and decides to publish it for money or to settle scores, or to further their personal political goals, is not blowing a whistle. On the contrary they are betraying the public trust placed in them, and are doing so for their own personal ends.

What about Snowden, I hear you say. Didn't he reveal malpractice and abuse of surveillance that needed to be cleaned up? Actually, in the UK he would have been able to blow the whistle within the system and not in the media, and in so far as the UK is concerned subsequent inquiries have failed to identify any substantial illegal or unaccountable activity by the British agencies. The most that can be said on the positive side here is that Snowden's revelations have prompted the British government, in the context of the current Investigatory Powers Bill, to publish more information on the current practices of the agencies on the use of bulk data. But that has to be set against the damage that Snowden's revelations have done not only to the capability of the agencies to protect the public against terrorism but also to the ability of law

enforcement to protect vulnerable people from serious crime, particularly on the internet. In my view Snowden has done more harm than good.

On investigative journalism I would strike a slightly more positive note. I have often been struck by the similarities between the trade of intelligence and that of journalism. Many of the instincts of spies and journalists are the same: to find out something important and interesting, to see if you can get collateral for what you have discovered, to check that it is reliable, then to report what you have found out in clear and accurate terms to those who need to know it. And make sure that you protect your sources because otherwise you will not have any sources next time.

Theoretically the various ways in which the work of the intelligence agencies is formally accountable should mean that there is no need for investigative journalism in keeping an eye on the agencies. But we have all seen the way in which formal systems have not always been quick to identify problems and sometimes have been very slow to do so. The media have highlighted (sometimes themselves rather late in the day) areas such as child abuse that needed to be brought into the open.

I hope that there are no dark stains of that sort on the current actions of the agencies but I can't deny that good investigative journalism does continue to play a longstop role in checking potential abuse. There are risks in publishing unauthorised stories about the intelligence agencies, including legal risks to the publisher, but that is the price you pay for a free media and in my view it is one worth paying. You only need to visit a country where the media is not free to see how dull a compliant media can be, and it tends to go along with bad governance.

But I want to return to why the Security Service in the old days was not an organisation rife with corruption and malpractice, even though many of the safeguards that I have been describing here were not in place and even though it was extremely, probably excessively, secretive. The answer seems to be one of culture, ethics and behaviour.

Most people join the secret services because they want to serve the public. No doubt the same is true of those going into the news media. Organisations do well to select people with this motivation and, through the way they behave can either reinforce the wish to serve or they can, inadvertently, erode it. When I joined MI5 there was a largely unspoken set of assumptions about how one should behave that were, in my experience, broadly healthy and helped protect the Service from the dangers that can arise from undue secrecy. The increasing diversity of cultures means that today a more explicit articulation of values is needed, what the Institute here refers to as “moral and spiritual values”. British public service values, dating at least as far back as the Northcote Trevelyan report in the nineteenth century, are rooted in Britain’s Christian tradition but they are by no means exclusively Christian in their appeal or application.

These values need to be not only articulated but also discussed, tested and applied. In my experience most people – certainly those that you would want to employ in professions such as intelligence or journalism that throw up difficult issues - actively welcome engaging in discussion of ethical problems and dilemmas they face. We should welcome this since open discussion is in itself an important element in maintaining what has been described as the ethical “buoyancy” of an organisation. And engaging in open discussion of these issues should be seen as one of the responsibilities of those in such jobs. It doesn’t matter how much oversight, accountability or editorial policy you have, you cannot prepare everyone for every eventuality. At some point individual intelligence officers or journalists will have to make important judgement calls for themselves and, if we are to trust them to do this, they need to have internalised the values at an individual level, not just because they have been taught about them but because they believe them

This is as true of the media as it is for the intelligence agencies and for many other professions. As a bank director I see the same issues played out in that world – what we care about, what we value and how we measure success will impact on the critical decisions we make, for better or worse, and individual moral judgement will remain the vital core of a healthy and sustainable organisation.

At the heart of my remarks is the inherent tension between good, inquisitive journalism on the one hand and the instincts and genuine concerns of the secret state on the other. Building trust between the two sides has taken time but a degree of trust now exists, based on shared recognition of where the public interest lies and shared recognition that the values that matter for both sides are in fact fundamentally similar. It would be in the interests of neither side for the relationship to become too close. But it would benefit neither side, nor more importantly the public who are the beneficiaries of the news media and of the efforts of the intelligence services, if the two sides were to revert to the trench warfare that prevailed forty years ago.

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