

Witness: MI5 Witness 3

Party: 4th Respondent

Number: 1

Annexes A and B, Exhibits 1-12

Date: 17/06/2019

Case Nos. IPT/17/86 & 87/CH

IN THE INVESTIGATORY POWERS TRIBUNAL
BETWEEN:

- (1) PRIVACY INTERNATIONAL
- (2) REPRIEVE
- (3) COMMITTEE ON THE ADMINISTRATION OF JUSTICE
- (4) PAT FINUCANE CENTRE

Claimants

and

- (1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS
- (2) SECRETARY OF STATE FOR THE HOME DEPARTMENT
- (3) GOVERNMENT COMMUNICATION HEADQUARTERS
- (4) SECURITY SERVICE
- (5) SECRET INTELLIGENCE SERVICE

Respondents

WITNESS STATEMENT OF MI5 Witness Statement

I, MI5 Witness Statement, of the Security Service, of Thames House, London SW1, WILL SAY as follows:

Introduction

1) I have worked for MI5 for 27 years

In the course of my MI5 career I have acquired substantial experience of MI5's use

[REDACTED]

and deployment of agents including those who may participate in criminal activity, and am familiar with the work of all MI5's agent-running teams.

2) I am authorised to make this statement on behalf of MI5. The contents of this statement are within my own knowledge and are true to the best of my knowledge and belief. Where matters are not within my own knowledge they are based upon documentation made available to me and from discussions with others within MI5.

Purpose of witness statement

3) In this witness statement I address the value of agent intelligence and the importance of agents being able to engage in criminality where appropriate. I describe: the importance of human intelligence against the background of the current threats to the UK's national security,

[REDACTED]

The Current Threat Picture

4) MI5 has the statutory function of protecting the UK's national security. The UK has for many years faced a serious threat from terrorism, which is joined by heightened and complex threat and recklessness from state actors.

[REDACTED]

" This includes threats from international terrorism, Northern Ireland-Related Terrorism and right and left-wing terrorism "

International Terrorism

5) 2017 saw four Islamist terrorist attacks in GB (Westminster Bridge, Manchester Arena, London Bridge, Parsons Green) [REDACTED] 2018 saw one non-fatal attack (Manchester Victoria) [REDACTED]

[REDACTED] The Joint Terrorism Analysis Centre (JTAC) have set the UK national threat level to SEVERE – meaning an attack is highly likely. The UK National threat level has been at SEVERE since 29 August 2014. During this time, JTAC have increased the UK National threat level to CRITICAL (an attack is expected imminently) twice. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6)

[REDACTED]

"Threats exist from Daesh, Al Qaida and other Islamist groups"

7)

[REDACTED]

8) 2018 saw terrorist attacks in Nairobi and Kabul which killed British nationals. Prior to that, 2015 marked a significant increase in Daesh-led violence against British nationals, with large numbers killed in attacks in Tunisia and Paris.

[REDACTED]

Northern Ireland-Related Terrorism

9) The threat level from Northern Ireland-related terrorism (NIRT) in Northern Ireland is SEVERE.

[REDACTED]

10) The current threat level from NIRT to Great Britain is MODERATE (meaning an attack is possible but not likely).

[REDACTED]

[REDACTED]

[REDACTED]

11)

[REDACTED]

12)

[REDACTED]

State Threats / Counter-Intelligence

" We face a sustained threat from hostile states "

13)

[REDACTED]

Targets include government, defence, Critical National Infrastructure, technology companies and the private sector in general. Theft of sensitive information is causing real damage to the UK in these areas.

" Hostile States may deploy a range of capabilities against the UK including cyber and technical attacks and agent operations "

" The prevalence of modern technologies such as the Internet and social media make it easier for hostile states to identify and approach their targets for recruitment "

14) Certain hostile states also pose a physical threat to their dissidents in the UK or to others who have displeased the state. For example:

- a. **Russia:** The vocal Putin critic Aleksandr LITVINENKO was murdered in London in 2006, which was almost certainly arranged by the Russian Federal Security Service (FSB). The Russian military intelligence service GRU killed Dawn Sturgess, and seriously injured four others, when attempting to murder the former spy Sergel SKRIPAL in Salisbury by poisoning him with novichok.

[REDACTED]

"Iran: Iran's intelligence services are known to conduct assassinations overseas including in Europe"

[REDACTED]

[REDACTED]

Right and Left-Wing Terrorism

15) After the right-wing terrorist attack at Finsbury Park mosque in June 2017, MI5 took an increasing role in countering terrorist threats from both right and left-wing extremists. [REDACTED]

[REDACTED]

[REDACTED]

The role of intelligence

17) In order to counter threats from terrorists and hostile states, MI5 must first understand the nature and scale of those threats. This is the primary role of covert intelligence-gathering

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

Many, or most, of those protective actions are not directly controlled by MI5. For instance, at a tactical level, we work closely with the police to deliver the arrests and prosecutions that disrupt terrorists. More strategically, our Centre for the Protection of National Infrastructure advises the public and private sectors on protective measure that can be taken. MI5's intelligence will inform JTAC's work on setting threat levels, which in addition to triggering practical defensive measures, also serve to inform the public, and raise awareness of the kinds of activities and behaviours to look out for.

Intelligence collection methods

18) MI5 has access to a range of intelligence collection capabilities. These vary in their effectiveness in meeting any particular intelligence requirement and in the extent to which they interfere with an individual's privacy.

19) **Agent intelligence:** [Redacted]

[Redacted]

20) **Intercept:** Intercept provides significant intelligence and can help inform other forms of collection, e.g. by providing a starting-point for surveillance. [Redacted]

[Redacted]

"The growing prevalence of encryption poses challenges for intercepting SoIs' communications"

21) **Acquisition and analysis of data:** [Redacted]

[Redacted] Analysis of data helps provide links and identify other individuals who may be of interest. It can also inform other forms of collection. Data analysis is often the bedrock of any covert investigation.

[Redacted]

[REDACTED]

22) **Surveillance and technical operations:** These operations, which are resource-intensive, are often used to illuminate the highest priority operations. [REDACTED]

[REDACTED]

23) **Intelligence provided by partners.** [REDACTED]

[REDACTED]

"MI5 may receive intelligence from foreign liaison services obtained through any of the capabilities listed above"

Effect of agent-running on the threat

24) **At its base level, an agent is simply a person who can provide intelligence on individuals of interest to MI5.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

" I set out in Annex A more information on the importance of agent-reporting "

Need for agent participation in criminality

30) Not all agents need to be able to engage in criminality; this is dependent on many factors.

[Redacted]

" In Annex B I set out more information in relation to the importance of agents being able to engage in criminality. "

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

47) Hostile States such as Russia have also demonstrated their willingness to murder suspected spies, and [REDACTED] harm family members. This is clear from the Salisbury poison attack.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

51) It is necessary for agents to participate in criminality for all the reasons outlined above; it is therefore equally necessary that MI5 have the ability to authorise that involvement in criminality.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The impact of ceasing all agent participation operations

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Statement of Truth

I believe that the facts stated in this witness statement are true.

[INSERT SIGNATURE]

signed by MI5 Witness 3

[REDACTED]

[REDACTED]