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THESIS

**INTELLIGENCE REFORM—CONSIDERATIONS FOR
TRINIDAD AND TOBAGO**

by

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December 2018

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**INTELLIGENCE REFORM—CONSIDERATIONS FOR
TRINIDAD AND TOBAGO**

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Submitted in partial fulfillment of the
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ABSTRACT

The 1990 attempted coup in Trinidad and Tobago threatened democracy in the twin-island state. An Islamic group, the Jamaat Al Muslimeen, attacked an essential institution—the parliament—of the then 13-year republican state. While the security sector had prior indications of the group’s intent, varying levels of inaction allowed the group an opportunity to attack. This incident revealed a lack of predictive intelligence to prevent terrorism in the country. In subsequent years, gang violence and drug-related crimes exploded to unprecedented levels. More recently, the influence of the Islamic State of Iraq and Syria (ISIS) resulted in a number of the country’s citizens going to Syria and Iraq. These events signal a requirement for intelligence reform in Trinidad and Tobago to assist the security sector in effectively dealing with threats to the state’s safety and security. In an effort to determine a template suited to the security environment of Trinidad and Tobago, this thesis evaluates the characteristics of a domestic intelligence agency. By reviewing intelligence theories and evaluating the application of the theories in consolidated and transitioning democracies, this thesis identifies the necessary elements for a transparent yet effective domestic intelligence agency. The lessons from case studies of Romania and the United Kingdom show that the process of balancing transparency with effectiveness is both complex and necessary to safeguard Trinidad and Tobago’s security.

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LIST OF ACRONYMS AND ABBREVIATIONS

CARICOM	Caribbean Community
CIA	Central Intelligence Agency
CID	Criminal Intelligence Division
CNSAS	National Council for Studying Securitate Archives
CSAT	National Defense Supreme Council
CTG	Counter Terrorism Group
DCS	Defence Cyber School
DFIU	Defence Force Intelligence Unit
DGIPI	General Department for Intelligence and Internal Protection
DSS	Department of State Security
ECHR	European Court of Human Rights
EU	European Union
FBI	Federal Bureau of Investigation
FCO	Foreign and Commonwealth Office
GCHQ	Government Communications Headquarters
ILP	Intelligence-Led Policing
ISA	Intelligence Services Act
ISC	Intelligence and Security Committee
ISIS	Islamic State of Iraq and Syria
ITAC	Integrated Threat Assessment Centre
JIC	Joint Intelligence Committee
LEA	Law Enforcement Agencies
MI5	Security Service
MI6	Secret Intelligence Service
NATO	North Atlantic Treaty Organization
NCSC	National Cyber Security Centre
NGO	Non-Governmental Organization
NSA	National Security Adviser
NSC	National Security Council
NSCS	National Security Council Secretariat

NSS	National Security Secretariat
NSSSDR	National Security Strategy and the Strategic Defence Review
PHSO	Parliamentary and Health Services Ombudsman
POP	Problem Oriented Policing
RIPA	Regulation of Investigatory Powers Act
SAPS	South African Police Service
SAUTT	Special Anti-Crime Unit of Trinidad and Tobago
SIA	Security Intelligence Agency
SIGINT	Signals Intelligence
SIS	Secret Intelligence Service
SSA	Strategic Services Agency
STS	Special Telecommunications Service
TTDF	Trinidad and Tobago Defence Force
TTPS	Trinidad and Tobago Police Service

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I. INTRODUCTION

After the 1990 attempted coup d'état in Trinidad and Tobago, the country experienced a rise in organized and gang-related crime with a transnational dimension. In its International Narcotics Control Strategy Report for 2016, the U.S. Department of State noted that the proximity to South America and its vulnerable coasts make Trinidad and Tobago into “an ideal ... cocaine and marijuana transshipment” point for the Caribbean, North American, and European markets.¹ One can argue that the country's closeness to the South American continent, which supplies a significant amount of the world's narcotics, is a link to the rise in organized drug and gang-related activity experienced in Trinidad and Tobago since the failed coup d'état in 1990.

Although Trinidad and Tobago, a twin island nation with just over 1.3 million citizens, has not experienced the constant threat of terrorist attacks or other persistent threats to security like other countries, there have been instances in the distant and recent past when a robust intelligence architecture would have had positive impacts in subduing threats to the country. In the years after the attempted coup, the drug lord Nankissoon Boodram (also known as Dole Chadee) became a societal threat not only to Trinidad and Tobago but also to the Caribbean region. Described as a “premier trafficker” and as “one of the smartest in the Eastern Caribbean” by Jerome Harris, the previous special agent in charge of the U.S. Drug Enforcement Agency's Caribbean operations, Boodram was one of the main players in drug trafficking during the 1990s, and he seemed to be untouchable until his eventual arrest and subsequent hanging in June 1999.² Moving forward to 2016/2017, a more recent threat has emerged with the growth of the Islamic State of Iraq and Syria (ISIS). Citizens of Trinidad and Tobago have reportedly traveled to Syria to train and fight alongside thousands from all over the world who have heeded the call to join ISIS and support their fight. There have been confirmations of many individuals

¹ “International Narcotics Control Strategy Report: Volume I – Drug and Chemical Control, March 2016,” U.S. Department of State, accessed March 11, 2017, 276, <https://www.state.gov/documents/organization/253655.pdf>.

² Kito Johnson, “Chadee Signs His Death Warrant: Murder in Williamsville,” *Trinidad and Tobago Guardian*, February 26, 2012, <http://www.guardian.co.tt/news/2012-02-26/chadee-signs-his-death-warrant>.

from Trinidad and Tobago who fall into this category, and who would be serious security risks should they return to the country.³

In responding to this changing security environment, several intelligence-related reforms, aimed at preventing a reoccurrence of the events on July 27, 1990, and at assisting the security sector in combating organized gang and drug related crimes (and now the possibility of returning ISIS fighters), became necessary. The report of the Sir David Simmons-led Commission of Enquiry into the events surrounding the 1990 attempted coup d'état revealed, however, that no evaluation into the failures and deficiencies of the security sector was undertaken following the incident.⁴ Nonetheless, the report noted the creation of a number of agencies, notably the National Security Council Secretariat (NSCS), the Security Intelligence Agency (SIA), the Strategic Services Agency (SSA), and the Special Anti-Crime Unit of Trinidad and Tobago (SAUTT).⁵

Even so, no legal framework regulated the roles, missions, and mandate of two of the aforementioned agencies, the SIA and the SAUTT, while drug interdiction was the sole mandate of the SSA.⁶ This lack of legislative legitimacy on the part of the SIA and the SAUTT were major criticisms of the opposition United National Congress, which then became the government in 2010. A lack of legal framework questioned the transparency and effectiveness of the SIA and the SAUTT. In addition, while the SSA was established by the legislature, its mission was very narrow—drug interdiction—

³ Researchers have estimated that on a per capita basis, Trinidad and Tobago has, if not the highest, one of the highest numbers of citizens in the Western hemisphere going to Iraq and Syria to participate in the conflict within the region alongside ISIS. For more information on this emerging trend, see Rhonda Krystal Rambally, "T&T Leading in Foreign Fighters per Capita," *Trinidad and Tobago Guardian*, August 6, 2016, <http://www.guardian.co.tt/news/2016-08-06/tt-leading-foreign-fighters-capita>; Frances Robles and Prior Beharry, "Trying to Stanch Trinidad's Flow of Young Recruits to ISIS," *The New York Times*, February 21, 2017, <https://www.nytimes.com/2017/02/21/world/americas/trying-to-stanch-trinidads-flow-of-young-recruits-to-isis.html>; Juliana Ruhfus, "ISIL in the Caribbean: Why Trinidadians fight in Syria and Iraq," *Aljazeera*, May 19, 2017, <http://www.aljazeera.com/blogs/americas/2017/05/isil-caribbean-trinidadians-fight-syria-iraq-170517105356249.html>.

⁴ "Police unable to cope," *Trinidad and Tobago Newsday*, March 25, 2014, <https://archives.newsdaily.co.tt/2014/03/25/police-unable-to-cope-3/>.

⁵ *Trinidad and Tobago Newsday*, "Police Unable to Cope."

⁶ *Trinidad and Tobago Newsday*; Strategic Services Agency Act of 1995, Chapter 15:06§ 6 (1995), accessed December 5, 2016, http://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/15.06.pdf.

which prevented the agency from legally countering emerging security threats such as domestic and transnational crime, let alone terrorism.⁷ It was not until March 11, 2016, when the government brought the Strategic Services Agency (Amendment) Bill 2016 before the House of Representatives in Trinidad and Tobago's Parliament, that a proposal granting the SSA a broader role in combating crime and terrorism was considered.⁸ This 2016 bill signaled the government's intent to reengineer the SSA, and—as Attorney General Faris Al Rawi explains—widens “the scope of serious crimes” that the SSA can pursue.⁹ Because of its widened scope, the SSA has now been given the responsibility of gathering, processing, analyzing, and disseminating intelligence to the security sector in general. As a result, the SSA is now one of the pivotal organizations that make up Trinidad and Tobago's national security architecture.

As it currently exists, the security architecture utilizes a National Security Council (NSC), at the strategic level, that is responsible for maintaining an overarching situational awareness of Trinidad and Tobago's security and defense. Currently, the council (established in 1954 and reorganized on October 30, 1978) is chaired by the Prime Minister, and its membership is made up of ministers who hold vital portfolios in the cabinet. Additionally, the heads of the protective and law enforcement services are invited members when so required.¹⁰ The permanent members are “the Attorney General, Minister of National Security, Minister of Foreign and CARICOM Affairs, Minister of

⁷ Strategic Services Agency Act of 1995, Chapter 15:06§ 6 (1995).

⁸ The Strategic Services Agency (Amendment) Bill, 11th Republican Parliament: 3rd Session, Parliament of Trinidad and Tobago, accessed October 20, 2016, <http://www.ttparliament.org/publications.php?mid=28&id=737>.

⁹ Clint Chan Tack, “AG: Invitations Warmly Received,” *Trinidad and Tobago Newsday*, May 9, 2016, <http://www.newsday.co.tt/news/0,227539.html>.

¹⁰ David A. C. Simmons et al., *Report of the Commission of Enquiry Appointed to Enquire into the Events Surrounding the Attempted Coup d'état of 27th July 1990*, March 13, 2014, 124, 785, 831, 1296, <http://www.ttparliament.org/documents/rptcoe1990.pdf>; “Business and Departments of Government under the OPM,” Office of the Prime Minister Republic of Trinidad and Tobago, accessed November 7, 2018, <https://www.opm.gov.tt/about/business-and-departments-of-government-under-the-opm/>.

Energy and Energy Industries, Minister of Social Development and Family Services and one other minister appointed at the discretion of the Prime Minister.”¹¹

The NSC is serviced by the NSCS, which was established by the NSC in 1995. For the NSC to be effective as the authoritative body on matters regarding national security, a structure that could collate and synthesize information generating a holistic intelligence picture was necessary; this is the main job of the secretariat.¹² Another vital function that falls under the remit of the NSCS “is to advise the Executive branch of Government of any trends in certain activities inimical to the interests of the State and the likelihood of certain types of activity threatening the security of the State to allow appropriate policy and operational decisions to be taken.”¹³ This function is managed by the NSCS via the Integrated Threat Assessment Centre (ITAC), a subordinated body of the secretariat that provides medium to long-term “objective strategic threat assessments”¹⁴ for the NSC.

At the operational level, the overarching responsibility for security and defense falls to the Ministry of National Security (MNS). Within the MNS, there exist a number of divisions that are responsible to the Minister of National Security (the Minister) for matters related to the security and defense of Trinidad and Tobago. With specific regard to intelligence collection, analysis, and dissemination, these functions now fall under the remit of the SSA. Similar functions are, traditionally, also a remit of the Trinidad and Tobago Police Service (TTPS), via the Special Branch, and the Trinidad and Tobago

¹¹ Office of the Prime Minister, *Administrative Report: Office of the Prime Minister 2015-2016*, 11th Republican Parliament: 3rd Session, Parliament of the Republic of Trinidad and Tobago, accessed October 3, 2018, 16, <http://parlcloud.ttparliament.org:8080/paperslaiddownload/Default.aspx?path=DocumentsPapersLaid/Eleventh%20Parliament/Third%20Session,%20Eleventh%20Parliament/Administrative%20Reports/OPM%20Administrative%20Report%202015-2016.pdf>.

¹² Simmons et al., *Report of the Commission of Enquiry*, 1296–297.

¹³ Simmons et al., 1297.

¹⁴ Office of the Prime Minister, *Administrative Report: Office of the Prime Minister 2015-2016*, 16.

Defence Force (TTDF), via the Defence Force Intelligence Unit (DFIU).¹⁵ Via these entities, the NSCS receives part of the intelligence it requires to fulfill its functions. The bulk of the intelligence from these three entities is utilized, however, in supporting law enforcement activities. That being said, with the amendment of the SSA Act and the shifting of its focus, the SSA (according to the amended legislation) now has as one of its responsibilities a requirement for developing intelligence for the government regarding strategy and policy formation as it pertains to serious crime.¹⁶ For a more detailed overview of the new functions of the SSA as stipulated in the Strategic Services Agency Act 2016 (Amendment),¹⁷ please refer to the appendix.

With such a widened scope it is anticipated that the security sector's effectiveness in combating threats to Trinidad and Tobago's national security will be enhanced. This changing paradigm means that the intelligence community in Trinidad and Tobago must therefore examine traditional and new methods of approach, as threats to the country's security are mainly from non-state actors and internal threats, as was seen in 1990. The intelligence systems must develop the capability to ensure the timely identification of threats to the safety and security of Trinidad and Tobago's citizens—effectiveness—while still allowing elected officials the ability to scrutinize and control the guardians—transparency.

¹⁵ Discussion in relation to these entities will be limited to the SSA (and where information is available, the Integrated Threat Assessment Centre) only, for which public information is available. Information about the structure, roles, and functions of the Integrated Threat Assessment Centre, Special Branch, and DFIU is not publicly available, and while the author may have some knowledge in this regard, he is not authorized to disclose any information he may have about these entities other than what has been indicated thus far.

¹⁶ In the Strategic Services Agency Act 2016 (as amended), *serious crime* is defined as “offences related to homicide, treason, terrorist acts, terrorist financing, hijacking, kidnapping, trafficking in persons, trafficking in children, gangs, illicit trafficking in narcotic drugs, psychotropic substances and precursor chemicals, dangerous drugs, corruption, money laundering, smuggling, arms and ammunition, chemical, biological and nuclear weapons and weapons of mass destruction, cybercrime, transnational crime or any offence which carries a penalty of not less than five years’ imprisonment.” See “The Strategic Services Agency (Amendment) Bill, 2016,” Bills, 11th Republican Parliament: 3rd Session, Parliament of Trinidad and Tobago, accessed August 28, 2018, <http://www.ttparliament.org/publications.php?mid=28&id=737>.

¹⁷ The Bill, now an act, was proclaimed by the President of the Republic of Trinidad and Tobago on October 4, 2017. See “The Strategic Services Agency (Amendment) Bill, 2016.”

A. MAJOR RESEARCH QUESTION

Intelligence is a necessity for Trinidad and Tobago to both alert and avert the wide-ranging contemporary security challenges that most scholars agree states face on a continuing basis.¹⁸ In sum, the desired end state for the Government of the Republic of Trinidad and Tobago should be the realization of, what Florina Cristiana Matei and Thomas Bruneau term, “professional intelligence systems” that function collaboratively with the domestic and transnational security sectors and are controlled and monitored via all three branches of the state.¹⁹ To ensure the SSA is an equally effective and transparent intelligence agency, it would be beneficial to determine what lessons Trinidad and Tobago’s intelligence agencies can learn from consolidated and transitioning democracies that have had success in forming or reforming their domestic intelligence agencies. In this regard, this thesis will answer the following question: what template of a properly functioning domestic intelligence agency can Trinidad and Tobago pattern or emulate to counter the country’s range of national security threats effectively?

B. SIGNIFICANCE OF THE RESEARCH QUESTION

The crime situation in Trinidad and Tobago is disheartening, and the public’s perception, both in and out of the country, is that governments’ ability, past and present, to address crime and violence within its borders is waning, particularly in Trinidad more so than in Tobago.²⁰ With this in mind, this research has significance for at least three audiences: the government of Trinidad and Tobago who require intelligence for strategic and policy purposes, security sector practitioners who would benefit by gaining tactical

¹⁸ Mark M. Lowenthal, *Intelligence: From Secrets to Policy*, 6th ed. (Thousand Oaks, CA: CQ Press, 2015), 297–312; Richard K. Betts, *Enemies of Intelligence: Knowledge and Power in American National Security* (New York: Columbia University Press, 2007), 9–14; Loch K. Johnson, “Seven Sins of Strategic Intelligence,” *World Affairs*, 146, no. 2 (1983): 176–204, <https://www.jstor.org/stable/pdf/20671981.pdf>; Cynthia M. Grabo, *Anticipating Surprise: Analysis for Strategic Warning* (Lanham, MD: University Press of America, 2004).

¹⁹ Florina Cristiana Matei and Thomas Bruneau, “Intelligence Reform in New Democracies: Factors Supporting or Arresting Progress,” *Democratization* 18, no. 3 (2011): 604, <http://dx.doi.org/10.1080/13510347.2011.586257>.

²⁰ “DOMA Calls on Government to Address Crime Problem,” CNC3, August 24, 2016, <http://www.cnc3.co.tt/press-release/doma-calls-government-address-crime-problem>; “Trinidad and Tobago 2016 Crime & Safety Report,” U.S. Department of State, April 18, 2016, <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=19522>.

and operational advantage over criminal elements, and the United States government who has long-term strategic interests in the Caribbean region.

1. Significance for the Government of Trinidad and Tobago

In the public's opinion, governments' current and previous measures to combat crime have not been effective. Reports by international bodies and citizens suggest a perception of insecurity within the country.²¹ A refocused intelligence agency can provide the government with the ability to, as Mark M. Lowenthal indicates, "avoid strategic surprise."²² An exploration of the best practices successfully employed by countries with similar circumstances will prove beneficial to the SSA as the agency embarks on realigning its intelligence mission. Furthermore, this exploration would provide insight into organizational frameworks best suited in realizing the intelligence needs of the government.

2. Significance for Caribbean Security Sector Practitioners

This research has significance for the overall security sector in the Caribbean as it would provide models of intelligence agencies in other democracies and compare their successes and failures, which countries in the region can emulate in structuring their own agencies. For the region's security sector, it provides insights on how intelligence agencies may contribute to strengthening local interagency coordination and cooperation in fighting security threats.

In the Caribbean, corruption, or the perception of corruption, can discredit institutions and result in their down fall. This research illustrates how a grounded and balanced approach—legislation + transparency + effectiveness—can give intelligence organizations a greater chance for success and longevity. Additionally, such an approach

²¹ "Trinidad and Tobago Country Profile," The International Security Sector Advisory Team (ISSAT), last modified December 02, 2015, <http://issat.dcaf.ch/Learn/Resource-Library/Country-Profiles/Trinidad-and-Tobago-Country-Profile>; CNC3, "DOMA Calls on Government."

²² Lowenthal, *Intelligence: From Secrets to Policy*, 2.

allows the region's security sector to be effective in fulfilling their national and Caribbean community (CARICOM) security strategies.²³

3. Significance for the United States Government's Interests in the Caribbean

The United States government has continuous interests in the Caribbean—evident by the Caribbean Basin Security Initiative—as it continues to assist CARICOM in stemming the flow of illicit drugs from South America to northern markets via the region, which Eric Farnsworth noted.²⁴ Farnsworth recognizes that security is a continual challenge for governments in the region as they contend with not only the drug trade but with “other illegal activities,” such as “money laundering, trafficking in persons and arms, and domestic crime.”²⁵ Such issues require coordinated efforts among the Caribbean region, United States, and others.²⁶ Therefore, this research and its conclusions, if adopted by Trinidad and Tobago's government, or any other regional government, allows for a closer alignment and enhanced relationship with U.S. intelligence agencies and other agencies that already have mandates in the region. Where gaps in the intelligence architecture exist, further collaborative efforts to satisfy all parties' interests can be the bridging mechanism.

C. LITERATURE REVIEW

Although there is virtually no literature that speaks to the business of intelligence, intelligence reforms, and the relationship between intelligence and the security sector in the Caribbean—more so specifically Trinidad and Tobago—there exists an abundance of

²³ For a closer look at the security strategies of the CARICOM, see: Implementation Agency for Crime and Security (IMPACS), “CARICOM Crime and Security Strategy 2013: Securing the Region,” U.S. Department of State, accessed September 23, 2016, <http://www.state.gov/documents/organization/210844.pdf>.

²⁴ Eric Farnsworth, *The Strategic Importance of Building a Stronger U.S.-Caribbean Partnership: Hearing before the Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, House of Representatives*, 114th Cong. (2016), July 14, 2016, 1–2, <http://docs.house.gov/meetings/FA/FA07/20160714/105222/HHRG-114-FA07-Wstate-FarnsworthE-20160714.pdf>.

²⁵ Farnsworth, *The Strategic Importance of Building a Stronger U.S.-Caribbean Partnership*, 2.

²⁶ Farnsworth.

literature that focuses on this topic in other democracies. Therefore, this literature review focuses on the material related to a general understanding of intelligence, the intelligence versus democracy debate, and the difference between foreign and domestic intelligence. Lastly, the review looks at security sector strategies, such as intelligence-led policing and problem-oriented policing, which employ aspects of intelligence as part of an overall cooperation and coordination link with domestic intelligence practitioners.

1. Intelligence Defined

One body of literature endeavors to define and conceptualize intelligence, thus resulting in many definitions of the term ‘intelligence’ in the scholarly work. Further, it is essential to establish working definitions of intelligence that will demarcate boundaries for the discussions and arguments presented in this research. Peter Gill and Mark Phythian argue that intelligence is an “umbrella term,” which makes it difficult to obtain a specific definition.²⁷ As such, an instructive starting point is Michael Warner’s argument that the term has two specific meanings by two schools of thought in scholarly discussion: “information for decision makers” emanating from all sources about anything “that helps leaders decide what to do about their surroundings,” and secondly that intelligence is “warfare by quieter means.”²⁸ Warner further explains, “one definition emphasizes intelligence as something that informs decision making,” while the other “sees intelligence as activity that assists both the informing and executing of decisions.”²⁹ Both definitions prove to be constructive as it relates to the discussion of intelligence templates as they both speak to intelligence as an enabler to inform and to act.

Lowenthal gives more structure to defining intelligence. He describes “a working concept” of intelligence as “the process by which specific types of information important to national security are requested, collected, analyzed, and provided to policy makers; the

²⁷ Peter Gill and Mark Phythian, *Intelligence in an Insecure World* (Malden, MA: Polity Press, 2006), 2.

²⁸ Michael Warner, “Building a Theory of Intelligence Systems,” in *National Intelligence Systems: Current Research and Future Prospects*, ed. Gregory F. Treverton and Wilhelm Agrell (New York: Cambridge University Press, 2009), 15.

²⁹ Warner, “Building a Theory of Intelligence Systems.”

products of that process; the safeguarding of these processes and this information by counterintelligence activities; and the carrying out of operations as requested by lawful authorities.”³⁰ Thus, Lowenthal provides a wide-ranging scope with which one can better understand the multiple facets that comprise intelligence. George Cristian Maior, however, while in agreement with Lowenthal, attributes priority to the actionable aspect of intelligence. He notes that in order to disrupt or preclude threats to its national security, intelligence as actionable measures takes precedence over intelligence as an enabler of policy.³¹

In defining intelligence, it is necessary to discuss the cycle of intelligence that truly encompasses the range of the intelligence process leading to actionable results or decisions about policy. Gill and Phythian acknowledge the utility of the intelligence cycle in explaining the process—“planning and direction, collection, processing, all-source analysis and production, and dissemination.”³² Lowenthal, however, goes further, using the term “identifying requirements” instead of planning and direction and by adding two more steps to the cycle—“consumption and feedback.”³³ He explains that discussions about the cycle usually end at dissemination but argues that policy makers after reviewing the product and weighing their options may have some input into evolving the product. This makes the feedback step vital, as it allows intelligence practitioners to gage their policy makers’ expectations and thereby refine the intelligence product accordingly.³⁴ Conversely, Gill and Phythian, while agreeing with Lowenthal in principle, advocate a different approach arguing that terming the process as a cycle does not adequately convey the realities and dynamics of the intelligence process.³⁵ Their argument is to conceive the process as a “funnel of causality” that facilitates change in

³⁰ Lowenthal, *Intelligence: From Secrets to Policy*, 10.

³¹ George Cristian Maior, “Strategic Knowledge in the Age of Globalization,” in *A Mind War: Intelligence, Secret Services and Strategic Knowledge in the 21st Century*, ed. George Cristian Maior (Bucharest, Romania: Editura RAO, 2011), 22.

³² Gill and Phythian, *Intelligence in an Insecure World*, 2;

³³ Lowenthal, *Intelligence: From Secrets to Policy*, 70.

³⁴ Lowenthal, 71–72.

³⁵ Gill and Phythian, *Intelligence in an Insecure World*, 3.

the external environment.³⁶ The change feeds into the top of the funnel and goes through the intelligence process resulting in policy or action at the bottom of the funnel. The process repeats when the policy or action generates feedback.³⁷ For Florina Cristiana Matei and Thomas C. Bruneau, however, the concept of intelligence as a cycle is more representative of the realities in the business of intelligence. They view policy makers as “the ‘alpha’ and ‘omega’ of the intelligence function,” because they are the ones that “start the cycle through requirements and guidance and keep it working by providing feedback, [and] they also end the cycle by ... [making] relevant national security decisions and policies” (see Figure 1).³⁸

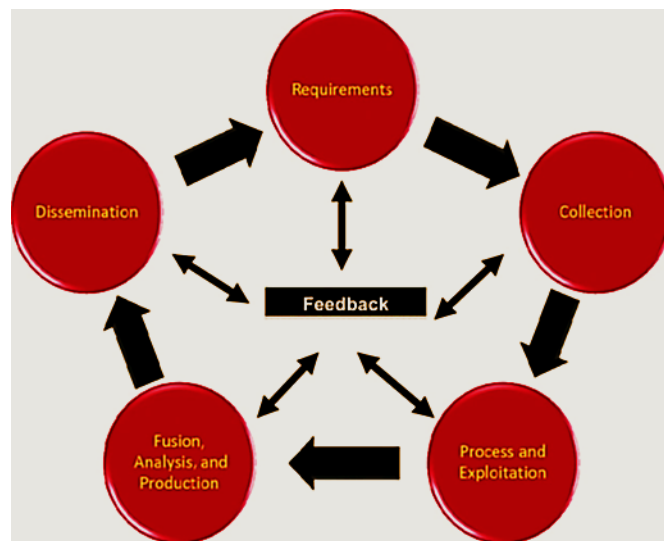


Figure 1. Intelligence Cycle.³⁹

The preceding discussion on defining intelligence has utility when considering the government of Trinidad and Tobago’s reorganization of its intelligence agency, the SSA. The current legislation defines one of the functions of the SSA as to “develop strategic

³⁶ Gill and Phythian, 3–4.

³⁷ Gill and Phythian.

³⁸ Florina Cristiana Matei and Thomas C. Bruneau, “Policymakers and Intelligence Reform in the New Democracies,” *International Journal of Intelligence and CounterIntelligence* 24, no. 4 (2011): 659–60, <http://dx.doi.org/10.1080/08850607.2011.598784>.

³⁹ Source: Matei and Bruneau, “Policymakers and Intelligence Reform in the New Democracies,” 659.

intelligence and make recommendations to Government on the formation of policies.”⁴⁰ It would be prudent, therefore, for the SSA to have a working definition of intelligence that captures its new mandate. Given SSA’s current legislation that speaks to provision of intelligence “to assist and promote the efficient and effective use of operational resources to enable the development of law enforcement strategies,” Lowenthal’s definition is in alignment with the SSA’s current mandate, as this aspect of the bill to amend the SSA’s legislation remains unchanged.⁴¹ Furthermore, the intelligence cycle, as described by Matei and Bruneau, has the most relevance for the SSA in conceptualizing its role in the overall national security framework and the dynamic relationship it has with both policy makers and the security sector. Therefore, the thesis will utilize Lowenthal’s definition of intelligence and Matei and Bruneau’s description of the intelligence cycle throughout.

2. Intelligence and Democracy

Another body of literature deals with the predicament of operating an effective intelligence agency in a democracy. Bruneau and Matei argue that reforming intelligence in a democracy, which they call “democratization of intelligence,” is a formidable task “as effectiveness and efficiency call for secrecy, while democratic control involves transparency, openness, and accountability.”⁴² Pat M. Holt even argues that intelligence and democracy are contradictory.⁴³ Steven C. Boraz and Bruneau, however, indicate that intelligence could be made compatible in a democracy but only through the required trade-off between secrecy and transparency, a trade-off that is always in motion.⁴⁴ Similarly, Matei and Bruneau explain that the responsibility is on the government to

⁴⁰ Strategic Services Agency Act of 1995, Chapter 15:06§ 6 (1995).

⁴¹ Strategic Services Agency Act of 1995, Chapter 15:06§ 6 (1995); Secretariat Unit, “Bill Essentials: The Strategic Services Agency (Amendment) Bill, 2016,” Parliament Republic of Trinidad and Tobago, accessed December 15, 2016, <http://www.ttparliament.org/documents/2338.pdf>.

⁴² Thomas C. Bruneau and Florina Cristiana Matei, “Intelligence in the Developing Democracies: The Quest for Transparency and Effectiveness,” in *The Oxford Handbook of National Security Intelligence*, ed. Loch K. Johnson (New York: Oxford University Press, 2010), 757.

⁴³ Pat M. Holt, *Secret Intelligence and Public Policy: A Dilemma of Democracy* (Washington, DC: CQ Press, 1995), 1.

⁴⁴ Steven C. Boraz and Thomas C. Bruneau, “Best Practices: Balancing Democracy and Effectiveness,” in *Reforming Intelligence: Obstacles to Democratic Control and Effectiveness*, ed. Thomas C. Bruneau and Steven C. Boraz (Austin, TX: University of Texas Press, 2007), 331–42.

ensure the maintenance of the balance between intelligence effectiveness and accountability. Furthermore, they suggest this balance must consistently be “revised and reworked” to ensure that civil liberties are not traded for effectiveness and vice versa.⁴⁵ In this context, scholars like Betts, Leigh, and Farson also draw attention to the “secrecy-transparency dilemma,”⁴⁶ whereby intelligence agencies effectiveness thrives on their ability to be clandestine, while openness is the hallmark of democratic states; they stress the necessity of establishing a robust legal framework for intelligence, democratic civilian control, and oversight, as well as accountability of the intelligence sector, an ongoing process.⁴⁷ On the other hand, Lowenthal, Betts, Johnson, Grabo, Posner, and Zegart stress the importance of increasing intelligence effectiveness in averting contemporary security challenges.⁴⁸ Furthermore, one can argue that the first step in increasing intelligence effectiveness is by ensuring a robust legal framework exists to set the boundaries for intelligence agencies.

In furthering the argument for the necessity of a legal framework for intelligence, Gill and Phythian warn of states in transition to democracy establishing intelligence statutes as mere symbolism. They state that “behind new governmental architectures of legality ... largely unreconstructed subcultures of political policing and denial of human rights may survive.”⁴⁹ Thus, they contend that intelligence legislation is not in itself sufficient, although it is a necessity, and that there should be consideration to issues of

⁴⁵ Matei and Bruneau, “Policymakers and Intelligence Reform in the New Democracies,” 656–657.

⁴⁶ Irena Dumitru, “Building an Intelligence Culture From Within: The SRI and Romanian Society,” *International Journal of Intelligence and CounterIntelligence* 27, no.3 (2014): 587, <http://dx.doi.org/10.1080/08850607.2014.900298>.

⁴⁷ Betts, *Enemies of Intelligence*, 1–18; Ian Leigh, “Intelligence and the Law in the United Kingdom,” in *The Oxford Handbook of National Security Intelligence*, ed. Loch K. Johnson (New York: Oxford University Press, 2010), 640–655; Stuart Farson, “Canada’s Long Road from Model Law to Effective Political Oversight of Security and Intelligence,” in *Who’s Watching the Spies?: Establishing Intelligence Service Accountability*, ed. Hans Born, Loch K. Johnson, and Ian Leigh (Washington, D.C.: Potomac Books, 2005), 99–116.

⁴⁸ Lowenthal, *Intelligence: From Secrets to Policy*, 297–312; Betts, *Enemies of Intelligence*, 9–14; Johnson, “Seven Sins of Strategic Intelligence,” 176–204; Grabo, *Anticipating Surprise: Analysis for Strategic Warning*; Richard Posner, *Preventing Surprise Attacks: Intelligence Reform in the Wake of 9/11* (Lanham, MD: Bowman & Littlefield Publishers, 2005); Amy B. Zegart, *Spying Blind: The CIA the FBI, and the Origins of 9/11* (Princeton and Oxford: Princeton University Press, 2007).

⁴⁹ Gill and Phythian, *Intelligence in an Insecure World*, 152.

ethics and rights as part of the transparency discussion on intelligence.⁵⁰ Despite Gill and Phythian's consideration of ethics and rights issues, they contend that enacting legislation is vital in defining the exclusive powers available to intelligence agencies.⁵¹ This point leads to a discussion not only on the three branches in a democracy and their measures of control, but on the oversight and accountability of intelligence agencies once legislation exists to provide the roles, responsibilities, and guidelines of such agencies. Because of the extensive nature of this debate—effectiveness versus transparency—Chapter II further details the discussion on the three branches of government and their relationship with intelligence agencies in terms of control, oversight, and accountability.

It is therefore evident that the above considerations should be a priority for the government of Trinidad and Tobago. As noted above, the necessity to balance effectiveness and transparency is a challenge for governments in general, and it will continue to be a challenge for Trinidad and Tobago. An all-encompassing legislative framework in the SSA's reorganization will be required.

3. Foreign Intelligence

The literature on foreign intelligence discusses specific descriptions of foreign intelligence agencies of various democracies.

In this context, analyzing the United States' intelligence community, Gill and Phythian note that “‘foreign intelligence [is] information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations or foreign persons.’”⁵² Michael Warner, in surveying the definitions of intelligence, noted a few that assist in differentiating the demarcation between foreign and domestic intelligence (discussed later). As Warner explains, the Brown-Aspin Commission report defines intelligence as “information about ‘things foreign’—people, places, things, and

⁵⁰ Gill and Phythian.

⁵¹ Gill and Phythian.

⁵² Gill and Phythian, 6.

events—needed by the Government for the conduct of its functions.”⁵³ While another, offered by Vernon Walters, states that “intelligence is information ... relating to the strength, resources, capabilities and intentions of a foreign country that can affect our lives and the safety of our people.”⁵⁴ Thus, in many respects intelligence is understood as inherently a process that seeks information on foreign actors, whether state or non-state, in an effort to achieve a country’s national interests. When such actors operate on one’s home soil, the line between foreign and domestic intelligence becomes apparent in some respects yet blurred in others.

4. Domestic Intelligence

The preceding paragraph leads us to a different body of literature, domestic intelligence. Brian A. Jackson defines domestic intelligence in the U.S. context, “as efforts by government organizations to gather, assess, and act on information about individuals or organizations in the United States or U.S. persons elsewhere that are not related to the investigation of a known past criminal act or specific planned criminal activity.”⁵⁵ He notes that the definition focuses on “tactical threat-identification and threat-disruption parts of homeland security intelligence” and omits “analyses designed to identify societal vulnerabilities.”⁵⁶ Jackson further highlights that in responding to transnational criminal organizations and the threats they pose, there has been some overlap between the activities of law enforcement and intelligence.⁵⁷ In discussing domestic intelligence and homeland security, Gregory D. Lautner notes, a definition for “law enforcement intelligence or police intelligence” is deficient in the strategic literature; further, a common consensus exists among scholars and the U.S. intelligence

⁵³ Michael Warner, “Wanted a Definition of ‘Intelligence’: Understanding Our Craft,” Central Intelligence Agency, last modified June 27, 2008, <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol46no3/article02.html>.

⁵⁴ Warner, “Wanted a Definition of ‘Intelligence.’”

⁵⁵ Brian A. Jackson, “Introduction,” in *Considering the Creation of a Domestic Intelligence Agency in the United States: Lessons from the Experiences of Australia, Canada, France, Germany, and the United Kingdom*, ed. Brian A. Jackson (Santa Monica, CA: RAND Corporation, 2009), 3–4.

⁵⁶ Jackson, “Introduction,” 5.

⁵⁷ Jackson.

arena that intelligence of a policing nature “is used primarily to obtain warrants and . . . evidence to gain convictions in criminal cases.”⁵⁸

One aspect of the necessity for a domestic intelligence agency is that of the public’s perception of threat. Genevieve Lester notes that the public’s preference for policies informs its perception of a threat, and governments must understand the public’s preference when making decisions in this regard.⁵⁹ Furthermore, she contends that “the rhythm of public response to threat could affect support for intelligence and law enforcement operations and ultimately a domestic . . . intelligence agency.”⁶⁰ The public’s acceptance of invasive security measures and encroachment on civil liberties tend to be more relaxed as the threat increases so that a sense of security can be regained.⁶¹

The post-9/11 security context has sparked a debate in the literature, in particular in the United States, on whether the United States should not only have a law enforcement intelligence agency, but a domestic one with no police powers. Peter Chalk and William Rosenau highlight that advocates for a domestic intelligence agency contend that such an agency, devoid of the responsibility for arrest and criminal investigations, focusing on “information gathering, analysis, assessment, and dissemination” would allow for greater success in preventing terrorist acts.⁶² They further highlight that those in opposition fear the creation of further divides between the security sector and intelligence through poor coordination and collaboration among agencies. In addition, there is serious concern about such domestic intelligence agencies treading on civil liberties.⁶³ Such concerns are common in all democracies, especially those that are transitioning.

⁵⁸ Gregory D. Lautner, “Domestic Intelligence and Homeland Security: Are We There Yet?” (strategy research project, U.S. Army War College, 2010), 3, <http://handle.dtic.mil/100.2/ADA522062>.

⁵⁹ Genevieve Lester, “Societal Acceptability of Domestic Intelligence,” in *The Challenge of Domestic Intelligence in a Free Society: A Multidisciplinary Look at the Creation of a U.S. Domestic Counterterrorism Intelligence Agency*, ed. Brian A. Jackson (Santa Monica, CA: RAND Corporation, 2009), 82.

⁶⁰ Lester, “Societal Acceptability of Domestic Intelligence,” 82–85.

⁶¹ Lester.

⁶² Peter Chalk and William Rosenau, *Confronting the “Enemy Within”: Security Intelligence, the Police, and Counterterrorism in Four Democracies* (Santa Monica, CA: RAND Corporation, 2004), 2.

⁶³ Chalk and Rosenau, *Confronting the “Enemy Within.”*

A domestic intelligence agency has the benefits of “streamlining the process of gathering and processing intelligence, cutting down on task overlap and duplication with other agencies or components,” note Lester and Jackson.⁶⁴ Furthermore, they argue, it promotes reduction in redundancy that translates into reduced costs and efficiency, and through bureaucracy, fosters standardized techniques, tactics, and procedures that allows for consistency in service delivery as well as accountability and oversight.⁶⁵ Finally, Lester and Jackson highlight five capabilities a domestic intelligence agency should possess that are essential for success in its mission. They consider “collection capabilities for gathering information; analysis capacity to identify and assess data; storage to retain relevant information for future use; information-sharing and transfer mechanisms to move... data or analytical products to the ... organizations that need them; and capability, authority, and willingness to act on the information.”⁶⁶

Based on Lester and Jackson’s arguments, their approach has bearing on the research question and suggests that an exploration of countries that have developed their domestic intelligence agencies along these lines will support an answer to the research question. Additionally, the literature that highlights the opposing view of Lester and Jackson’s approach is also beneficial; it addresses vital concerns and challenges that the research will consider.

5. Intelligence-Led Policing (ILP)

Within this section and the remaining sections of the literature review, I will explore the importance of intelligence to law enforcement’s effectiveness. The literature review will address security sector strategies that enhance the relationship between intelligence and law enforcement. An examination of such strategies will provide options that can deal with the concerns raised earlier about poor coordination and collaboration between intelligence and law enforcement.

⁶⁴ Genevieve Lester and Brian A. Jackson, “Weighing Organizational Models for a New Domestic Intelligence Agency,” in *The Challenge of Domestic Intelligence in a Free Society: A Multidisciplinary Look at the Creation of a U.S. Domestic Counterterrorism Intelligence Agency*, ed. Brian A. Jackson (Santa Monica, CA: RAND Corporation, 2009), 134.

⁶⁵ Lester and Jackson, “Weighing Organizational Models,” 134–35.

⁶⁶ Lester and Jackson, 124.

In presenting his argument for intelligence-led policing (ILP), Jerry Ratcliffe says that traditional policing theory posits that more arrests and detections post criminal acts will deter future acts from occurring; however, Ratcliffe believes that the effect of this method is usually increased burdens on all levels of the criminal justice system, as staffing is not always sufficient.⁶⁷ Intelligence-led policing, Ratcliffe contends, is better suited to addressing the issues of the security sector. He redefined ILP as emphasizing “analysis and intelligence as pivotal to an objective decision-making framework that prioritises crime hot spots, repeat victims, prolific offenders, and criminal groups.”⁶⁸ He argues that ILP is an evolving management theory stressing on a strategic collaborative effort at varying levels, and it seeks to facilitate “crime and harm reduction, disruption and prevention through strategic and tactical management, deployment, and enforcement.”⁶⁹ Since ILP has both disruption and prevention missions as part of its core concepts, it may be well equipped to facilitate security sector coordination and dissemination with intelligence agencies.

In reviewing the New Jersey State Police’s *Practical Guide to Intelligence-Led Policing*, David A. Licate notes that ILP allows “improved intelligence operations to aid in understanding changes in the operating environment” so that the localized security sector has the ability to refocus quickly on dynamic circumstances.⁷⁰ Yet there are challenges. Licate further explains that the International Association of Chiefs of Police, in a 2007 conference, highlighted that intelligence sharing could not be maximized to its full potential as police executives, in some instances, viewed their departments as “too small or too remote to participate in intelligence sharing,” and some police officers continue to be perplexed by the intelligence process.⁷¹ Essentially, this discourse in the literature suggests that there are sufficient grounds for collaborative efforts between the

⁶⁷ Jerry Ratcliffe, *Intelligence-Led Policing*, 2nd ed. (New York: Routledge, 2016), 1–2.

⁶⁸ Ratcliffe, *Intelligence-Led Policing*, 5.

⁶⁹ Ratcliffe, 4, 5.

⁷⁰ David A. Licate, “Intelligence-Led Policing,” *Encyclopedia of U.S. Intelligence* (New York: Taylor and Francis, Published online, 2015), 496, <http://dx.doi.org/10.1080/10439463.2000.9964822>.

⁷¹ Licate, “Intelligence-Led Policing,” 496.

security sector and domestic intelligence agencies, and such collaborations can help to bridge the gap of confusion so that law enforcement can benefit from ILP.

In terms of transparency, Ratcliffe notes that critics of ILP fear the concept of intelligence driven operations, because the very use of the word intelligence has undesirable insinuations.⁷² In discussing intelligence, he argues, there is usually a sense of “secretive, subversive, and possibly illegal” actions that come to mind.⁷³ The reality is, however, that ILP “develops data and information analysis into crime intelligence processes to the point where ... the collection and analysis of intelligence has become central to contemporary policing,” explains Ratcliffe.⁷⁴ Thus, one can argue that there is common ground for the security sector and domestic intelligence agencies to collaborate on matters of collection and analysis as it pertains to homeland security.

Other scholars describe ILP as “a strategic, future-oriented and targeted approach” in security and note that instead of employing traditional reactive policing measures, this approach focuses on “analysis and management of problems and risks,” which leads to the prevention of criminal acts and the identification of perpetrators of such acts.⁷⁵ Furthermore, the perception is that ILP is a model that develops systems to obtain and analyze information used to identify, disrupt, and arrest repeat offenders and criminal organizations.⁷⁶

The ILP strategy has promise for law enforcement reforms in Trinidad and Tobago. Although such reforms are not a direct aspect of the research, it has implications for the implementation of the research’s recommendations. The literature shows the utility of ILP for the security sector in Trinidad and Tobago, which will become apparent when the SSA has to coordinate with law enforcement agencies (LEA).

⁷² Ratcliffe, *Intelligence-Led Policing*, 5.

⁷³ Ratcliffe.

⁷⁴ Ratcliffe.

⁷⁵ Mike Maguire and Tim John, “Intelligence Led Policing, Managerialism and Community Engagement: Competing Priorities and the Role of the National Intelligence Model in the UK,” *Policing and Society* 16, no 1 (2006): 67, 68, <http://dx.doi.org/10.1080/10439460500399791>.

⁷⁶ Karen Bullock, “Community, Intelligence-Led Policing and Crime Control,” *Policing and Society* 23, no 2 (2013): 127, <http://dx.doi.org/10.1080/10439463.2012.671822>.

6. Intelligence and Problem-Oriented Policing (POP)

Scholars have identified that the analysis functions of intelligence can benefit law enforcement by the application of criminal analysis, a key aspect of the problem-oriented policing (POP) strategy.⁷⁷ Herman Goldstein, considered the authority on POP, defines this policing strategy as investigating isolated criminal acts in detail to determine the underlying problem or problems associated with each case.⁷⁸ The intent is that the knowledge gained will give rise to “a new and more effective strategy for dealing with” these underlying problems.⁷⁹ This approach, he argues, groups related incidents that fall under the police’s purview and uses crime analysis along with officer’s field experience to formulate strategy that translates into preventative policing measures. Goldstein further explains that:

Problem-oriented policing places a high value on new responses that are preventive in nature, ... are not dependent on the use of the criminal justice system, and that engage other public agencies, the community, and the private sector when their involvement has the potential for significantly contributing to the reduction of the problem. Problem-oriented policing carries a commitment to implementing the new strategy, rigorously evaluating its effectiveness, and, subsequently, reporting the results in ways that will benefit other police agencies and that will ultimately contribute to building a body of knowledge that supports the further professionalization of the police.⁸⁰

In assessing POP, Ratcliffe argues that there are obstacles hindering the full-scale adoption of the POP framework by police departments, as its adoption require a cultural shift. He believes this culture shift involves treating similar recurrent service calls by the public as symptoms of a root cause; then, investing in human and technical resources necessary to analyze the root cause; and articulating responses and their desired effect based on set priorities derived from analyzing related evidence.⁸¹ Such changes, Ratcliffe

⁷⁷ Licate, “Intelligence-Led Policing,” 496; Ratcliffe, *Intelligence-Led Policing*, 24.

⁷⁸ Herman Goldstein, “What is POP?,” Center for Problem-Oriented Policing, accessed November 21, 2016, <http://www.popcenter.org/about/?p=whatiscpop>.

⁷⁹ Goldstein, “What is POP?”

⁸⁰ Goldstein.

⁸¹ Ratcliffe, *Intelligence-Led Policing*, 56–57.

contends, is reliant on a system “where more autonomy is given to lower ranking officers, and where the reward structure rests less on arrests and more on alleviation of problems.”⁸²

Edmund F. McGarrel et al. note that in implementing the POP strategy, the process referred to as SARA—scanning, analysis, response, and assessment—is usually used. They further contend that the POP framework can benefit from ILP by “strengthening the analytic component of POP,”⁸³ which suggests that there may be aspects of both ILP and POP that may be beneficial to security sector reforms. Therefore, this leads to such questions as: are the two models compatible, and is there collaborative utility toward a common goal?

Ratcliffe recognizes that ILP is an evolving framework, and it facilitates areas within the security sector not related directly to criminal activity yet has a profound impact on society. He notes that while ILP focuses on the mechanism for reaching the ends, POP’s end state is on problem reduction. Notwithstanding the differences in determining the success of both strategies, Ratcliffe argues, “problem-oriented policing could benefit from greater use of crime intelligence and an offender focus, while intelligence-led policing could benefit from the strategic problem-solving capacities of problem-oriented policing.”⁸⁴

Problem-oriented policing has emphasis on prevention and engagement with other public agencies suggesting that this strategy, much like ILP, could be useful in collaborative efforts between the SSA and the security sector in Trinidad and Tobago.

D. POTENTIAL EXPLANATIONS AND HYPOTHESES

In considering the possibilities of answering the research question, three frameworks that are useful for organizing a domestic intelligence agency are an all-

⁸² Ratcliffe, 57.

⁸³ Edmund F. McGarrel, Joshua D. Freilich, and Steven Chermak, “Setting Law Enforcement Priorities,” in *Crime and Terrorism Risk: Studies in Criminology and Criminal Justice*, ed. Leslie W. Kennedy and Edmund F. McGarrel (New York: Routledge, 2011), 136.

⁸⁴ Ratcliffe, *Intelligence-Led Policing*, 67.

source civilian-led intelligence agency, a civilian-law enforcement agency, and an intelligence analysis fusion center.⁸⁵

Examples of an all-source civilian-led intelligence agency are the United Kingdom's Security Service (MI5) and Romania's Romanian Intelligence Service (SRI). Scholars posit that both countries are democracies, established and consolidating, respectively, and establishment of their agencies were via legislation, with structured accountability and oversight mechanisms.⁸⁶ This framework is most likely to ensure support to policy makers, as well as contribute to boosting the effectiveness of LEA, but there is a greater chance for failure if a poor coordinating and collaborative relationship exists between the intelligence agency and the security sector. The legal framework usually stipulates clear roles and missions, as well as control and oversight, coupled with the development of oversight mechanisms, effectively addressing the dilemma of balancing transparency with effectiveness.

As Agnes Gereben Schaefer explains, an example of a civilian-law enforcement intelligence agency is the U.S. Federal Bureau of Investigation (FBI). The United States is an established democracy, and one can consider the FBI, formed on July 26, 1908, as the country's lead in domestic intelligence.⁸⁷ The FBI falls under the attorney general's office and has a robust command structure that oversees six branches. In addition, oversight of the bureau exists at the three branches of government.⁸⁸ This framework can also facilitate effectiveness for both policy makers and law enforcement, but is mainly

⁸⁵ I posit that any model of an intelligence agency should be under democratic civilian control and oversight.

⁸⁶ Lindsay Clutterbuck, "The United Kingdom," in *Considering the Creation of a Domestic Intelligence Agency in the United States: Lessons from the Experiences of Australia, Canada, France, Germany, and the United Kingdom*, ed. Brian A. Jackson (Santa Monica, CA: RAND Corporation, 2009), 116, 127, 134–35; Florina Cristiana Matei, "Romania's Intelligence Community: From an Instrument of Dictatorship to Serving Democracy," *International Journal of Intelligence and CounterIntelligence* 20, no. 4 (2007): 633–39, <http://dx.doi.org/10.1080/08850600701492762>.

⁸⁷ Agnes Gereben Schaefer, "The History of Domestic Intelligence in the United States: Lessons for assessing the Creation of a New Counterterrorism Intelligence Agency," in *The Challenge of Domestic Intelligence in a Free Society: A Multidisciplinary Look at the Creation of a U.S. Domestic Counterterrorism Intelligence Agency*, ed. Brian A. Jackson (Santa Monica, CA: RAND Corporation, 2009), 31; "A Brief History: The Nation Calls, 1908-1923," Federal Bureau of Investigations, accessed November 29, 2018, <https://www.fbi.gov/history/brief-history>.

⁸⁸ Lowenthal, 45, 219, 278, 285, 317; "Leadership and Structure," Federal Bureau of Investigations, accessed December 15, 2016, <https://www.fbi.gov/about/leadership-and-structure>.

suited for law enforcement because of the inherent powers of arrest. This is the reality within the FBI as they do possess powers of arrest, but the FBI's counterpart, the CIA, has a more specific mandate to facilitate policy makers with strategic intelligence but has no arrest powers. Thus, this framework facilitates the provision of criminal intelligence geared to assisting the security sector in organized crime, drug interdiction, and terrorism. As it pertains to transparency versus effectiveness, the dilemma is not as challenging, but within recent times, many groups have accused the FBI of trampling on civil liberties.

An example of an analytical law enforcement-military fusion center is Spain's Intelligence Center against Terrorism and Organized Crime (CITCO), created in 2014, to increase Spain's security sector effectiveness in countering organized crime and terrorism. CITCO is an analytical fusion center that brings together the Spanish National Police, the Civil Guard, which is the military police, Prisons Authority, the customs service, as well as the main intelligence agency, the National Intelligence Center.⁸⁹ The organization and structure in this example can be a challenge as fusion centers operate based on a collaborative effort of various agencies for the sole purpose of intelligence sharing as part of Spain's nationwide counterterrorism initiative. While there are some benefits to the fusion center initiative, there are critics who highlight some fusion centers' tendency to tread upon civil liberties.

Admittedly, any three of the models can fulfill the needs of the government of Trinidad and Tobago in reorganizing the SSA, but it is highly unlikely that the fusion center model would be entertained, as the legislation governing the military and the police have very specific and unrelated mandates.⁹⁰ In this regard, the first two options would enable Trinidad and Tobago to more effectively disrupt and prevent domestic and

⁸⁹ Florina Cristiana Matei, discussion with author, December 14, 2016. See also Andres de Castro Garcia, Florina Cristiana Matei, and Thomas C. Bruneau, "Combating Terrorism Through Fusion Centers: Useful Lessons From Other Experiences?," *International Journal of Intelligence and CounterIntelligence* 30, no 4 (2017): 726–728, <http://hdl.handle.net/10945/55908>.

⁹⁰ There is a caveat to this point as section 5 (2) of the Defence Act Chapter, 14:01 (military legislation) allows for any unit of the Defence Force to undertake any other duties so defined by the Defence Council. Termed military aid to the civil power, once requested the specifics of the aid and to which civil institution such aid is given is a determination for the Minister of National Security. See Defence Act, Chapter 14:01 § 19 (2000), accessed December 5, 2016, https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/14.01.pdf.

transnational crime. However, which one would best approximate the contextual factors of Trinidad and Tobago while maintaining an effective outcome? This thesis will investigate this question by relying on the two frameworks as guides. The analysis will allow the testing of the competing perspectives and develop an argument for advancing one of the two frameworks for adoption by the government of Trinidad and Tobago.

E. RESEARCH DESIGN

The analytic approach for conducting this research centers on two components. The first is a crucial-case case selection method, which defines cases that are “critical to a concept or a broader body of theory.”⁹¹ For this reason, I selected the United Kingdom and Romania. As John Gerring notes, a crucial case is chosen when it has come to define, or at least to exemplify, a concept or a theoretical outcome.”⁹² The United Kingdom, and especially the London Metropolitan Police, has a long history of police developments. In fact, the London police was the first established modern police force. Prior to this creation, the task of policing fell to either communal initiatives or military components. Alongside this long history of policing, comes a long history of the development of domestic intelligence. In both instances, policing and domestic intelligence can provide pertinent examples from the standpoint of what works well and what does not. The case of the United Kingdom allows the development of a grounded theory of domestic intelligence.

Gerring further notes, “a second sort of crucial case reveals a result that is unexpected in light of the causal inference under investigation.”⁹³ Romania was the exception to the rule as it disproved scholars’ forecast of the Eastern European country not becoming a consolidated democracy, noted Matei.⁹⁴ Furthermore, despite a stigma associated with intelligence apparatus’ role in the previous non-democratic regime, Romania has developed a comprehensive intelligence community in a relatively short

⁹¹ John Gerring, *Social Science Methodology: A Criterial Framework* (New York: Cambridge University Press, 2001), 219.

⁹² Gerring, *Social Science Methodology*.

⁹³ Gerring, 220.

⁹⁴ Matei, “Romania’s Intelligence Community,” 629.

period, and has been one of the few cases where a consolidating democracy has been able to balance the dilemma of transparency and effectiveness. Additionally, Romania shares similar democratic institution-building achievements and challenges with Trinidad and Tobago, and, therefore, is an appropriate case study. In sum, Romania's case will allow me to compare another example of a successful domestic intelligence agency from the perspective of a transitioning democracy. The final component of this analysis is to apply the theoretical analysis of the United Kingdom and Romania and apply it to a policy prescription for Trinidad and Tobago.

The case study research and the security sector analysis uses primarily scholarly books, journal articles, U.S. Congressional reports, and international and Caribbean specific reports from non-governmental organizations and think tanks related to the countries and models chosen. Furthermore, support from recent news and current events gleaned from reputable regional and international news agencies are utilized where applicable.

F. THESIS OVERVIEW AND CHAPTER OUTLINE

The thesis comprises five chapters. The first chapter establishes the major research question and its importance to Trinidad and Tobago from a domestic intelligence perspective. It consists of a literature review, the hypothesis, and the methodology of the research. Chapter II discusses theoretical frameworks and insights on intelligence in a democracy. Chapter III is a case study on Romania's domestic intelligence agencies, charting their inception, current structure, successes, and challenges. Chapter IV is a case study on the United Kingdom's domestic intelligence agencies also charting their inception, current structure, successes, and challenges. The final chapter discusses the overall findings and lessons learned from the cases studied, and concludes by discussing the overall deductions from the research on policy recommendations for intelligence reform by the government of Trinidad and Tobago.

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II. THEORETICAL BACKGROUND ON INTELLIGENCE IN A DEMOCRACY

In seeking to reform the Strategic Services Agency (SSA), one of the first considerations should be the domestic intelligence framework the agency adopts. As discussed in Chapter I, the two frameworks I consider, because of contextual relevance and effectiveness to Trinidad and Tobago's security environment, are an all-source civilian intelligence agency and an all-source civilian law enforcement agency. Additionally, a discussion on issues of oversight, control, and accountability in relation to achieving transparency and effectiveness within the considered frameworks is also necessary. In this context, this chapter discusses the relevance and the role of intelligence agencies in a democracy. I then discuss requirements for balancing democratic civilian control and transparency of intelligence against operational effectiveness. Finally, the chapter provides an overview of the two frameworks—an all-source civilian led intelligence agency and civilian-law enforcement agency—and the manner in which the two frameworks approach issues of balancing transparency and effectiveness.

A. INSIGHTS ON INTELLIGENCE IN A DEMOCRACY

This section discusses why intelligence agencies are necessary and looks at the various roles and responsibilities of agencies. It concludes with a discussion of how and why intelligence is brought under democratic civilian control.

1. The Rationale for Intelligence in a Democracy

At the most basic level, the purpose of intelligence in a democracy is to ensure national security. Although paradoxical in nature (because intelligence requires degrees of secrecy and intrusiveness to be effective, while democracy demands the protection of liberty, rights, and transparency),⁹⁵ democracies rely on intelligence to both alert on and

⁹⁵ Florina Cristiana Matei and Thomas C. Bruneau, "Intelligence Reform in New Democracies: Factors Supporting or Arresting Progress," *Democratization* 18, no. 3 (2011): 603, <http://dx.doi.org/10.1080/13510347.2011.586257>.

avert the wide-ranging contemporary security challenges that states face.⁹⁶ This reliance on intelligence does not negate the requirement for the support and consent of a state's non-governmental organizations (NGO) and its citizens; because "the gathering and use of intelligence in democratic or democratizing countries" should not be done "without significant oversight and at least some public accountability."⁹⁷ In this context, developing capable intelligence agencies in a democracy is considered a foremost dilemma, which is not easily resolved.⁹⁸ As such, intelligence, as Marina Caparini notes, "has a vital role in safeguarding national security ... resulting in a strong imperative for secrecy. Yet, if not subject to control and oversight, the intelligence sector's unique characteristics ... may serve to undermine democratic governance and the fundamental rights and liberties of citizens."⁹⁹ Without effective intelligence, states may suffer more tragic terrorist attacks (such as September 11, 2001, in the United States; March 11, 2004, in Spain; March 22, 2016, in Belgium; July 14, 2016, in France; and May 22, 2017, in England), which threaten the safety and security of citizens and their ability to exercise their democratic rights.

Such terrorist threats are only one aspect within the bigger security picture. Since the 1990s and beyond, there have been new and emerging realities in the security environment that equally threaten the stability and security of democracies.¹⁰⁰ The end of the Cold War brought new complexities and a range of threats emanating from "cross border and transnational crime, gangs, ... financial disasters, ... [natural] disasters caused

⁹⁶ Lowenthal, 297–312; Betts, 9–14; Johnson, 176–204.

⁹⁷ Robert Jervis, "Intelligence, Civil-Intelligence Relations, and Democracy," Foreword, in *Reforming Intelligence: Obstacles to Democratic Control and Effectiveness*, ed. Thomas C. Bruneau and Steven C. Boraz (Austin: University of Texas Press, 2007), xii.

⁹⁸ Matei and Bruneau, "Intelligence Reform in New Democracies," 603.

⁹⁹ Marina Caparini, "Controlling and Overseeing Intelligence Services in Democratic States," in *Democratic Control of Intelligence Services: Containing Rogue Elephants*, ed. Marina Caparini and Hans Born (Abingdon, UK: Taylor and Francis, 2008), 3.

¹⁰⁰ The discussion that follows is inspired by the works of Lowenthal and Matei; for a more detailed examination of asymmetrical and evolving threats post the Cold War era, see Lowenthal, *Intelligence: From Secrets to Policy*, 352–94; Matei, "A Plea for Effective Intelligence in a Democracy: An Outsider's Perspective," in *A Mind War: Intelligence, Secret Services and Strategic Knowledge in the 21st Century*, ed. George Cristian Maior (Bucharest, Romania: Editura RAO, 2011), 422–31.

by climate change, [and] pandemics.”¹⁰¹ This changing security context places new demands on intelligence agencies, as they must respond differently since the recipients of intelligence products are more diverse. Intelligence agencies must rethink traditional methods of approach as threats to democracy are repeatedly from non-state actors.

Traditionally, democracies have preferred barriers between intelligence and other security institutions, including law enforcement, and even between intelligence agencies themselves (e.g., domestic and foreign). Such barriers hamper intelligence agencies in their effectiveness,¹⁰² as threats continue to overcome these barriers. Subversive elements that threaten democracies are not concerned with jurisdictional boundaries of bureaucracies; therefore, unnecessary boundaries between intelligence and law enforcement, or within the intelligence architecture itself, limit opportunities for cooperation and coordination. This illustrates the maxim that the chain is only as strong as its weakest link.

In sum, the desired end state for any government should be the realization of “professional intelligence systems” that function collaboratively with the domestic and transnational security sectors and are controlled and monitored via all three branches of the state where possible, as the legislative and/or judicial branches may not be as developed as the executive.¹⁰³ Thus, the intelligence systems will ensure the timely identification of threats to the safety and security of citizens—effectiveness—while still allowing scrutiny and control of the guardians—transparency.

2. What Is the Role of Intelligence Agencies in a Democracy?

The main role of intelligence in a democracy is to “serve, inform, assist, and support policymakers’ decisions,” as well as to support “operations and other security organizations.”¹⁰⁴ In this context, intelligence agencies serve policymaking and operations in the following ways.

¹⁰¹ Matei, “A Plea for Effective Intelligence in a Democracy,” 428.

¹⁰² Matei, 431; Lowenthal, 352.

¹⁰³ Matei and Bruneau, “Intelligence Reform in New Democracies,” 604

¹⁰⁴ Matei and Bruneau, “Policymakers and Intelligence Reform in the New Democracies,” 658.

First, they help “to avoid strategic surprise”¹⁰⁵ by providing timely and accurate analysis of the capabilities and intentions of potential threats, allies, and any other international developments. Agencies provide “intelligence on foreign or external threats,”¹⁰⁶ which, as discussed earlier, reveal the capabilities and intentions of potential threats, allies, and any other international developments of state and non-state actors whether they are friends, allies, or adversaries. While some information of this nature is secretly collected, a significant aspect of it is collected via open source means and focuses mainly “on national security, military and defense, political, economic, and foreign policy issues; it will also take into account social, environmental, and cultural intelligence.”¹⁰⁷

Second, agencies provide “long-term expertise” to policy makers who tend to be transitory in their positions and deficient in this aspect of governance, which is bridged by the “knowledge and expertise on national security issues [residing] in the intelligence [agencies] where the analytical cadre is more stable than the political office holders.”¹⁰⁸ Third, agencies provide a supporting function to the process of policy formulation by providing customized assessments and products to policy makers, which are specific to their needs and may focus on short or medium term issues by providing “tactical intelligence data” or long-term issues via “strategic intelligence assessments.”¹⁰⁹ Such intelligence must be timely and can be for a number of reasons including provision of “background, context, information, warning, and an assessment of risks, benefits, and likely outcomes.”¹¹⁰ A caveat to this point is the politicization of intelligence—the use of

¹⁰⁵ Lowenthal, 2–3.

¹⁰⁶ Greg Hannah, Kevin A. O’Brien, and Andrew Rathmell, *Intelligence and Security Legislation for Security Sector Reform* (Santa Monica, CA: RAND Corporation, 2005), 2, https://www.rand.org/pubs/technical_reports/TR288.html.

¹⁰⁷ Hannah, O’Brien, Rathmell, *Intelligence and Security Legislation for Security Sector Reform*.

¹⁰⁸ Lowenthal, 4.

¹⁰⁹ Hannah, O’Brien, and Rathmell, 3.

¹¹⁰ Lowenthal, 4.

intelligence to manipulate a particular policy outcome—that should be avoided at all costs.¹¹¹

Fourth, the intelligence community maintains the secrecy of information, specific needs for, and methods of collection.¹¹² Knowledge of this nature is vital to both state and non-state actors that may have utility for how and why information is collected and, more importantly, the actual information known. Just as a state wishes to know the threats, capabilities, and intentions of other states and non-state actors, other states seek the same information as well.¹¹³

Finally, at the internal level agencies support operations and security organizations as it relates to internal threats to state security, often termed “security intelligence.”¹¹⁴ Generally, threats of this nature are considered a policing issue, and democratic states traditionally saw the two areas, intelligence and law enforcement, as separate domains never to be crossed. An evolving 21st century security environment has resulted in a revision of this separation, however, and the result is an increasing presence of external type threats coming from internal actors. Adapting to this environment requires intelligence agencies to collect, analyze, and disseminate information in support of the law enforcement mission.¹¹⁵

In democracies, the intelligence services should operate with as little autonomy and penetration of society as possible, only to the degree that is required in order to ensure effectiveness.¹¹⁶ Since the threats to states have evolved post-Cold War, and more so in the 21st century, some degree of penetration into society is sometimes required by intelligence agencies. Such penetration is necessary to identify the nature and the

¹¹¹ For a more detailed discussion on politicization of intelligence, see Lowenthal, 4–5; James J. Wirtz, “The Intelligence-Policy Nexus,” in *Essentials of Strategic Intelligence*, ed. Loch K. Johnson (Santa Barbara, CA: Praeger, 2015), 145–47.

¹¹² Lowenthal, 5.

¹¹³ Lowenthal, 6–7.

¹¹⁴ Hannah, O’Brien, and Rathmell, 3

¹¹⁵ Hannah, O’Brien, and Rathmell; Matei, “A Plea for Effective Intelligence in a Democracy,” 431.

¹¹⁶ Bruneau and Kenneth R. Dombroski, “Reforming Intelligence: The Challenge of Control in New Democracies,” Calhoun: The NPS Institutional Archive, June 4, 2014, 4–7, <http://hdl.handle.net/10945/41971>.

intentions of these 21st century threats. When penetration is therefore necessary, agencies must exercise this option in accordance with the law, and they must not exceed the set limits of their powers without going through the available levels of authorization specific to the state.

3. Intelligence Democratization

In democratic countries it is expected that intelligence agencies function in accordance within the rule of law and approved standards that govern how they ought to conduct their business. Ensuring that intelligence is under democratic civilian control is one of the key challenges democracies face. On the other hand, the products and services of the intelligence agencies, which calls for effective intelligence, best support the decisions policymakers formulate, including those involving national security. This intertwined relationship holds true for both developing and consolidated democratic states.

In this context, democratic reform of intelligence (also known as intelligence democratization) is evaluated using Timothy Edmunds' "three-level reform process" as a template, further developed by Matei and Bruneau,¹¹⁷ and is the most appropriate benchmark when reevaluation is necessary.

The first level is the legal framework that outlines the agencies' mandates, the internal control structure, and, other than the executive arm of the state where intelligence resides, the other state branches (legislative and judicial) to which agencies are accountable. Once adequately crafted, the legal framework spells out the intelligence agencies' limits and provides terms of reference for how they are to function, especially concerning sensitive issues like intrusive methods of intelligence collection. Legislation also gives direction for instituting bipartisan legislative oversight and, where necessary, judicial review.¹¹⁸ Specifically, legislation, argue Bruneau and Matei, must:

clearly define the responsibilities and powers of the intelligence agencies as well as the types and mechanisms of control and oversight, including: delineating what

¹¹⁷ Matei and Bruneau, "Intelligence Reform in New Democracies," 606.

¹¹⁸ Matei and Bruneau; Bruneau and Matei, "Intelligence in the Developing Democracies," 764–65.

the intelligence agencies can and cannot do, who is in charge of the intelligence, and who controls and oversees its activities, personnel, and funding; stipulating the circumstances for interagency coordination and/or international cooperation; and ensuring the intelligence personnel are responsible before the law in case of abuses, and/or benefit from legal protection if they observe the legally-agreed-upon guidance and directions. Furthermore, ... democracies need to enact legislation that allows citizens and civil-society representatives to access government information.¹¹⁹

The second level in the reform process of democratic control of intelligence is attained by implementing new measures and institutions necessary for control and oversight, or by strengthening those that already exist. Implementation or strengthening can be done by the various democratic institutions of the state—namely the executive, legislative, and judicial. This, however, is dependent on the ability of the various branches of government to do so, as some branches may be weaker than others. At the executive branch, these democratic institutions would include national security councils, ministries of national security or defense, and directors of the agencies. Prioritizing the roles and missions for intelligence solidifies control at this level. Furthermore, prioritization allows an organizational structure that is best suited to meet the specific directives and mandates of an agency.¹²⁰

In the legislative branch, oversight¹²¹ is reinforced via bipartisan reviews of agencies' personnel, activities, and budgets. As discussed previously, the legislative framework ought to stipulate how such bipartisan review should take place, whether by "general standing or ad hoc committees within the legislature."¹²² Finally, at the judicial branch, the courts provide the last line of defense in ensuring citizens protection and vindication should intelligence agencies overstep their authority and use their special

¹¹⁹ Bruneau and Matei, "Intelligence in the Developing Democracies," 764.

¹²⁰ Matei and Bruneau, "Intelligence Reform in New Democracies," 606.

¹²¹ It should be noted that although oversight resides at the legislative branch, the legislature has options to institute some measure of control, for example, by manipulating the budget allocations to agencies. For such control mechanisms to reside within the legislative branch, however, the legal framework that institutionalizes intelligence agencies must authorize these control mechanisms. Further, where control and oversight of intelligence agencies ends and begins is also dependent on the form of government the state adopts—presidential, semi-presidential, or parliamentary. Each form of government will adopt control and oversight mechanisms differently. See Bruneau and Matei, "Intelligence in the Developing Democracies," 765–68.

¹²² Bruneau and Matei, 765.

powers in contravention to the law and other regulations that govern the use of intelligence.¹²³ It is noteworthy, especially in the case of developing democracies, that these two branches of government (legislative and judicial) may lack development in relation to the executive branch. Therefore, the ideals discussed in this paragraph may only materialize over time and with the maturity of the branches.

In addition to strengthening the democratic institutions—formal mechanisms for control and oversight—other formal and informal mechanisms are possible internally and externally, respectively, to the intelligence agencies. In some countries, agency directors and top leadership officials exercise control over agencies internally, while oversight can be implemented via “counsels, inspectors general, [and] ... agencies’ intrinsic professional codes of ethics and institutional norms.”¹²⁴ Externally, non-governmental organizations—the press and other aspects of civil society—play an important part in providing oversight of intelligence agencies. Although these mechanisms are not formal in nature, their very presence creates enough incentive for intelligence agencies to operate within the legal framework.¹²⁵ Figure 2 summarizes the discussion on control and oversight and gives an idea of how the various formal and informal institutions go about keeping intelligence agencies in check. The final level deals with effectiveness and ensuring that the intelligence apparatus is successful in its mandates.

Intelligence ultimately exists to defend the national security interests of the state and must, therefore, be effective in this regard. Matei identifies three requirements that ensure an agency’s effectiveness in realizing its mandates: a strategy or doctrine, establishment of organs within the control structure that fosters planning and coordination at different levels, and the provision of all necessary resources—for

¹²³ Bruneau and Matei.

¹²⁴ Gill and Phythian, *Intelligence in an Insecure World*, 155; Bruneau and Matei, 765.

¹²⁵ Bruneau and Matei; Gill and Phythian, 156.

example “political capital, money, and personnel”—“to enable ... [intelligence agencies to] implement the assigned roles and missions as best possible.”¹²⁶

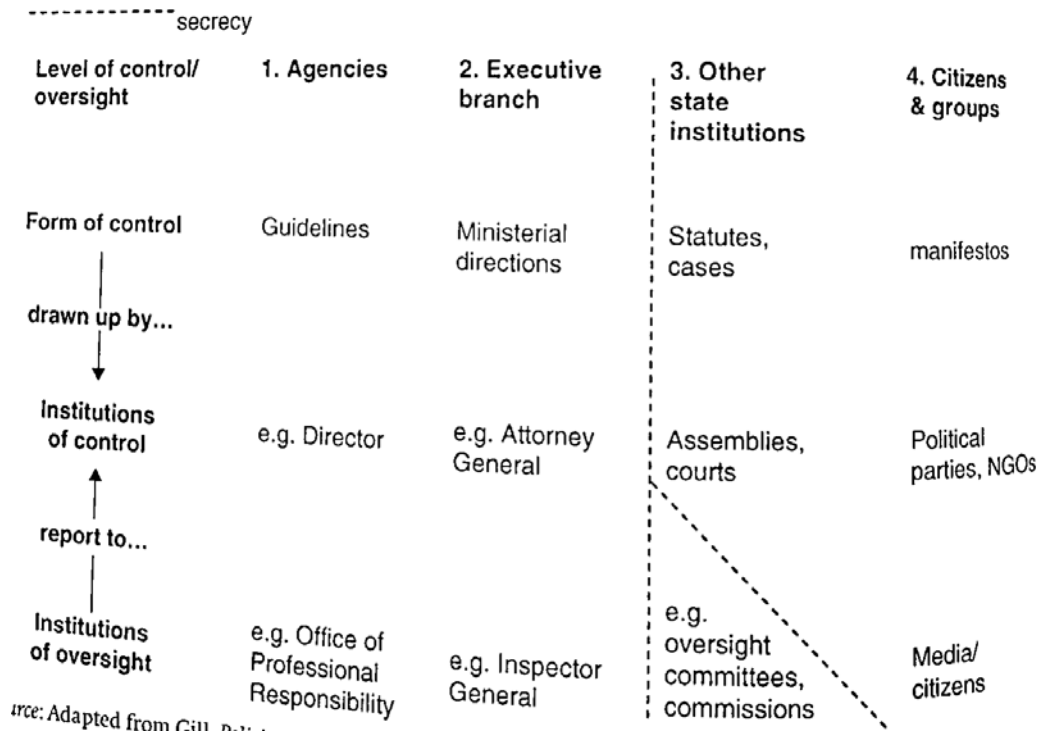


Figure 2. Control and Oversight of Security Intelligence Agencies.¹²⁷

A doctrine or strategy for intelligence speaks to an assessment of the threats to the state, which can be external, internal, or a combination of both. Intelligence doctrine speaks to that set of strategies (like a national security plan) formulated by “competent entities (for example, national security councils, directors of intelligence, or specific interagency coordination bodies)” to address a state’s range of threats, and is translated into the roles and missions of the intelligence community in countering these threats.¹²⁸ Intelligence agencies counter threats by engaging in missions related to threats from

¹²⁶ Florina Cristiana Matei, “Balancing Democratic Civilian Control with Effectiveness of Intelligence in Romania: Lessons Learned and Best/Worst Practices Before and After NATO and EU Integration,” *Intelligence and National Security* 29, no. 4 (2014): 631, <http://dx.doi.org/10.1080/02684527.2014.915180>; Bruneau and Matei, “Intelligence in the Developing Democracies,” 768.

¹²⁷ Source: Gill and Phythian, 156.

¹²⁸ Bruneau and Matei, 768.

external actors (state and non-state), internal actors (perpetrators of organized crime and domestic terrorists), and by providing an analysis of the external and internal environment to policy makers. In this way, policy makers' decisions are well informed and tailored to the ever-changing security environment.

Cooperative planning and coordination at different levels (for example among intelligence agencies or between intelligence agencies and law enforcement) is also an aspect of ensuring effectiveness. Measures such as “intelligence and information sharing, common databases, networking, and mergers”¹²⁹ help to increase capabilities of the security sector and assist in identifying and countering threats externally and internally. Such measures also assist other allied and partner states in addressing threats that are transnational in nature and possess global implications, such as international terrorism.

Overall, making intelligence agencies accountable, yet effective, to the citizens of a state involves a relentless effort to achieve a tradeoff between intelligence effectiveness, democratic civilian control, and oversight of intelligence. These endeavors involve, among others, “raising public interest on intelligence and security matters; increasing civilian expertise in intelligence; institutionalizing processes that support transparency and effectiveness; fostering a political culture that supports intelligence in society and inside the agencies; and professionalizing the intelligence services.”¹³⁰

B. INSIGHTS ON DOMESTIC INTELLIGENCE FRAMEWORKS

This section discusses the two intelligence frameworks identified as useful in Trinidad and Tobago's context, a civilian-led intelligence agency and a civilian-law enforcement agency.

¹²⁹ Bruneau and Matei, 768.

¹³⁰ Matei and Bruneau, 606; Bruneau and Dombroski also contend that engaging in public debate familiarizes society with intelligence and security related matters helping to reduce public misconceptions about intelligence agencies. Managers of intelligence must be trained and knowledgeable about intelligence to facilitate public education on the need for intelligence, and be competent in leading and controlling intelligence agencies. Finally, the intelligence field must be seen as a professional career to attract recruits; as such, selection, training, continuous advancement, and adequate retirement plans are critical to professionalization and effectiveness. Bruneau and Dombroski, “Reforming Intelligence,” 18–21.

1. All-Source Civilian-Led Intelligence Agency

Utilizing Lowenthal's definition of intelligence, an all-source civilian intelligence agency is an intelligence agency directed and staffed by civilian personnel that utilizes the six intelligence collection disciplines¹³¹ and is devoid of powers of arrest. In this type of agency, the emphasis is on providing an all-source/integrated intelligence product to policy makers and other security institutions, including LEA, in order to enhance policy and security related decisions, respectively, about various national and national security interests.

All-source civilian-led intelligence agencies characteristically are responsible for intelligence collection, analysis, and dissemination on all national security threats, domestic and/or foreign. These agencies typically coordinate with other security and law enforcement entities but are devoid of the powers of arrest, and they usually have clear legal guidelines that stipulate how they are to initiate surveillance and other intrusive collection methods.¹³² While some agencies of this type are restricted from legally operating outside of the state's territory, this restriction is not always the case.¹³³ Some countries that have this type of intelligence agency are Canada (Canadian Security Intelligence Service), Germany (Bundesamt für Verfassungsschutz), and Israel (Israeli Security Agency).¹³⁴

¹³¹ The disciplines are Signals Intelligence (SIGINT), Imagery Intelligence (IMINT), Measurement and Signature Intelligence (MASINT), Human-Source Intelligence (HUMINT), Open-Source Intelligence (OSINT), and Geospatial Intelligence (GEOINT). "What is Intelligence?," Office of the Director of National Intelligence, accessed June 7, 2017, <https://www.dni.gov/index.php/what-we-do/what-is-intelligence>.

¹³² Norman J. Rabkin, *Combating Terrorism: How Five Foreign Countries are Organized to Combat Terrorism* (Washington, DC: U.S. Government Accountability Office, 2000), 19, <http://www.gao.gov/new.items/ns00085.pdf>; Michaela W. Richter, *The Verfassungsschutz* (Washington, DC: American Institute for Contemporary German Studies, 1998), 24, <http://www.aicgs.org/site/wp-content/uploads/2011/11/richter.pdf>.

¹³³ Canadian Security Intelligence Service Act of 1985, R.S.C., ch. C-23, s. 12 (2) (1985) (Can.), <http://laws.justice.gc.ca/PDF/C-23.pdf>.

¹³⁴ Canadian Security Intelligence Service Act, R.S.C., ch. C-23, s. 12.1 (4); Richter, 18; Nadav Morag, "Homeland Security in Israel, Part 2: The Organizational and Operational Environments," August, 2009, transcript and Adobe Flash player, 17:43, Center for Homeland Defense and Security, Naval Postgraduate School, https://www.chds.us/coursefiles/comp/lectures/comp_HS_in_israel_pt2_v2/player.html.

Since operatives and analysts have no powers of arrest, they are not subjected to evidential testimony during the course of prosecution proceedings; this is beneficial to an all-source civilian-led intelligence agency. The agency's methods, sources, and other classified national security measures and mechanisms have significantly less chances of being compromised. The likelihood of personnel discussing or revealing information of a sensitive nature if subjected to testimonies in criminal proceedings are reduced. Therefore, their information gathering methods and sources can continue to be useful for as long as they are prudent, reliable, and secure.

One shortcoming with the civilian-led intelligence agency model is founded on fears that civil liberties can be eroded in the name of national security by agencies functioning under this model. Based on earlier discussions in this chapter, putting such fears to rest starts with agencies having robust internal and external control and oversight mechanisms that regulate what can and cannot be done. In this way, agencies are less likely to engage in unabated over extension of their powers without being accountable for such actions. The desired result should be a balance of achieving security within the acceptable standards and norms of a democracy.¹³⁵

Finally, in the civilian-led intelligence agency model, the possibility of poor coordination and information sharing with other institutions in the security sector can be detrimental to national security. Since the authority to arrest is absent from an intelligence agency of this model, law enforcement institutions usually have units or departments that possess similar skills to that of intelligence agencies,¹³⁶ which allows for quick action in response to serious threats. At times, persons or organizations may be of interest to both law enforcement and domestic intelligence requiring collaborative or coordinating efforts.¹³⁷ Delays in information sharing or poor coordination can therefore

¹³⁵ Caparini, "Controlling and Overseeing Intelligence Services in Democratic States," 4.

¹³⁶ According to Fred Schreier police forces or departments usually have specialist units who are required to conduct their own investigations and collection of evidence in order to prosecute and secure convictions. See Fred Schreier, "The Need for Efficient and Legitimate Intelligence," in *Democratic Control of Intelligence Services: Containing Rogue Elephants*, ed. Marina Caparini and Hans Born (Abingdon: Taylor and Francis, 2008), 34.

¹³⁷ Schreier, "The Need for Efficient and Legitimate Intelligence."

lead to catastrophic events similar to September 11, 2001, and July 7, 2005.¹³⁸ In order to prevent such delays or poor coordination, prior planned systems that aim to eliminate poor cooperation and coordination can be useful for both intelligence agencies and law enforcement. Such prior planning allows quick actions by both entities—intelligence and law enforcement—in thwarting serious threats to national security.

2. All-Source Civilian-Law Enforcement Agency

A civilian-law enforcement intelligence agency is one where the agencies, directed by and staffed with civilian and law enforcement personnel, utilizes criminal intelligence in conjunction with criminal analysis in order to target, arrest, and prosecute lawbreakers through the criminal justice system. A civilian-law enforcement intelligence agency utilizes intelligence gathering strictly for law enforcement purposes as they “have been engaged in crime analysis for most of their existence,”¹³⁹ but agencies of this type, in my estimation, would utilize the HUMINT aspect of intelligence gathering (along with some SIGINT and OSINT) more so than other methods. As Carl J. Jensen III et al. note, in the United States, law enforcement officers “are the real ‘eyes and ears’ of intelligence collection.”¹⁴⁰ Moreover, they add that the production and consumption of intelligence is now a main stay in LEA and highlight the increase in technology to track and predict crimes even at the national security level.¹⁴¹

In a civilian-law enforcement agency, its focus is mainly toward criminal and subversive elements that operate within the state, and it is seldom, if ever, concerned with

¹³⁸ In both instances the intelligence services had some prior indication or information in regard to the threats. According to Charles Perrow, the Bush Administration was briefed on possible attacks within the United States, and Aidan Kirby notes that two of the London bombers were persons of interest to the MI5. See Charles Perrow, “Disaster after 9/11: The Department of Homeland Security and the Intelligence Reorganization,” *Homeland Security Affairs* 2, no. 1 (2006), <https://www.hsaj.org/?article=2.1.3>; Aidan Kirby, “Domestic Intelligence Agencies After September 11, 2001: How Five Nations Have Grappled with the Evolving Threat,” in *Considering the Creation of a Domestic Intelligence Agency in the United States: Lessons from the Experiences of Australia, Canada, France, Germany, and the United Kingdom*, ed. Brian A. Jackson (Santa Monica, CA: RAND Corporation, 2009), 155.

¹³⁹ Carl J. Jensen III, David H. McElreath, and Melissa Graves, “Criminal Intelligence and Crime Analysis,” in *Encyclopedia of U.S. Intelligence*, ed. Gregory Moore (New York: Taylor and Francis, 2015), 203, <http://dx.doi.org/10.1081/E-EUSI-120052112>.

¹⁴⁰ Jensen, McElreath, and Graves, “Criminal Intelligence and Crime Analysis.”

¹⁴¹ Jensen, McElreath, and Graves.

providing intelligence customized for policy makers. Additionally, a vital portion of the civilian-law enforcement agency's effectiveness is in its criminal analysis duties. Through criminal analysis, it is thought that civilian-law enforcement agencies can be proactive in nature by impeding crimes before they take place or, at best, while they are taking place.¹⁴² Table 1, which illustrates Greg Treverton's differences between law enforcement and intelligence, is pertinent to this discussion as it highlights the functions of intelligence and law enforcement. Thus, it gives a snapshot of the characteristics of the two intelligence models—all-source civilian-led and all-source civilian-law enforcement.

Table 1. Treverton's Differences between Law Enforcement and Intelligence.¹⁴³

Law Enforcement Function	Intelligence Functions
<i>Make the Case:</i> Gather sufficient evidence to prove guilt in a court of law	<i>Policy:</i> Provide policymakers with information to help them reduce uncertainty and make better decisions
<i>Reactive:</i> Collect information after a crime has been committed	<i>Proactive:</i> Collect information before the fact to help form policy, devise strategy, and/or prevent undesirable consequences (e.g., terrorist attack)
<i>Collection Standard: Rules of Evidence:</i> Gather information and evidence in strict accordance with the Constitution and all applicable rules of evidence.	<i>Standard: Good Enough:</i> Gather and use any and all information as long as its credibility is sufficient
<i>Goal: Introduce Evidence in Court:</i> Introduce evidence in court that will establish a defendant's guilt. As such, both the source of evidence and the method by which it was obtained must, by law, be revealed.	<i>Goal: Protect Sources:</i> Protect "sources and methods" at all costs. The ultimate goal is to ensure that they remain unknown and able to produce useful, credible information for as long as possible.

An agency of the civilian-law enforcement type can utilize the intelligence-led policing model for its criminal intelligence activities. This model is beneficial in preventing crimes before they occur, because it "requires the ability to look ahead and

¹⁴² Jensen, McElreath, and Graves, 207.

¹⁴³ Adapted from Jensen, McElreath, and Graves, 204.

forecast; as a result, intelligence is critical to the prevention process.”¹⁴⁴ Similarly, the civilian-law enforcement agency can also utilize the problem oriented policing model for its crime analysis activities, specifically utilizing the analysis step in the SARA process (discussed in Chapter I). Analysis can use techniques such as crime mapping, tactical crime analysis, criminal investigative analysis, and geographic profiling in order to “apply concepts of critical thinking to assess the information collected and determine the root causes of crime.”¹⁴⁵

The United States FBI is an example of an agency that has attempted to shift from strictly law enforcement to a combined organization of law enforcement and intelligence gathering. This civilian-law enforcement agency now pursues missions of “criminal law enforcement, domestic CT [counter terrorism], and domestic counterintelligence.”¹⁴⁶ After September 11, 2001, the FBI reorganized to focus beyond their traditional law enforcement function. Ostensibly, the FBI views “itself as an ‘intelligence-led agency,’ [having] created an entire organization within the Bureau, the Directorate of Intelligence, to oversee investigations in this area.”¹⁴⁷ Notwithstanding these and other changes by the FBI, one scholar notes that the law enforcement culture still prevails and receives priority over one of the vital functions in intelligence, analysis.¹⁴⁸ This observation highlights the challenge for civilian-law enforcement agencies. In order to balance the requirements of intelligence and law enforcement, civilian-law enforcement agencies must establish systems that will bridge the gap between the functions highlighted in Table 1.

¹⁴⁴ Jensen, McElreath, and Graves, 206.

¹⁴⁵ Jensen, McElreath, and Graves, 208–10.

¹⁴⁶ Lester and Jackson, “Weighing Organizational Models for a New Domestic Intelligence Agency,” 127.

¹⁴⁷ Jensen, McElreath, and Graves, 206–07.

¹⁴⁸ Amy B. Zegart, *Spying Blind: The CIA the FBI, and the Origins of 9/11*, 149–51. In Zegart, “Threats Within and Without: Insider Threats and Organizational Root Causes: The 2009 Fort Hood Terrorist Attack,” *Parameters* 45, no 2 (2015): 44–46, https://ssi.armywarcollege.edu/pubs/Parameters/Issues/Summer_2015/7_Zegart.pdf; the author discusses how the absence of intelligence analysis was a key failure in the Fort Hood shooting. Emails received 10 months earlier at the Joint Terrorism Task Force (JTTF) suggested links between Nidal Hasan and a known terrorist, Anwar al-Aulaqi. Due to the lack of intelligence/counterintelligence experience of the Defense Department member on the JTTF, the opportunity to investigate Nadal more thoroughly was missed, which may have resulted in disrupting his eventual attack that led to the deaths of 13 persons.

Another example of an agency organized along the lines of a civilian-law enforcement agency, is the South African Police Service (SAPS) Crime Intelligence Division (CID). According to Kenneth R. Dombroski, the CID “is responsible for collecting and analyzing crime intelligence as well as counterintelligence related to criminal matters, and for providing intelligence and technical support to crime-prevention and investigative efforts.”¹⁴⁹ As discussed earlier, the principle of using intelligence in a manner to proactively “detect suspected criminal activities before a crime has been committed”¹⁵⁰ has also been adopted by the CID.

Given that personnel in a civilian-law enforcement agency have inherent powers of arrest, the main advantage in this type of agency is that operatives can act with less of a delay in preventing threats to the security of the state. Collection activities, however, must be in accordance with laws regarding collection of evidence used in criminal prosecutions. As such, the methods utilized in gaining evidence required to convict perpetrators of crimes, including those of a terrorist nature, must be able to withstand scrutiny in a court of law. Thus, while having the power to arrest offenders is an advantage in one aspect, it can also be a disadvantage as well. It follows, therefore, that sources and methods utilized by operatives in this agency model may not have future utility once perpetrators are prosecuted. Testifying would reveal some of the sources and methods used, and such revelations would prove to be a disadvantage to the civilian-law enforcement agency especially in instances where ongoing investigations are taking place in conjunction with prosecution of other cases.

C. CONCLUSION

This chapter looked at the theories behind having intelligence in a democracy and discussed how intelligence agencies execute their roles and missions within the democratic environment. Issues of oversight and control of intelligence agencies, the

¹⁴⁹ Kenneth R. Dombroski, “Reforming Intelligence: South Africa after Apartheid,” *Journal of Democracy* 17, no. 4 (2006): 51, https://calhoun.nps.edu/bitstream/handle/10945/43135/Dombroski_South_Africa_After_Apartheid_2006.pdf?sequence=1&isAllowed=y.

¹⁵⁰ Dombroski, “Reforming Intelligence: South Africa after Apartheid,” 52.

transparency aspect that democracy demands, were explored. Concepts related to the levels of control of intelligence agencies—at the executive, legislative, judicial, as well as internal and external—were discussed. Issues related to the effectiveness of intelligence agencies were then explored in terms of the need for organization along roles. Discussion also covered cooperation and coordination among other agencies and between other institutions in the security sector, and the provision of necessary resources to ensure intelligence agencies can be successful.

The chapter then examined two models of intelligence agencies, both using all source methods of intelligence gathering—civilian-led and civilian-law enforcement-led intelligence agencies. Both models were compared and contrasted to show their relevance and utility in a democracy. They were then characterized according to their relevant advantages and disadvantages in relation to how they balance the requirement for effectiveness and transparency.

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III. ROMANIA

This chapter charts the transition of Romania's domestic intelligence agency—the notorious Securitate—from a tool of the communist regime into several intelligence agencies (and eventually a community) in the service of Romania's democracy. It briefly explores the conditions of intelligence within Romania under its last non-democratic government and looks at how the reform of the intelligence agencies came about in alignment with the country's democratic transformation. As this thesis is specifically addressing domestic intelligence, this chapter focuses mainly on the agencies in Romania that have an internal security mandate. Notwithstanding the internal security filters of the research, many of the discussed intelligence reforms affected Romania's intelligence community in its entirety.

A. DOMESTIC INTELLIGENCE PRE-DEMOCRACY

Any discussion on domestic intelligence in pre-democratic Romania is intertwined with a discussion about Romania's system of totalitarian communist rule post-World War II. Romania's intelligence apparatus was a vital tool of the communist government prior to 1989. The use of intrusive measures by the intelligence agency was the method utilized to ensure the longevity of Nicolae Ceausescu's regime, which came into power in 1965. Under Ceausescu, the Department of State Security (DSS), commonly referred to as the Securitate (within which the Department of External Information (DIE) operated) was the main intelligence agency in Romania. The Securitate was primarily responsible for domestic intelligence, yet it also conducted foreign intelligence through the DIE. The Securitate existed with a mandate of ensuring the protection and continuation of the regime.¹⁵¹ In this regard, the service employed a

¹⁵¹ Florina Cristiana Matei, "Romania's Transition to Democracy and the Role of the Press in Intelligence Reform," in *Reforming Intelligence: Obstacles to Democratic Control and Effectiveness*, ed. Thomas C. Bruneau and Steven C. Boraz (Austin: University of Texas Press, 2007), 220–21.

mix of informer collaboration, intimidation, repression, and surveillance to install “a climate of fear and brutality” in Romania.¹⁵²

The reason for establishing the DSS was “to watch over the internal security of the ... [totalitarian] regime and suppress any unrest, opposition, or dissident group that criticized or defied it.”¹⁵³ This intent was achieved by collecting large amounts of data on Romanian citizens both at home and abroad, but such information was not used as intelligence per se, as there was no real analysis and refinement of these huge amounts of data. Rather, this information was used as a mechanism of control and leverage to ensure the restriction of any opposition to the government and its policies. Even officers of the agency were subjects of surveillance, no doubt to ensure their loyalty and dedication to both the DSS and the regime.¹⁵⁴

The communist constructs of the Eastern European countries received major resistance from their citizenry in the late 1980s. Social unrest against communism led to one of the pivotal moments in world history—the fall of the Berlin Wall in 1989. In Romania, the climate was no different. In December of 1989, political and social frustration led to a bloody revolution, which ended with the arrest of Ceausescu and his wife. They received a quick trial and execution for their crimes against the people of Romania. These actions paved the way for the inception of democracy in Romania. In the immediate aftermath, the DSS was placed under the custodian of the military, and senior officials of the agency, suspected of being loyal to the Ceausescu regime, were also arrested and tried. The shift in Romanian social and political ideology was sudden and violent. With the power amassed by the Securitate, such violence could have been prolonged if the loyal senior echelon were not removed.¹⁵⁵ Thereafter, Romania

¹⁵² Matei, “Romania’s Transition to Democracy and the Role of the Press”; Kelly Hignett, “Inside Ceausescu’s Romania: An Unquestionably Efficient Police State,” *The View East: Central and Eastern Europe, Past and Present* (blog), WordPress.com, July 21, 2011, <https://thevieweast.wordpress.com/2011/07/21/inside-ceausescus-romania-an-unquestionably-efficient-police-state/>.

¹⁵³ Matei, 220.

¹⁵⁴ Matei; Craig S. Smith, “Eastern Europe Struggles to Purge Security Services,” *The New York Times*, December 12, 2006, <http://www.nytimes.com/2006/12/12/world/europe/12spooks.html>.

¹⁵⁵ Matei, 221–22.

embarked on a path toward democracy, and held free and fair elections in May 1990. The institutions of democratic governance had to be built from the ground up. Intelligence, however, was not one of these institutions, and a considerable portion of the old guard continued to exist in the embryonic intelligence agencies. As is discussed later, legislation was essential to ensuring that all institutions, especially those concerning national security, were under the control of the democratically elected civilians.¹⁵⁶

B. DOMESTIC INTELLIGENCE AFTER THE END OF THE COMMUNIST REGIME

The ushering in of democracy resulted in a change of the government's utilization of intelligence. Such a change was necessary due to the fears the Romanian society had associated with intelligence agencies. This fear of the intelligence agencies coupled with external pressures from the North Atlantic Treaty Organization (NATO), the European Union (EU), and regional institutions (like the Council of Europe), which Romania was seeking to join during the 1990s, were major factors influencing intelligence reform. Romania had to "overhaul the intelligence structure and personnel," and create "a legal framework for intelligence and security, as well as the institutionalization of democratic control mechanisms to guide and monitor the intelligence work" if they were to become members of the aforementioned regional institutions.¹⁵⁷

1. Reorganization of the Domestic Intelligence Community

The reorganization of Romania's intelligence community was conducted over two major stages (each stage constituting a ten-year period) consisting of a number of changes that affected all aspects of intelligence. The first stage, considered as the rebuilding stage, laid the foundation for all subsequent changes. During this first ten-year period, four transformations ensued that ultimately allowed the intelligence community to be placed under democratic civilian control—restructuring of the intelligence agencies and adopting new missions; legislative reform to guide intelligence functions and

¹⁵⁶ George Cristian Maior, "Managing Change: The Romanian Intelligence Service in the 21st Century," *International Journal of Intelligence and CounterIntelligence* 25, no. 2 (2012): 220, <https://doi.org/10.1080/08850607.2012.652525>.

¹⁵⁷ Matei and Bruneau, "Intelligence Reform in New Democracies," 604.

activity; new processes for selecting and training the next generation of intelligence personnel; and strengthening of intelligence oversight.¹⁵⁸ These transformations are discussed in the sections of this chapter where they are relevant.

In general, transformations began with the overthrow of the communist government on December 22, 1989. Specific to the domestic intelligence community, transformations began with the dismantling of the Securitate. In accordance with “Decree no. 4/December 24, 1989,” the Securitate was transferred to the Ministry of National Defense where “some structures were dissolved and others temporarily passed under the control of the Ministry of National Defense.”¹⁵⁹ These actions were the first steps in the overall restructuring of intelligence in Romania. Additionally, they were also essential for domestic intelligence reform as it represented an acceptance by the state that the Securitate version of domestic intelligence was unacceptable.

After 1989, Romania’s transition was characterized as undergoing “four distinct phases: 1990–1991, the wake-up period, characterized by uncertainty and insecurity; 1991–1996, first steps toward building new institutions, establishing legal bases, [and] opening processes; 1997–2000, reform and adjustment, [and] NATO summits in Madrid and Washington; and 2001–[2007], ... continuation of reform and anticorruption actions, NATO membership, and the latest developments regarding EU accession in 2007.”¹⁶⁰ A constitution was established, and Romania adopted the Republican form of government, which calls for governance via separation of powers of three branches of government—executive, legislative, and judicial. Finally, “the National Security Law of 1991” was instrumental in bringing into context the agencies and institutions responsible for the security and defense of Romania.¹⁶¹

¹⁵⁸ Sergiu Medar, “Romanian Intelligence Services in the 21st Century,” in *A Mind War: Intelligence, Secret Services and Strategic Knowledge in the 21st Century*, ed. George Cristian Maior (Bucharest, Romania: Editura RAO, 2011), 284–85.

¹⁵⁹ Medar, “Romanian Intelligence Services in the 21st Century,” 285.

¹⁶⁰ Matei, “Romania’s Transition to Democracy and the Role of the Press,” 222; Matei, “Balancing Democratic Civilian Control with Effectiveness of Intelligence in Romania,” 622–30.

¹⁶¹ Matei, 622–30.

Currently, the Romanian intelligence community consists of six agencies divided into “**two national intelligence services**: [1] the Romanian Intelligence Service and [2] the Foreign Intelligence Service; **two departmental intelligence services**: [3] the General Defense Intelligence Department under the Ministry of National Defense and [4] the General Department for Intelligence and Internal Protection under the Ministry of Interior; and **two national security structures**: [5] the Protection and Guard Service and [6] the Special Telecommunications Service.”¹⁶²

2. Legal Reform and Development of the Domestic Intelligence Agencies

This section discusses the legal reformation of three of the above mentioned six intelligence agencies. The three agencies—the Romanian Intelligence Service (SRI), the General Department for Intelligence and Internal Protection (DGIPI), and the Special Telecommunications Service (STS)—all have a predominant internal security mandate or provide a supporting function to the national security architecture.

a. The Romanian Intelligence Service

Of the two national intelligence agencies, SRI has the mandate to “protect democratic values and promote the national interest of Romania and of its allies in order to ensure national security ... and the defense of the rule of law.”¹⁶³ To fill the security intelligence void created after the dissolution of the Securitate, the SRI was established via Decree No. 181 on March 26, 1990, charged with ensuring national security through intelligence gathering.¹⁶⁴ Nevertheless, legislation in support of this decree was only ratified when Law no. 14/1992 “on the organization and functioning” of SRI came into effect on February 24, 1992, defining “the main tasks and responsibilities of the institution.”¹⁶⁵ This law regulates the SRI’s activity, and “scope of action by stipulating

¹⁶² Medar, 287.

¹⁶³ “Mission, Vision and Values,” About Us, Romanian Intelligence Service, accessed October 5, 2017, <https://www.sri.ro/mission-vision-values>.

¹⁶⁴ Elena Dragomir, “The Romanian Secret Services, Politics and the Media: A Structural Overview,” Balkananalysis.com, accessed September 29, 2017, http://www.balkananalysis.com/romania/2011/04/20/the-romanian-secret-services-politics-and-the-media-a-structural-overview/#_edn7.

¹⁶⁵ “Key Historical Moments,” About Us, Romanian Intelligence Service, accessed October 5, 2017, <https://www.sri.ro/key-moments>.

that its task is to organize and carry out activities of collecting, checking, and turning to good account information necessary to the knowledge, prevention, and thwarting of any actions that ... constitute threats against the national security of Romania.”¹⁶⁶

A director, nominated by the President of Romania and confirmed by the parliament, heads the leadership of SRI; the director’s second in command is the first deputy director, and together with three other deputy directors, the four are all nominated by the director and confirmed by the President.¹⁶⁷ Furthermore, the director is a member of the National Defense Supreme Council (CSAT), discussed later, and submits reports to the parliament, periodically or as required, on the functioning and the activities of the service.¹⁶⁸

b. General Department for Intelligence and Internal Protection

The DGIPI was founded in 1999 in response to the failures of the counterintelligence department (UM 0215 created in February 1990 and given legal status later that same year in June) of the Ministry of Interior. Reform and restructuring took place in 1998 resulting in the establishment of DGIPI in 1999; this reform was because of the presence of a number of persons from the Securitate and pressure from the media, NGO, and Western states.¹⁶⁹ Furthermore, “Law Number 40 of 16 January 2002” better specified the mandate of the DGIPI, clearly delineating the service’s roles and responsibilities.”¹⁷⁰

The DIGPI is under parliamentary control, “according to art. 9 par. (2) of the Law no. 51/1991 on the National Security of Romania,” and reports to the Minister of Internal

¹⁶⁶ Medar, 288.

¹⁶⁷ “Leadership,” About Us, Romanian Intelligence Service, accessed October 5, 2017, <https://www.sri.ro/leadership>.

¹⁶⁸ Larry L. Watts, “Control and Oversight of Security Intelligence in Romania,” in *Democratic Control of Intelligence Services: Containing Rogue Elephants*, ed. Hans Born and Marina Caparini (New York: Routledge, 2016), 55–56, 57.

¹⁶⁹ Florina Cristiana Matei, “The Legal Framework for Intelligence in Post-Communist Romania,” *International Journal of Intelligence and CounterIntelligence* 22, no.4 (2009): 670–71, <http://hdl.handle.net/10945/56092>.

¹⁷⁰ Matei, “The Legal Framework for Intelligence in Post-Communist Romania,” 670.

Affairs, who is a member of CSAT.¹⁷¹ As part of the ministry, the DGIPI is “regulated by [the ministry’s] internal rules and regulations.”¹⁷² Its mission is stipulated within the laws regarding the activity of the Ministry of Internal Affairs with its main objective being intelligence collection and assessments of security-related “risks, threats and vulnerabilities” from terrorism and organized crime.¹⁷³ Additionally, the “DGIPI has responsibilities for intelligence gathering, counterintelligence, and preventing and combatting vulnerabilities and risks that could seriously disrupt public order or target Ministry of Internal Affairs assets, staff, missions, decision making, or operations.”¹⁷⁴

c. The Special Telecommunications Service (STS)

Charged with the responsibility for managing the communications capabilities for the public authorities in Romania, the STS conforms to a military structure and is a part of Romania’s national defense.¹⁷⁵ The STS, “created in 1993 by Government Resolution 229 of 27 May,” gained legislative authority via “Law 92 on the Organization and Functioning of the Special Telecommunication Service” in 1996.¹⁷⁶ The service is a provider of “national signals intelligence (SIGINT),” and is tasked with “ensuring the security of the governmental institutions’ voice and data communications.”¹⁷⁷

Based on their mission, the STS offers more of a supporting role to the intelligence community and other governmental institutions. The STS, while not an intelligence agency, offers a service that is vital for secure and effective communications

¹⁷¹ “Legal Framework,” General Directorate for Internal Protection, accessed October 10, 2017, <http://www.dgpi.ro/cadrul-legal>; “Home Page,” General Directorate for Internal Protection, accessed October 10, 2017, <http://www.dgpi.ro/>.

¹⁷² Medar, 288.

¹⁷³ Medar; “Objectives and Priorities,” General Directorate for Internal Protection, accessed October 10, 2017, <http://www.dgpi.ro/objective-si-prioritati>; Matei, “Romania’s Intelligence Community,” 634.

¹⁷⁴ “Romania 2017 Human Rights Report,” U. S. Department of State, Bureau of Democracy, Human Rights and Labor, accessed December 6, 2018, 5, <https://www.state.gov/documents/organization/277453.pdf>.

¹⁷⁵ “Mission, Vision and Values,” The Special Telecommunications Service, accessed December 7, 2018, <https://www.stsnet.ro/ro/misiune-viziune-si-valori>; “Organizational Chart,” The Special Telecommunications Service, accessed December 7, 2018, <https://www.stsnet.ro/ro/organigrama>.

¹⁷⁶ Matei, “The Legal Framework for Intelligence in Post-Communist Romania,” 670.

¹⁷⁷ Matei; Medar, 288.

across and among the internal and external intelligence community.¹⁷⁸ Furthermore, unlike the intelligence agencies, the service “has never had covert intelligence gathering responsibilities.”¹⁷⁹ While the STS employs civilians, its leadership and other members are military personnel and are guided by military regulations, in addition to the National Security Law. The director, usually of general rank, reports to the CSAT and is required to report annually on the functioning and activities of the service.¹⁸⁰

C. DEMOCRATIC CONTROL AND OVERSIGHT OF THE INTELLIGENCE COMMUNITY

This section discusses the institutions and bodies that are charged with controlling and providing oversight of Romania’s intelligence agencies. It closes with a discussion of the agencies’ professional norms, which help to improve transparency and effectiveness.

1. Institutions of Control

The institutions that control intelligence in Romania originated at both the governmental and parliamentary levels. After the fall of the Ceausescu regime, CSAT (mentioned earlier) was restructured “in December 1990 ... [via] Law 39/1990.”¹⁸¹ CSAT is responsible for coordination of defense and national security within Romania, including the intelligence agencies. CSAT, revised via Law no. 415/2002, is the primary institution controlling the overall coordination and management of national security and defense in Romania.¹⁸² CSAT also coordinates and controls the activities of four of Romania’s intelligence agencies (SRI, SIE, STS, and SPP).¹⁸³ Additionally, two of CSAT’s members have responsibility for the remaining two intelligence agencies—

¹⁷⁸ The Special Telecommunications Service, “Mission, Vision and Values.”

¹⁷⁹ Watts, 48.

¹⁸⁰ The Special Telecommunications Service, “Mission, Vision and Values”; “Lead,” The Special Telecommunications Service, accessed December 7, 2018, <https://www.stsnet.ro/ro/conducere>.

¹⁸¹ Sever Voinescu and Constantin Dudu Ionescu, “The Supreme Council of National Defense: The Main Instrument of Decision Making of Romanian Security Policy,” in *The National Security Council in the Decision-Making Process: Comparative Analysis: Republic of Moldova, Romania and Ukraine*, ed. Gheorghe Erizanu (Bucharest: Cartier, 2006), 127.

¹⁸² Voinescu and Ionescu, “The Supreme Council of National Defense,” 129.

¹⁸³ Watts, 55.

Directorate for General Information of the Armed Forces (DGIA), not described above, and DGIPI. The President of Romania chairs CSAT, with the Prime Minister being the vice chair. The remaining members include the Ministers of Defense (responsible for DGIA), Interior (responsible for DGIPI), Finance, Foreign Affairs, Economy, the Directors of SRI and SIE, the President's National Security Advisor, and the Chief of General Staff.¹⁸⁴ Such a broad representation is indicative of a major function that CSAT has, which involves integrating "all information [from] ... the intelligence agencies and other national security institutions" to provide a coordinated response to the activities of the security sector.¹⁸⁵ In this regard, CSAT also has a responsibility for reviewing and developing policies that deal with military and national security strategies.¹⁸⁶

The parliament is also a key institution that controls the intelligence agencies in Romania. The parliament has various committees established for the sole purpose of reviewing (discussed in Oversight) and controlling how the intelligence agencies function. This they do via numerous means. First, the parliament sets the mandate of the intelligence agencies, from which their main objectives and missions are derived. Second, the parliament has the authority to create or amend the legal framework that stipulates the structure and modus operandi of the intelligence agencies; the parliament has budgetary control, and can dictate the intelligence agencies budget as well as how that budget is expended based on agency forecasted expenditure. Finally, the parliament is the final authority for approving the Directors of SRI and SIE.¹⁸⁷

In addition to the aforementioned controlling mechanisms, the Ministry of Public Finance and the Court of Accounts (also known as the Court of Audit) exercises financial

¹⁸⁴ "Composition of the CSAT," Supreme Defense Council of the Country, accessed December 7, 2018, <http://csat.presidency.ro/ro/prima-pagina/componenta-csat>; Voinescu and Ionescu, 131–32.

¹⁸⁵ Thomas C. Bruneau, Florina Cristiana Matei, and Sak Sakoda, "National Security Councils: Their Potential Functions in Democratic Civil-Military Relations," *Defense & Security Analysis* 25, no. 3 (2009): 262, <http://dx.doi.org/10.1080/14751790903201406>.

¹⁸⁶ Bruneau, Matei, and Sakoda, "National Security Councils."

¹⁸⁷ Matei, "Legal Framework for Intelligence in Post-Communist Romania," 685; Valentin Filip, "Concordia Discors: The Dilemmas of Legislative Intelligence Relations within a Democratic Society," in *A Mind War: Intelligence, Secret Services and Strategic Knowledge in the 21st Century*, ed. George Cristian Maior (Bucharest, Romania: Editura RAO, 2011), 345; Medar, "Romanian Intelligence Services in the 21st Century," 290.

oversight and control over all of the intelligence agencies through routine auditing.¹⁸⁸ The ministry also “exercises a delegated preemptive financial verification power, and clears and authorizes the legality of some collection activities.”¹⁸⁹ Specifically in the case of SRI, the Ministry of Finance and the Court of Audit, along with the Committee for Parliamentary Oversight for SRI Activity, have the authority to audit SRI’s budgetary expenditure to ensure its expenditure is in keeping with the law.¹⁹⁰ As the *Report on the Romanian Intelligence Service in 2012* notes, SRI routinely develops “reports and standard national evaluations ... in order to give a transparent, correct, and applied presentation of the Service[’s] economic and financial activity” to the authorities so that their expenditure could be reviewed.¹⁹¹

As it pertains to internal controls, SRI’s Legal Department is responsible for ensuring that all the agency’s activities are conducted in accordance with the law. When SRI is required to breach the laws regarding a person’s or persons’ “fundamental civil rights and freedoms,” the legal department must convince the appropriate authority and seek court ordered permissions.¹⁹² Furthermore, the legal department is required to assist “judicial bodies” with any investigations these judicial bodies may be conducting relating to SRI activities, and represent the agency in court proceedings relating to “common law cases.”¹⁹³

2. Oversight

Regarding oversight in Romania, this function formally resides in the legislative and judicial branches of government. Additionally, civil society and the media also play an important role in keeping the public informed. This public awareness allows citizens

¹⁸⁸ “Democratic Oversight,” About Us, Romanian Intelligence Service, accessed May 25, 2018, <https://www.sri.ro/democratic-oversight>.

¹⁸⁹ Matei, “Romania’s Intelligence Community,” 636.

¹⁹⁰ Romanian Intelligence Service, “Democratic Oversight.”

¹⁹¹ The Romanian Intelligence Service, *Report on the Activity of the Romanian Intelligence Service in 2012*, 35, https://www.sri.ro/assets/files/reports/2012/REPORT_on_the_Activity_of_the_Romanian_Intelligence_Service_in_2012.pdf.

¹⁹² The Romanian Intelligence Service.

¹⁹³ The Romanian Intelligence Service.

to scrutinize the intelligence agencies and places pressure on the state to review continually the intrusive powers of the intelligence community.

a. Parliamentary

Parliamentary oversight is enshrined in the Romanian constitution. It also forms a vital part of the laws and regulations that govern national security, intelligence, and the institutions entrusted with such responsibilities. Regarding the entire intelligence community, oversight is the purview of permanent standing committees of the Chamber and the Senate. Select committees, composed of members of the two chambers of parliament, have oversight of the independent agencies. The directors general of the ministerial agencies are accountable to their respective ministers who are overseen by the permanent standing committees of the parliament.¹⁹⁴

The committees have wide ranging and far reaching authority. Regarding the permanent committees, their responsibilities include: “initiating and amending laws related to public order, national defense, and security; approval of the budget and monitoring the way the funds are spent; requesting periodical or ad hoc reports from the intelligence agencies; appointing and/or revoking state authorities, including heads of the intelligence services; information and documentation visits at the intelligence agencies; along with legislative motions, investigations and hearings.”¹⁹⁵

Some of the key responsibilities of the committee responsible for the independent agencies include: verification of the “constitutional and legal compliance of SRI [and SIE] activity”; investigations of citizens’ reports on civil rights abuses during agencies’ intelligence gathering; holding “hearings on presidential nominees for director positions”; investigation and resolution of legitimate “violations by the SRI” and SIE; and monitoring of the way the agencies utilize their budgetary allocations.¹⁹⁶ Furthermore, the committee has the authority to interview senior officers of the independent agencies,

¹⁹⁴ Matei, “Legal Framework for Intelligence in Post-Communist Romania,” 685; Watts, 56–57.

¹⁹⁵ The Committees of the Senate and Deputies Chambers include Committees for Defense, Public Order, and National Security; members of these committees are elected at the commencement of every legislative session. See Matei, “Romania’s Intelligence Community,” 636.

¹⁹⁶ Watts, 57–58

including the directors, when conducting examinations into any situation. If required, the committee can request data, reports, files, or any document it requires while conducting reviews; and members of the committee can show up, without warning, to any of the independent agencies' offices to conduct inspections, which must be facilitated.¹⁹⁷

One of the most effective controls the parliament has over the intelligence community is through the power of fiscal oversight and committee investigative authority. As Matei notes, there are many ways to control the intelligence agencies via their budgets:

first, the Parliament's permanent committees exercise their power through approval of the budget of the security institutions and the annual adoption/revision of the Law on State Budget on the allocations to the security institutions. Second, the special committees have the right to assess the draft budgetary allocations for the intelligence agencies and submit their reviews to the Parliament. Third, the government is required to report before the Parliament once a year on its activity, usually during the drafting of the following year's allocations. Fourth, the Court of Audits, an independent body with budgetary attributions that functions in support of the Parliament, has control powers over the administration and use of the financial resources of the state and of the public sector, as well as over the management of the public and private patrimony of the state and of the territorial administrative units.¹⁹⁸

Additionally, when the committees conduct investigations and subsequently submit their reports to the parliament, debate and discussion has the effect of amending or instituting new legislation to treat with issues relating to the control, oversight, or transparency of the agencies.¹⁹⁹

Although not a part of Parliament, the office of the Ombudsman, as catered for in the Romanian Constitution, is established "to defend citizens' rights and freedoms, *ex officio*... upon request by individuals aggrieved in their rights by governmental action or inaction"; thus, the Ombudsman is charged with some of the authorities of the

¹⁹⁷ Watts; Matei, "Legal Framework for Intelligence in Post-Communist Romania," 685; Matei, "Romania's Intelligence Community," 636–37.

¹⁹⁸ Matei, 637.

¹⁹⁹ Matei.

parliamentary committees.²⁰⁰ Additionally, the amending of the Constitution in October 2003 gave the Ombudsman added authority to review and critique legislation before it is enacted. The Ombudsman has the authority to investigate matters brought to the office, and he/she can comment, report, and recommend to the parliament on matters of the rights and liberties of citizens.²⁰¹

b. Judiciary

As it pertains to judicial oversight, judges and prosecutors are required to consider and sign applications for warrants that will allow agencies to infringe, legally, on persons' rights and liberties once suspected of breaches of national security. Such warrants must stipulate specifically the name or names of persons involved, the type of intrusion required (i.e., surveillance, electronic monitoring, searches, or seizures), the agency authorized to conduct the operation, the duration, and what boundaries they are confined within. Warrants, usually granted for a period of six months, can be repeatedly extended, with valid reason, for additional three-month periods. Statistics have shown, however, that the majority of applications are rarely denied. Furthermore, until 2005 only prosecutors granted warrants. Thereafter, this responsibility was given to judges. Notwithstanding the change of responsibility in 2005, prosecutors can still grant approvals when judges are not on duty during the weekends and for periods not in excess of 48 hours.²⁰²

Despite all that has been mentioned thus far, judicial oversight and supervision in Romania is characterized as weak, which has resulted in a poor legal framework fraught with corruption and allegations of corruption.²⁰³ That being said, there have been attempts to address these shortcomings as the judiciary has, in conjunction with SRI for example, actively sought to investigate and punish intelligence officers who overstep the

²⁰⁰ Matei, 642.

²⁰¹ Matei.

²⁰² Nerses Isajanyan, "Foreign Intelligence Gathering Laws: Romania," The Law Library of Congress, Library of Congress, last updated September 27, 2016, <https://www.loc.gov/law/help/intelligence-activities/romania.php#Judicial>; Watts, 59.

²⁰³ Matei, "Legal Framework for Intelligence in Post-Communist Romania," 685.

boundaries stipulated by the law. Furthermore, active monitoring of the intelligence agencies by the judicial branch has improved.²⁰⁴ As a further indicator of the improvement of the judicial mechanisms, assessments by Freedom House in 2010 rated Romania's judicial framework and independence at 4.00, which when compared against the period 2012–2018 shows a consistent rating of 3.75 as it pertains to the judicial framework and independence.²⁰⁵

c. Civil Society and the Media

Civil society and the media have been robust in ensuring an informal level of oversight in Romania and keeping the internal security agencies in check. By exposing wrong doings and placing pressure on the government, national and international NGO have proven to be important players in holding intelligence agencies accountable for both legal and illegal intrusions of civil liberties.²⁰⁶ One such organization is the National Council for Studying Securitate Archives (CNSAS) established in 2000. After 2005, CNSAS “started examining the past connections of prominent public figures” that held, were holding, or carded to hold public offices in an attempt to determine if such persons were members of or had any links to the Securitate.²⁰⁷

Other institutions that keep intelligence agencies in check are the Office of the Ombudsman (mentioned earlier) and international bodies such as the European Court of Human Rights (ECHR).²⁰⁸ Along with the ECHR, Romania's media has been instrumental in this aspect of informal oversight. With the enactment of the Freedom of Information Act (FOIA) in 2001, the media generally plays a very important role in

²⁰⁴ Matei, “Legal Framework for Intelligence in Post-Communist Romania,” 685; Matei, “Romania's Intelligence Community,” 638–39.

²⁰⁵ It should be noted that Freedom House ratings are on a scale of 1–7, with 1 representing the highest level of democratic progress and 7 the lowest. See “Romania Country Profile,” Nations in Transit 2017, Freedom House, accessed May 17, 2018, <https://freedomhouse.org/report/nations-transit/2018/romania>.

²⁰⁶ Matei.

²⁰⁷ “Secret Police Row Grips Romania,” *BBC News*, August 17, 2006, <http://news.bbc.co.uk/2/hi/europe/5259450.stm>; Matei, 641.

²⁰⁸ For more on the ECHR, see the chapter by Iain Cameron, “Oversight of Intelligence Agencies: The European Dimension,” in *Global Intelligence Oversight: Governing Security in the Twenty-First Century* ed. Zackary K. Goldman and Samuel J. Rascoff (New York: Oxford University Press, 2016), 71–94.

exposing and initiating investigations of wrong doings and questionable activities by the internal security agencies.²⁰⁹ Notwithstanding the critical role the media plays in forcing inquiries and investigations at parliamentary committees and intelligence agencies, respectively, there were instances where the media showed bias. In some instances it was found that past members of the Securitate infiltrated the media industry after the revolution; further, “low levels of professionalization ... [and] the predominance of economic interests” were also factors affecting verified, impartial, and truthful reporting by some media practitioners.²¹⁰ As recently as 2016, the press was instrumental in exposing instances of corruption and inconsistencies in the internal security arena. There is still, however, a lack of trust in the Romanian media as instances of political interference and economic gain continue to influence the veracity and content of the news.²¹¹

3. Professional Norms

Across the intelligence community, professional norms in Romania have improved. There have been increases in agency transparency and accessibility, features that were not seen under the communist regime and within the early to mid-1990s, early in the democratic transition. All six intelligence agencies provide an avenue in some form for citizens to interact with or seek information from them. The most common feature observed is that agencies, in keeping with technological advances, have developed more user-friendly websites that provide a significant amount of information as it relates to the historical aspects of the agencies, their roles and responsibilities, and on the laws that govern the respective agencies. Furthermore, the agencies have actively sought to educate

²⁰⁹ Matei, “Balancing Democratic Civilian Control with Effectiveness of Intelligence in Romania,” 625; Matei, “Legal Framework for Intelligence in Post-Communist Romania,” 685.

²¹⁰ For an example of erroneous and impartial media reporting Watts discusses the ‘Timofte-KGB affair’ that highlights the media’s involvement in perpetuating a so called link between Radu Timofte (a nominee for Director of the SRI) and the KGB back in 2000. Watts, “Control and Oversight of Security Intelligence in Romania,” 60–62.

²¹¹ Raluca Radu, “Digital News Report 2017: Romania,” Reuters Institute and University of Oxford, accessed March 14, 2018, <http://www.digitalnewsreport.org/survey/2017/romania-2017/>.

the public on the business of intelligence, and improve public awareness of the overall security culture within Romania.²¹²

The introduction of defense and intelligence institutions of learning allowed a new era of intelligence officers trained and specialized in traditional and technical areas of the intelligence profession. While some of the old operatives were unwilling to prepare the new generation for the evolving security environment, others were facilitators of change. They were instrumental in using their experience to help inform the new intelligence structures and in grooming young candidates from various fields, other than intelligence, in order to achieve a mix of technical and tactical competency.²¹³ Agencies have also developed into “professional institutions based on expertise, responsibility,” and their levels of interagency cooperation.²¹⁴ Furthermore, professional training and education has become a routine part of intelligence agencies and national security organizations, which is accessible at the agency level, national level, or through international partnerships with other agencies of NATO or EU members.²¹⁵ Finally, reforms have given rise to new and amended statutes that ensure a level playing field and continued professional development for all members of staff in the intelligence agencies. A perusal of the SRI’s website gives a clear picture of the professional and educational training opportunities that have been accessible to SRI leadership over the years.²¹⁶

D. INCREASING EFFECTIVENESS AND PROFESSIONALISM OF THE INTELLIGENCE COMMUNITY

Laying the foundation through agency reorganization and reform of the legal framework that guides intelligence was a priority for Romania; in the early stages of development much emphasis was given to this particular area. Nonetheless, Romania also made improvements to the effectiveness and professionalism of its intelligence agencies. The state adopted a variety of measures that were instrumental in making the intelligence

²¹² Matei, 627.

²¹³ Medar, 289.

²¹⁴ Matei, 634.

²¹⁵ Matei, 631–34.

²¹⁶ Romanian Intelligence Service, “Leadership.”

agencies more effective at carrying out their new roles and missions. The effectiveness of Romania's intelligence community is best analyzed by examining the plans that were developed for the agencies, the institutions developed to both formulate and implement the plans, and the allocation of the resources required for successful implementation.

1. Plans

During the period of 1996 to 2004, based on the government's drive to enter into regional partnerships, Romania instituted several reforms that were critical for acceptance as part of NATO. Such reforms improved overall effectiveness and operational security as agencies had to improve their "vetting process and granting [of] security clearances."²¹⁷ Furthermore, it was necessary to consolidate "the professionalization of intelligence [by] ... developing legislation and a system for protecting classified information and modernization of equipment, especially regarding military and technical equipment."²¹⁸ Such legislation affected systems and procedures in all the intelligence agencies.

Other planning considerations focused on intelligence, security, and defense included "a National Doctrine on Security Intelligence" and "a White Book on Security and Defense," which were adopted and developed, respectively, in 2004.²¹⁹ A "National Security Strategy in 2005" and "a Defense Strategy in 2008" offered institutional reprioritization and new tasks for the intelligence community, thus ensuring that agencies continue to be relevant and adapt to the evolving security environment.²²⁰

NATO and EU requirements together with government planning considerations meant that the intelligence agencies were affected in different ways. The plans and strategies being developed by the institutions of the state required adoption and implementation in different ways depending on the agency and their *raison d'être*.²²¹ For

²¹⁷ Matei, 625.

²¹⁸ Matei.

²¹⁹ Matei, 627.

²²⁰ Matei.

²²¹ Matei, "Romania's Intelligence Community," 647.

example, in 2003 STS was mandated to administrate the EU 112 system utilized for receipt and dissemination of emergency calls as part of Romania's accession to the EU. Additionally, the intelligence community had to undergo "implementation of Chapter 24 provisions ["of the National Program of Accession to the European Union"] on justice and home affairs," and the SRI and DGIPI collaborated in 2007 in a joint effort to implement these EU requirements.²²² Finally, SRI was given the responsibility by CSAT to be the lead agency in the fight against terrorism as part of Romania's strategic level planning. In 2002, SRI was responsible for developing the National Strategy for Preventing and Combatting Terrorism. As a direct result of this strategy, a national system for preventing and fighting terrorism was created in 2004.²²³

2. Institutions

Implementing the plans came about by developing institutions that focused on training and education, which assisted in professionalization of agencies, but also by institutions geared toward efficient use of the agencies and use of a more coordinated approach. So, in addition to CSAT (discussed earlier), effectiveness was initiated through continual training and education evident by the establishment of the National Defense College in 1992, which exposed both military and civilians to defense and security related education. Such an initiative was critical as it allowed the training of civilians who would eventually become responsible for managing or overseeing the business of intelligence alongside their military counterparts.²²⁴ Additionally, a National Intelligence Academy (ANI) was established, also in 1992, to provide formalized training and education (along with other institutions) in "specific intelligence issues, foreign languages/cultures, legal matters, [and] ... technical skills."²²⁵

²²² "112 In Romania," What is 112, Single National Emergency Call System, <http://www.112.ro/index.php?pag=4>; Matei, 648.

²²³ Matei.

²²⁴ Matei, "Balancing Democratic Civilian Control with Effectiveness of Intelligence in Romania," 623–24.

²²⁵ Matei.

In this regard, effectiveness was further bolstered by the creation of the National Intelligence Community (CNI) in 2005 that serves as the main hub for coordination among Romania's six intelligence agencies. CNI utilizes the capabilities and specialization of each intelligence agency to provide customized analysis for specific consumers from a centralized operational level institution.²²⁶ As Matei notes, although there were some issues of sharing and cooperation, CNI fosters an increase in "intelligence agencies' effectiveness and professionalism by eliminating parallelisms and waste of human and material resources, and generates a functional intelligence partnership with the agencies preserving their specific roles and missions, while enjoying better coordination of their strategic activities based on professional rather than unfair competition."²²⁷

3. Resources

Romania allocates resources to bolster its intelligence effectiveness through the political will of the government, its commitment to purchasing new and improved equipment and technologies, and the continued investment in intelligence training and intelligence institutions of learning. Repeatedly throughout Romania's transitional period, the state has shown its commitment to using its domestic and foreign political will to enhance the intelligence agencies' effectiveness. During the first decade of the 2000s, Romania fostered international support and partnerships, made consistent revisions and amendments to the laws that govern intelligence and national defense, and set the framework, through CSAT, in creating the environment necessary for interagency cooperation and collaboration.²²⁸ Such strides would be difficult if the political directorate were not a significant enabler.

Monetary resources were allocated to improving old equipment and purchasing new ones, and modernizing of intelligence agencies' technical and collection systems,

²²⁶ Matei, 627, 628.

²²⁷ Matei, 628.

²²⁸ For a more detailed look at the how the combination of resources—political will, money, and training/education—were allocated to intelligence agencies see Matei, "Romania's Intelligence Community," 643–50; Matei and Bruneau, "Intelligence Reform in New Democracies," 617, 619, 623.

i.e., “HUMINT, SIGINT, IMINT, and ... [more recently] CYBERINT capabilities.”²²⁹ Furthermore, resources focused on training and education saw the creation and implementation of intelligence and defense institutions of learning. Resources were also utilized to foster continuous professional training of intelligence staff, operators, and analysts both locally and with international partners within NATO and the EU.²³⁰

E. CONCLUSION

This chapter looked at Romania’s transition from communism to democracy from an intelligence perspective, focusing on what was required to ensure civilian control and oversight while improving on the effectiveness of intelligence. A quick review of intelligence under communism and the Securitate was first. This was followed by a review of the various intelligence reforms and creation of legal frameworks required to guide (even to this day) the process of aligning intelligence with the principles of democracy. Ultimately, Romania has managed to improve intelligence effectiveness by ensuring its strategies were based on the current and evolving security environment. Their assessment resulted in the allocation of the necessary number and type of resources needed to establish the systems and structures relevant to the threats faced. Furthermore, while there are still challenges, Romania has consistently utilized various mechanisms—civil society and media; parliamentary oversight; and executive, parliamentary, and judicial control—to strive for the balance of transparency and effectiveness. This balance is always being reviewed to keep abreast of the evolving security environment in line with the tenets of democracy.

²²⁹ Matei, “Romania’s Intelligence Community,” 646.

²³⁰ Matei and Bruneau, “Intelligence Reform in New Democracies,” 617, 619, 623; Matei, “Romania’s Intelligence Community,” 644–45.

IV. UNITED KINGDOM

This chapter maps the development of domestic intelligence in the United Kingdom (UK) from the end of World War II and the beginning of the Cold War to the present. Similar to the previous chapter, this chapter focuses on agencies that have a predominant internal security mandate as well as agencies that lend support in that regard. Additionally, unlike Romania, which is considered a transitioning democracy, the UK is a consolidated democracy and has long-standing, well-developed intelligence structures. Unique to the UK's instance, however, is the delayed public acknowledgement and legislation of its intelligence agencies, which only came after the Cold War.

A. DOMESTIC INTELLIGENCE POST WORLD WAR II

At the end of World War II, the UK's intelligence community had been well established having been operational since October 1909. Nonetheless, even before the conclusion of World War II, the UK's intelligence apparatus commenced an introspective review with the main question being how the intelligence community should be reconfigured to respond to the threats of the future.²³¹

During this period of the UK's intelligence history (the end of World War II) the Security Service (SS/MI5), the Secret Intelligence Service (SIS/MI6), Government Communications Headquarters (GCHQ), and the Joint Intelligence Committee (JIC) were all in existence for at least nine years in one instance and as many as 36 years in another. The Security Service Bureau, established in July 1909, along with the Home and Foreign Sections became MI5 and MI6, respectively. GCHQ had its roots in Room 40 of the Admiralty and the intelligence section MI1b of the War Office, which together successfully broke German codes in 1914 during World War I. Finally, the JIC—originally the Joint Intelligence Sub-Committee as it was a sub-committee of the Chiefs of Staff Committee—held its first meeting in 1936 with seven members. Its mission, as it

²³¹ Christopher Andrew, "The Establishment of the Secret Service Bureau," *Who We Are*, Security Service (MI5), accessed April 12, 2018, <https://www.mi5.gov.uk/the-establishment-of-the-secret-service-bureau>; Michael Goodman, *The Official History of the Joint Intelligence Committee Volume I: From the Approach of the Second World War to the Suez Crisis* (New York: Routledge, 2014), 225; Clutterbuck, "The United Kingdom," 118.

was then, continues to be the provision of the best possible intelligence assessment to the UK's policymakers and the military utilizing the intelligence gathered from the three aforementioned agencies.²³²

With the conclusion of World War II, MI5's focus shifted toward counterespionage focused on the Soviet Bloc and other communist or emerging communist states. At home, the agency also handled counter-subversion related to British communist-based groups and organizations, and counterterrorism efforts. Locally, these counterterrorist efforts were directed against Zionist movements, the Irish Republican Army (IRA) and Loyalist groups of Northern Ireland, and the Angry Brigade; internationally, counterterrorism focused on terror groups predominantly from the Middle East region.²³³

GCHQ began intensifying its intercepts and decryption of Soviet communications alongside its U.S. allies, which ultimately resulted in the creation of a cryptanalytic unit within GCHQ. Alongside GCHQ, MI6 (and, mostly, the JIC) found that penetrating the Soviet Union's seemingly impenetrable wall of security was becoming a herculean task. As such, the JIC continued advocating for increases in human and material resources, and for permission to gather intelligence from within the Soviet Union—at this point in the late 1940s and 1950s the gathering of Soviet intelligence by MI6 was only allowed from outside the Soviet Union.²³⁴ In this regard, the UK's domestic intelligence agencies began adopting new missions tailored to the evolving security environment.

²³² "Our History," Secret Intelligence Service (MI6), accessed April 12 2018, <https://www.sis.gov.uk/our-history.html>; "The Story of Signals Intelligence 1914-2014," GCHQ, last updated May 20, 2016, <https://www.gchq.gov.uk/features/story-signals-intelligence-1914-2014>; Goodman, *The Official History of the Joint Intelligence Committee*, 11.

²³³ Andrew, "The British Empire and Commonwealth," Who We Are, Security Service (MI5), accessed April 12, 2018, <https://www.mi5.gov.uk/the-british-empire-and-commonwealth>; Andrew, "The Later Cold War," Who We Are, Security Service (MI5), accessed April 12, 2018, <https://www.mi5.gov.uk/the-later-cold-war>; Andrew, "The Threat of Subversion," Who We Are, Security Service (MI5), accessed April 12, 2018, <https://www.mi5.gov.uk/the-threat-of-subversion>; Clutterbuck, 120.

²³⁴ "Series Reference HW 15," The National Archives Website, accessed April 13, 2018, <http://webarchive.nationalarchives.gov.uk/20120703195908/https://www.nationalarchives.gov.uk/catalogue/displaycataloguedetails.asp?CATID=7985&CATLN=3&FullDetails=True>; Goodman, 250–54.

B. DOMESTIC INTELLIGENCE IN THE POST-COLD WAR ERA

During the later stages of the Cold War, the UK's sole domestic intelligence agency became less involved with the issue of communism. The Security Service became more involved with the terrorists' efforts at home perpetuated by both loyalist and republican movements of Northern Ireland and other local agents of terror displaying subversive tendencies. Additionally, increasing international terrorist threats required that MI5 work closer with other agencies to counter those threats more effectively. At home, this translated into a closer relationship with the police forces throughout the UK—specifically with the police's Special Branch, which at that time was responsible for domestic terrorism. Internationally, cooperative efforts meant closer relationships with the SIS and GCHQ as they were responsible for intelligence gathering outside the UK and intelligence gathering through various means of communications, respectively.²³⁵

In Northern Ireland and London, the Royal Ulster Constabulary's Special Branch and the Special Branch of the Metropolitan Police, respectively, together with the Special Branches of the other police forces of the UK had sole responsibility for intelligence collection and prosecuting of domestic terrorism. Transitioning to the end of the Cold War and the post-Cold War era, intelligence efforts within the UK saw MI5 become solely responsible for the intelligence collection portion of this equation. This change in responsibility became statutory in nature with the passing of the Security Service Act 1989—the first legislation that gave specific legal authorities and powers to the Security Service.²³⁶

1. Reorganization of the Domestic Intelligence Community

Thus far, this chapter has discussed the intelligence picture within the UK from a broad perspective. From this point forward, the discussions highlight issues that deal with intelligence from the domestic standpoint, including consideration of other institutions involved, when necessary. In this regard, the JIC has been a critical aspect of the UK's intelligence machinery for a number of decades. As mentioned earlier, the JIC had

²³⁵ Clutterbuck, 120–21.

²³⁶ Clutterbuck, 120.

minimal changes in its role and function within the intelligence community. The committee, as it did in the past, continues to utilize the intelligence fed to it by the intelligence agencies, but it also functions as:

the British government's "main instrument for advising on priorities for intelligence gathering and for assessing its results." Part of the Cabinet Office and composed of senior officials from the [intelligence] agencies, the JIC provides ministers and other high-level officials with "regular intelligence assessments on a range of issues of immediate and long-term importance to national interests," including terrorism. The service, [MI5] ... in conjunction with SIS and GCHQ, also develops more-specific terrorist threat assessments that are distributed to "customers," such as the Ministry of Defence or UK diplomatic missions abroad.²³⁷

Furthermore, the JIC generates national reports used by policymakers and security practitioners in generating security-related risk assessments that benefit all stakeholders involved in national security and other areas of concern, such as critical infrastructures.²³⁸ One of the main reasons the JIC has seen minimal changes in the way it manages the intelligence machinery has to do with its coordinated approach and resistance to operating in silos. Coordination, not competition, is the main characteristic of the committee as it seeks to "drive for consensus, and the view that intelligence is valuable to all facets of national business," especially when the JIC can be viewed as the operational director of the UK's "information-gathering and early-warning arm[s]."²³⁹

The UK has been facing terrorism much longer than most of the other Western democracies. The IRA and its Provisional (PIRA) offshoot have been targeting Northern Ireland and England far longer than Al Qaeda, ISIS, or any other extremist organization that states are faced with today. Intelligence, in this regard, has always been a necessity in combating the threats posed by the UK's traditional homegrown antagonists. The police, via the Special Branch, have traditionally been the lead in this arena, but the MI5 took

²³⁷ Chalk and Rosenau, 10–11.

²³⁸ David Omand and Mark Phythian, "Ethics and Intelligence: A Debate," *International Journal of Intelligence and CounterIntelligence* 26, no. 1 (2013), 40, <https://doi.org/10.1080/08850607.2012.705186>.

²³⁹ Huw Dylan and Michael S Goodman, "British Intelligence," *The Intelligence: Journal of U.S. Intelligence Studies* 25 no. 2 (2015): 36, <https://www.afio.com/publications/DYLAN%20GOODMAN%20Guide%20to%20British%20Intelligence%202015%20Sep%2001%20FINAL.pdf>; Omand and Phythian, "Ethics and Intelligence: A Debate," 40.

this mandate onboard in the period leading up to and after the Cold War. This change in responsibility, along with legal reforms (discussed later), saw MI5 coming into its own regarding combating of terrorism and has been a catalyst in its development and specialization of countering extremism, religious or otherwise. The service took on a more focused anti-terrorism role but still maintained its capabilities, although somewhat diminished, regarding countering espionage and subversion.²⁴⁰

2. Legal Reform and Development of the Domestic Intelligence Agencies

This section discusses the legal reformation and development of the UK's domestic intelligence agencies. Although the GCHQ works more intimately with the SIS, the agency also conducts missions internally and at times work in conjunction with MI5. It is necessary, therefore, to consider the roles these two agencies perform as part of the national security architecture.

a. The Security Service (MI5)

The MI5 is responsible for intelligence gathering on domestic and foreign threats that affect the UK homeland. The service resides under the UK's Home Office, and as such, the service is accountable to the Home Secretary and led by a director general. Although the existence of MI5 dates back to over a century, statutory authority (and acknowledgement) only came with the passage of the Security Service Act (1989). This legislation gave MI5 a specific mission and defined its predominantly inward focus as part of the UK's intelligence machinery.²⁴¹ The Security Service's overarching mandate, as defined in the act, is

the protection of national security and, in particular, its protection against threats from espionage, terrorism, and sabotage, from the activities of

²⁴⁰ For more details regarding the historical countries/groups and the terrorist threats that they posed to the UK, see Chalk and Rosenau, 7–8. See also “What We Do,” Security Service (MI5), accessed April 12, 2018, <https://www.mi5.gov.uk/what-we-do>, for a closer look at the roles of MI5.

²⁴¹ Ian Leigh, “Intelligence and the Law in the United Kingdom,” in *The Oxford Handbook of National Security Intelligence*, ed. Loch K. Johnson (New York: Oxford University Press, 2010), 640–41; Dylan and Goodman, “British Intelligence,” 37; Mark Phythian, “‘A Very British Institution’: The Intelligence and Security Committee and Intelligence Accountability in the United Kingdom,” in *The Oxford Handbook of National Security Intelligence*, ed. Loch K. Johnson (New York: Oxford University Press, 2010), 700.

agents of foreign powers and from actions intended to overthrow or undermine parliamentary democracy by political, industrial, or violent means. It shall also be the function of the Service to safeguard the economic well-being of the UK against threats posed by the actions or intentions of persons outside the UK.²⁴²

As it stands currently, MI5—guided by the UK’s 2010 National Security Strategy—is mainly involved in two broad areas: national security and protective security. In the area of national security, MI5 directs its efforts to countering terrorism, espionage, cyberspace threats, and weapons of mass destruction proliferation.²⁴³ Under protective security, the service is concerned with safeguarding the crucial areas of the UK’s national infrastructure from threats that may prove damaging to the UK’s economy and way of life if compromised.²⁴⁴

In 1994, the passage of the Intelligence Services Act (ISA) brought statutory authority for the SIS and GCHQ. Furthermore, it also addressed an important omission in the Security Service Act via the Intelligence and Security Committee (ISC), which brought all three agencies under parliamentary scrutiny (in the section on oversight the ISC is discussed in more detail). In 2000, the Regulation of Investigatory Powers Act (RIPA), and its amendments to both the Security Service Act and the Intelligence Services Act, brought the UK more closely aligned with European legislation regarding advanced technologies, communication, and human rights.²⁴⁵ The most recent legislation is the Investigatory Powers Act 2016, which is discussed further in the section on oversight.

²⁴² Clutterbuck, 122.

²⁴³ Security Service (MI5), “What We Do.”

²⁴⁴ Security Service (MI5). In the areas of counterterrorism and national infrastructure protection, the service has subordinated to it the Joint Terrorism Analysis Centre (JTAC) and the Centre for the Protection of National Infrastructure (CPNI), respectively, which answer to the Director General of MI5. The JTAC was launched in 2003 and is responsible for assessing and analyzing intelligence specific to international terrorism that affects domestic and overseas interests. The CPNI works with the national infrastructure community to ensure their protection and resiliency from terrorists and other threats by providing expert advice gleaned from intelligence on these threats. For more details, see “Joint Terrorism Analysis Centre,” Security Service (MI5), accessed April 12, 2018, <https://www.mi5.gov.uk/joint-terrorism-analysis-centre>; “Who We Work With,” Centre for the Protection of National Infrastructure, accessed May 19, 2018, <https://www.cpni.gov.uk/>.

²⁴⁵ Leigh, “Intelligence and the Law in the United Kingdom,” 640–41; Pythian, “A Very British Institution,” 701–02.

b. Government Communications Headquarters (GCHQ)

GCHQ, led by a director, resides under the Foreign and Commonwealth Office (FCO) along with SIS; the agency is responsible for “signals intelligence [SIGINT] and information assurance” capabilities for the intelligence and security structures of the UK.²⁴⁶ Originally known as the Government Code and Cypher School in 1919, the organization’s name was changed to its current form in 1946. Official recognition of the service did not come until the 1980s because of an ongoing disagreement about whether GCHQ employees could be members of a trade union. As mentioned earlier, the agency’s statutory authority came with the 1994 ISA and, along with subsequent legislative amendments, delineated the roles, responsibilities, and limitations by which their work is guided.²⁴⁷

Based on GCHQ’s mandate, it utilizes its SIGINT capability to intercept, disrupt, and decrypt all forms of communication “in support of Government decision-making in the fields of national security, military operations, and law enforcement.”²⁴⁸ GCHQ works in conjunction with other government entities (like the military and MI5) to provide “information assurance” on public/private classified information, communication facilities, and other critical national utilities/systems in order to safeguard against subversive entities or persons.²⁴⁹ Furthermore, in accordance with the British National Security Strategy released in 2010, GCHQ is now the lead in all areas regarding cybersecurity defense within the UK and works closely with various institutions under the auspices of the Office of Cyber Security and Information Assurance. While defense is the office’s priority, the intent is the development of “a full spectrum military cyber capability” as part of the UK’s defense, to include retaliatory strike abilities.²⁵⁰

²⁴⁶ “National Intelligence Machinery,” Assets Publishing Service, accessed June 21, 2018, 8, 18, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/61808/nim-november2010.pdf; Leigh, 643.

²⁴⁷ “National Intelligence Machinery,” 8–9; Leigh, 641.

²⁴⁸ Leigh, 643; “National Intelligence Machinery,” 8.

²⁴⁹ “National Intelligence Machinery.”

²⁵⁰ “National Intelligence Machinery”; Dylan and Goodman, 38.

C. DEMOCRATIC CONTROL AND OVERSIGHT OF THE INTELLIGENCE COMMUNITY

This section discusses the institutions and bodies that are charged with controlling and providing oversight of the UK's intelligence agencies. It closes with a discussion of the agencies' professional norms, which help to improve transparency and effectiveness.

1. Institutions of Control

As it pertains to intelligence and security, the British Prime Minister accounts for all matters regarding the agencies to the Parliament as he or she has ultimate responsibility. Ministerial responsibility does exist and each agency is accountable to its line ministers, but operational control belongs to the Director General of MI5 and Director of GCHQ, both of whom are appointed by their respective ministers. The institutions the Prime Minister relies on to control the business of intelligence within the UK are the National Security Council (NSC) and the JIC, both of which fall under the executive branch. Additionally, the Parliament has some measure of control through its regulation of the agencies' budgets.²⁵¹

Unlike CSAT, the UK's NSC was not established through the legislature nor was it a requirement of the constitution (which is not a formal document in the UK). Rather, it was established through powers that are an entitlement to ministers.²⁵² The coalition government of 2010, led by Prime Minister David Cameron, established the NSC in May after forming the government. According to the most recent data available, the Prime Minister chairs the NSC and the vice chair is the Deputy Prime Minister. Table 2 illustrates the membership, including members who attend when so required. The main function of the NSC is "to oversee all aspects of the UK's security" and to provide a forum for discussion on how best "to co-ordinate and consider matters relating to national security, foreign policy, defence, international relations and development, resilience,

²⁵¹ "National Intelligence Machinery," 16; Leigh, 644.

²⁵² As compared with Romania, the UK does not have a written constitution. Additionally, the powers to which the ministers are entitled are termed 'Prerogative Powers' and are powers that are historically inherent to the government. For more details see, Jon Lunn, Louisa Brooke-Holland, and Claire Mills, *The UK National Security Council*, UK Parliament House of Commons Library, January 11, 2016, 4, <http://researchbriefings.files.parliament.uk/documents/CBP-7456/CBP-7456.pdf>.

energy, and resource security.”²⁵³ The National Security Secretariat (NSS) supports the NSC, which is led by the National Security Adviser (NSA). The NSA and the secretariat are responsible for setting the agenda for weekly NSC meetings. They are further responsible for preparing research and policy papers that trigger discussions, eventually forming the basis for decisions and policies affecting defense, security, foreign relations, and the other areas mentioned earlier for which the NSC has responsibility.²⁵⁴

Table 2. Membership of the British National Security Council²⁵⁵

Members of the NSC	Senior Officials Attending When Required
Prime Minister (Chair)	Attorney General
Chancellor of the Exchequer	Cabinet Secretary
Secretary of State for Foreign and Commonwealth Affairs	Chief of Defence Staff
Secretary of State for the Home Department	Permanent Under-Secretary, Foreign and Commonwealth Office
Secretary of State for Defense	Chair of the JIC
Secretary of State for International Development	Chief of the SIS
Secretary of State for Business, Energy and Industrial Strategy	Director of GCHQ
National Security Adviser (Secretary)	Director General of SS

The NSC has four sub-committees that focus on nuclear deterrence and security; issues dealing with the implementation of the national security strategy and strategic defense and security review; cyber; and threats, hazards, resilience, and contingencies (THRC). The latter, THRC, is of particular interest, as a smaller grouping exists within the THRC to focus on issues related to intelligence. The members of this smaller

²⁵³ Lunn, Brooke-Holland, and Mills, *The UK National Security Council*, 5; Joe Devanny and Josh Harris, *The National Security Council: National Security at the Centre of Government*, The Institute for Government, November 4, 2014, 24, <https://www.instituteforgovernment.org.uk/sites/default/files/publications/NSC%20final%202.pdf>.

²⁵⁴ Devanny and Harris, *The National Security Council*; Lunn, Brooke-Holland, and Mills, 6.

²⁵⁵ Adapted from “National Security Strategy and Strategic Defence and Security Review 2015 – First Annual Report 2016,” Cabinet Office, December 2016, 32, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/575378/national_security_strategy_strategic_defence_security_review_annual_report_2016.pdf; Devanny and Harris, 24.

grouping are “the Prime Minister, Deputy Prime Minister, Foreign Secretary, Home Secretary, Defence Secretary, and the Chancellor of the Exchequer,”²⁵⁶ members of the government that have considerable responsibility in terms of security and intelligence matters. Additionally, within the NSS the NSA is assisted by three Deputy NSA responsible for Foreign Policy; Defense and Nuclear Strategy; and Intelligence, Security, and Resilience. The Director of Security and Intelligence exists under the latter Deputy NSA, with responsibilities for research and focus on issues relating to security and intelligence.²⁵⁷ As such, personnel in the THRC and the NSS have varying levels of interaction with personnel in the intelligence agencies, but this interaction focuses on control at the strategic level; operational levels of control exists at the JIC.

The JIC is the government’s central security and intelligence coordinator responsible for setting requirements for the intelligence agencies and providing assessments to the NSC and across the departments and ministries of government. The JIC uses the national priorities set by the government, through the NSC, to develop the intelligence requirements for the agencies. The committee is made up of the JIC Chairman, the Intelligence Coordinator, the leaders of the intelligence agencies, the Chief of Defence Intelligence, and policy representatives from across government departments.²⁵⁸ According to the Government of the United Kingdom website, the JIC is required to:

- assess events and situations relating to external affairs, defence, terrorism, major international criminal activity, scientific, technical and international economic matters and other transnational issues, drawing on secret intelligence, diplomatic reporting and open source material
- monitor and give early warning of the development of direct and indirect threats and opportunities in those fields to British interests or policies and to the international community as a whole

²⁵⁶ “National Security Council,” Government of the United Kingdom, accessed June 25, 2018, <https://www.gov.uk/government/groups/national-security-council>; “National Security Strategy and Strategic Defence and Security Review 2015 – First Annual Report 2016,” 32; Devanny and Harris, 25.

²⁵⁷ Devanny and Harris, 26–27.

²⁵⁸ Philip H. J. Davies, “Twilight of Britain's Joint Intelligence Committee?,” *International Journal of Intelligence and CounterIntelligence* 24, no. 3 (2011), 427–28, <https://doi.org/10.1080/08850607.2011.568288>; Dylan and Goodman, 37.

- keep under review threats to security at home and overseas and to deal with such security problems as may be referred to it
- contribute to the formulation of statements of the requirements and priorities for intelligence gathering and other tasks to be conducted by the intelligence agencies
- maintain oversight of the intelligence community's analytical capability through the Professional Head of Intelligence Analysis
- maintain liaison with Commonwealth and foreign intelligence organisations as appropriate, and to consider the extent to which its product can be made available to them.²⁵⁹

2. Oversight

Oversight in the UK was not always a strong feature of the intelligence community. This practice changed with the passage of legislation governing the MI5 (1989 Security Service Act) and later SIS and GCHQ (1994 Intelligence Services Act). The former saw the institution of a commissioner and a tribunal, where citizens can lodge complaints about the MI5, while the latter saw the establishment of the ISC. New legislation, introduced in 2000 and 2016, instituted the RIPA and the Investigatory Powers Act, respectively. The former act instituted the Investigatory Powers Tribunal (IPT) and the latter gave rise to the Investigatory Powers Commissioner (IPC).²⁶⁰

a. Parliamentary

Initially formed as an oversight committee, the ISC was not subject to the parliament although it was composed of nine parliamentarians from both houses. Under the 2013 Justice and Security Act, however, the ISC became a parliamentary committee

²⁵⁹ "Joint Intelligence Committee," Government of the United Kingdom, accessed June 25, 2018, <https://www.gov.uk/government/groups/joint-intelligence-committee>.

²⁶⁰ United Kingdom House of Commons, *Security and Intelligence Agencies Financial Statement 2016-17*, July 19, 2017, 5–6, <https://www.gov.uk/government/publications/security-and-intelligence-agencies-financial-statement-2016-17>; United Kingdom House of Commons, *Intelligence and Security Committee of Parliament: Annual Report 2016-2017*, December 20, 2017, iii, https://b1cba9b3-a-5e6631fd-s-sites.googlegroups.com/a/independent.gov.uk/isc/files/2016-2017_ISC_AR.pdf?attachauth=ANoY7cp8wCFyiFv6DPeR9ho1XKMgaixaGNzut4-gJYJU1jJAic2udVSQdZ9hEP01vDe4N8IM_HuOO42mpxI4XabtztUZkdfIVvGTqN6jqmDcFblQdP-Sm3HrkQxoxv7pTlywv7uZbOVzsJJPM_4O3ShWPfzZVU2gigq_ZC3NtdSaWE7O5W2aO44mc3xLHLIFXSJX0VFNK9WRi_MFYUICj1UxoZzREBQJFdJFnNiOwEvHyHOA8mstMml%3D&attredirects=0.

with its members appointed by parliament after nomination by the Prime Minister. The ISC also gained additional authority and now has oversight of additional intelligence agencies.²⁶¹ Furthermore, “heads of the agencies ... must disclose any information requested by the ISC unless vetoed by the Secretary of State,” and the ISC now reports directly to the parliament regarding “the policy, administration, expenditure, and aspects of operational activity of the agencies,” but can still report to the Prime Minister on sensitive issues.²⁶²

The committee has the autonomy to set its own agenda and usually works in closed-door sessions, although within recent times it has held open-door sessions in an attempt to increase transparency. The ISC has authorization to interview agency personnel, the heads of the agencies, ministers of government, and any other persons they deem required. Furthermore, the ISC has a dedicated secretariat and is required to produce annual reports to the parliament on the work it does, although it can conduct specialized investigations and produce reports in relation to these investigations.²⁶³

b. Judiciary

With the passage of legislation that brought the security and intelligence agencies under statutory standing, the legislative provisions were made for oversight via commissioners and tribunals. The RIPA and the Investigatory Powers Act instituted the final authority in this regard for all agencies in the form of the IPT and IPC, respectively.

(1) Investigatory Powers Tribunal (IPT)

Established in accordance with sections 65 to 69 of RIPA, the IPT considers citizens’ claims of improper or illegal use of the intrusive powers of the security and

²⁶¹ Hugh Bochel and Andrew Defty, “Parliamentary Oversight of Intelligence Agencies: Lessons from Westminster,” in *Security in a Small Nation: Scotland, Democracy, Politics*, ed. Andrew W. Neal (Open Book Publishers, 2017), 107–08, <http://www.jstor.org/stable/j.ctt1sq5v42.9>; United Kingdom House of Commons, *Security and Intelligence Agencies Financial Statement 2016-17*, 5–6.

²⁶² Joanna Dawson and Samantha Godec, “The Intelligence and Security Committee,” House of Commons Library, www.parliament.uk, December 21, 2017, <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02178>.

²⁶³ Bochel and Defty, “Parliamentary Oversight of Intelligence Agencies,” 110; United Kingdom House of Commons, iii. For some examples of investigations conducted by the ISC see, Dawson and Godec, “The Intelligence and Security Committee,” and Bochel and Defty, 108.

intelligence institutions, including the police and other law enforcement bodies. The tribunal is an independent court from the UK Courts and Tribunal Service and therefore does not abide by those rules. A president and vice president, who are judges of the High Court, direct the IPT, which consists of eight members. One of the many unique characteristics of the IPT is that it can consider evidence deemed to be inadmissible in other courts. Members of the tribunal are required to be in high judicial standing in terms of their previous appointments or be an attorney for a minimum of ten years.²⁶⁴

Once brought to the IPT, claims must be determined unless deemed frivolous in nature or inflammatory. Once there is any veracity to the claims, the IPT will investigate and “at the conclusion of proceedings, the IPT is required to give a simple statement either that they have found in favour of the complainant (i.e., that there has been unlawful action against him or her) or that ‘no determination has been made in his favour.’ In this way, the tribunal safeguards information about interception of communications and about the agencies so that its proceedings cannot be used to discover whether or not a person is lawfully” being surveilled.²⁶⁵ Once a claim is determined to be valid, the IPT is duty bound to report the findings to the Prime Minister. The tribunal is also authorized to order compensation to the claimant, destruction of the evidence gathered, and cancellation of any warrants granted for interception or continued interception, and the tribunal’s decision cannot be appealed.²⁶⁶

(2) Investigatory Powers Commissioner (IPC)

Section 227 of the Investigatory Powers Act 2016 brought about the Investigatory Powers Commissioner and Judicial Commissioners. Both the IPC and the Judicial

²⁶⁴ “How We Fit In,” The Investigatory Powers Tribunal, last modified July 5, 2016, <https://www.ipt-uk.com/content.asp?id=20>; “General Overview and Background,” Investigatory Powers Tribunal, last modified July 5, 2016, <https://www.ipt-uk.com/content.asp?id=10>; “How The Tribunal Works,” Investigatory Powers Tribunal, last modified July 5, 2016, <https://www.ipt-uk.com/content.asp?id=11>; Ian Leigh, “Annex A: Country Case Studies, IX Parliamentary and Specialized Oversight of Security and Intelligence Agencies in the United Kingdom,” in *Parliamentary Oversight of Security and Intelligence Agencies in the European Union*, ed. Aidan Wills, Mathias Vermeulen, Hans Born, Micha Wiebusch, and Ashley Thornton, 291–92, Brussels, European Parliament, Directorate-General for Internal Policies, Policy Department C, Citizens’ Rights and Constitutional Affairs, 2011.

²⁶⁵ Leigh, “Annex A: Country Case Studies, IX Parliamentary and Specialised Oversight,” 292.

²⁶⁶ Leigh.

Commissioners are required to be serving or retired judges of the Supreme, High, or Appellate Courts. According to the act, the Prime Minister is required to appoint the IPC along with any other number of Judicial Commissioners deemed necessary. Thus far, there was an appointment of an IPC for a three-year term along with around 15 Judicial Commissioners.²⁶⁷

The 2016 act also abolished six existing oversight bodies, which brought all of the UK's oversight functions under the umbrella of Judicial Commissioners—of which the IPC is the head. In September 2017, the IPC Office (IPCO), an independent body established to support the IPC, became responsible for scrutinizing the work of the UK's public authorities, including government and intelligence agencies, law enforcement, prisons, and other local authorities. The Judicial Commissioners also support the IPC and are required to be approving authorities when agencies are required to utilize their intrusive powers for “interception, equipment interference, bulk personal datasets, bulk acquisition of communications data, national security notices, technical capability notices, and communications data retention notices.”²⁶⁸ Also supporting the Judicial Commissioners is a panel of technical advisers, communications specialists, lawyers, scientists, and investigators who comprise the commissioners and staff of the IPCO.²⁶⁹

Warrants are required when UK intelligence agencies, or any other agency, are required to breach citizens' civil liberties via intrusive means for national security purposes. Another duty of the IPCO is to be a second approving authority. As such, the 2016 act calls for a Judicial Commissioner to approve a warrant granted by a Secretary of State before such warrant can come into effect. Specifically, “interception, equipment

²⁶⁷ “Investigatory Powers Act 2016,” National Archives, accessed June 25, 2018, <http://www.legislation.gov.uk/ukpga/2016/25/contents>; “Who We Are,” Investigatory Powers Commissioners Office, last modified August 27, 2017, <https://ipco.org.uk/default.aspx>; “Who Is the Investigatory Powers Commissioner and What Does the Role Involve?,” *Guernsey Press*, June 16, 2018, <https://guernseypress.com/news/uk-news/2018/06/15/who-is-the-investigatory-powers-commissioner-and-what-does-the-role-involve/>.

²⁶⁸ National Archives, “Investigatory Powers Act 2016”; “Investigatory Powers Commissioner Establishes Oversight Regime,” Government of the United Kingdom, September 1, 2017, <https://www.gov.uk/government/news/investigatory-powers-commissioner-establishes-oversight-regime>; “What We Do,” Investigatory Powers Commissioners Office, last modified August 27, 2017, <https://ipco.org.uk/default.aspx>.

²⁶⁹ Investigatory Powers Commissioners Office, “What We Do.”

interference, and the use of surveillance in sensitive environments will be subject to the prior approval of a Judicial Commissioner.”²⁷⁰ Furthermore, “use of these and other surveillance powers, including the acquisition of communications data and the use of covert human intelligence sources, are also overseen by a programme of retrospective inspection and audit by Judicial Commissioners and the IPCO’s inspectors.”²⁷¹

c. Civil Society and the Media

One of the most influential organizations that have traditionally swayed the UK government in adopting certain laws that curtail the intelligence and security agencies and their intrusive means is the ECHR. The Human Rights Act, passed in 1998, ensured that the UK was in alignment with the European Convention on Human Rights. In this way, the UK proved that it was committed to upholding the minimum standards of all human rights as agreed upon by the European Union of which they were, at the time, an integral member. An example of civil society groups in action occurred in 2017 when three separate cases came before the IPT and the ECHR questioning the activities of the UK’s intelligence agencies, citing abuses of human rights. The three cases were all in relation to “the way GCHQ, MI5, and MI6 share surveillance material with the United States and other foreign governments.”²⁷² According to a number of human rights groups, both within and external to the UK, these relationships cast doubt on not only the conduct of agencies but also the process employed by the IPT and the lack of public transparency in its sessions.²⁷³ Such concerns by human rights groups are indicative of the level of trust they have in the UK’s intelligence community and (more importantly) the appointed bodies entrusted with intelligence oversight. These actions, like those just described by human rights groups, suggest that the UK citizenry, both ordinary citizens and civil society, are becoming stricter on government regarding privacy and human rights violations and policies. The question that must now be considered is, how much of

²⁷⁰ *Guernsey Press*, “Who Is the Investigatory Powers Commissioner”; National Archives.

²⁷¹ Investigatory Powers Commissioners Office.

²⁷² Owen Bowcott, “UK Intelligence Agencies Face Surveillance Claims in European Court,” *The Guardian*, November 7, 2017, <https://www.theguardian.com/world/2017/nov/07/uk-intelligence-agencies-face-surveillance-claims-in-european-court#top>.

²⁷³ Bowcott, “UK Intelligence Agencies Face Surveillance Claims.”

their civil liberties are they willing to forego in order to allow intelligence agencies to be more effective?²⁷⁴

The media in the UK, for the most part, continue to enjoy the freedom to report on, scrutinize, and facilitate public discussion on intelligence agencies and their activities related to ensuring the safety of the UK. While the freedom of the media within the UK is not under any direct governmental threat, media practitioners describe some developments by the UK government that signal the onset of an unfriendly climate toward the media as they seek to hold public bodies accountable. With the passage of the Investigatory Powers Act 2016, the media fraternity has complained that this law does not afford them or their sources sufficient protections.²⁷⁵ Furthermore, they believe it detracts from whistleblowers coming forward when at odds with questionable government practices. The media's argument is that whistleblowers, much like the media, have limited protections. Such arguments align with a 2017 report by the EU's Agency for Fundamental Human Rights that suggests affording effective safeguards for whistleblowers in intelligence agencies is a governmental responsibility.²⁷⁶ Finally, the act gives the police, intelligence, and security agencies enhanced surveillance practices—believed to have been ongoing for decades—that include “bulk surveillance of individuals who are not the targets of criminal or national security investigations.”²⁷⁷

The last institution of concern that has informal oversight in the UK, not just on intelligence but also on a host of government bodies, is the Parliamentary and Health

²⁷⁴ David Omand, “Can We Have the Pleasure of the Grin without Seeing the Cat? Must the Effectiveness of Secret Agencies Inevitably Fade on Exposure to the Light?,” *Intelligence and National Security* 23, no. 5 (2008): 601–05, <https://doi.org/10.1080/02684520802449476>.

²⁷⁵ Harriet Agerholm, “UK among Worst in Western Europe for Freedom of Press after ‘Staggering Decline,’ Reporters Without Borders Index Claims,” *Independent*, April 25, 2018, <https://www.independent.co.uk/news/uk/home-news/uk-among-worst-western-europe-freedom-press-reporters-without-borders-index-a8320691.html>; “United Kingdom Profile,” Freedom of the Press 2017, Freedom House, accessed July 10, 2018, <https://freedomhouse.org/report/freedom-press/2017/united-kingdom>.

²⁷⁶ Agerholm, “UK among Worst in Western Europe for Freedom of Press”; European Union Agency for Fundamental Rights, *Surveillance by Intelligence Services: Fundamental Rights Safeguards and Remedies in the EU, Volume II: Field Perspectives and Legal Update* (Luxembourg: Publications Office of the European Union, 2017), 13.

²⁷⁷ “United Kingdom Country Profile,” Freedom on the Net 2017, Freedom House, accessed July 10, 2018, <https://freedomhouse.org/report/freedom-net/2017/united-kingdom>.

Services Ombudsman (PHSO). The PHSO offers services to members of the public who wish to lodge complaints not settled favorably by government authorities (including those under the Home Office and FCO) and the National Health Services. This institution, created by the Parliament, performs the dual role of receiving, investigating, and prescribing solutions for the government bodies and the health service; the PHSO also assists the parliament in scrutinizing public authorities.²⁷⁸ It also makes its findings available to government bodies to inform and improve their mechanisms for dealing with complaints and the services they offer. Governance of the service and its powers is based on the 1967 Parliamentary Commissioner Act and the 1993 Health Service Commissioners Act.²⁷⁹

3. Professional Norms

Within the UK professional norms have always been a hallmark of the intelligence agencies. Even before gaining legislative legitimacy in 1989, ideals like political neutrality was a feature of agencies' professionalism guided by the strong control measures of the executive, such as the Maxwell-Fyfe directive.²⁸⁰ After receiving statutory standing, agency transparency, accountability, and oversight steadily improved over the decades. Today, all the intelligence agencies have provided access and opened up their doors in accordance with the boundaries set by the three branches of government, when there is no risk of compromising of sources, methods, and security.²⁸¹

Another area where professional norms continue to improve is through the government's releasing of codes of practice at it relates to the intrusive powers that agencies can exercise. Codes of practice exist for public scrutiny as it relates to the interception of communications, acquisition and disclosure of communications data, covert surveillance and property interference, covert human intelligence sources,

²⁷⁸ For more on the PHSO, see "About Us," Parliamentary and Health Service Ombudsman, accessed July 16, 2018, <https://www.ombudsman.org.uk/about-us>.

²⁷⁹ Parliamentary and Health Service Ombudsman, "About Us."

²⁸⁰ Leigh, "Intelligence and the Law in the United Kingdom," 641.

²⁸¹ Leigh, "Annex A: Country Case Studies, IX Parliamentary and Specialised Oversight," 290–93; Phythian, 699–706.

investigation of protected electronic information, and equipment interference.²⁸² Additionally, agencies have practiced the periodic review and release of records that are no longer sensitive to national security. One such instance was MI5's release of files deemed top secret that "cover a range of subjects and span World War II and post-war era up to the mid-1960s."²⁸³ Such measures are a part of government's commitment to the FOIA 2000, which allows members of the public the right of access to information from public institutions.²⁸⁴

D. INCREASING EFFECTIVENESS AND PROFESSIONALISM OF THE INTELLIGENCE COMMUNITY

Much like Romania, the effectiveness of the UK's intelligence community is best analyzed by examining the agencies' plans, the institutions developed to both formulate and implement the plans, and the allocation of the resources required for successful implementation.

1. Plans

One of the UK's overarching plans for effectiveness of the security and intelligence machinery came with the creation of the NSC and the subsequent publication of the National Security Strategy and the Strategic Defence Review (NSSDR)—two separate documents upon publication in 2010 but combined when updated in 2015. The strategy sought to justify the necessity for one of the most far reaching security and defense configurations in democracies today. The argument is that such configurations allow the UK to respond in an effective and swift manner as it faces "new and evolving threats" that continue to develop "in an age of uncertainty."²⁸⁵ The strategy focuses on 15

²⁸² "Links," The Investigatory Powers Tribunal, last modified July 5, 2016, <https://www.ipt-uk.com/fixedpage.asp?pageType=links>.

²⁸³ "Latest MI5 Files Released," The National Archives, November 28, 2017, <http://www.nationalarchives.gov.uk/about/news/latest-mi5-files-released-3/>.

²⁸⁴ "What the Freedom of Information Act Does," Parliament of the United Kingdom, accessed June 25, 2018, <https://www.parliament.uk/mps-lords-and-offices/offices/lords/freedom-of-information-in-the-house-of-lords/foi-lords-what-the-act-does/>.

²⁸⁵ "Policy Paper: The National Security Strategy—A Strong Britain in an Age of Uncertainty," Government of the United Kingdom, October 18, 2010, <https://www.gov.uk/government/publications/the-national-security-strategy-a-strong-britain-in-an-age-of-uncertainty>.

“priority risk types, the most pressing of which are: acts of terrorism affecting the UK or its interests; hostile attacks upon UK Cyber Space; a major accident or natural hazard (for example, influenza pandemic); [and] an international military crisis between states, drawing in the UK and [its] allies.”²⁸⁶

The most recent strategy, published in 2015, covers a five-year period. As it pertains to intelligence and security, the strategy focuses on increasing the resources available to the agencies through human resource and monetary increases. In the NSSDR 2015, the UK government identified six tier-one risks it would focus on over the next five years; of these, the top three are terrorism, cyber, and international military conflicts—issues that continue to be at the forefront for all of the UK’s intelligence and security agencies. On the domestic front, terrorism and cyber security are the issues with which the domestic security and intelligence agencies are most concerned. In December 2016, the government (under the direction of the new Prime Minister, Theresa May) published its first annual review of the 2015 NSSDR. Regarding the fight against terrorism, it noted the passage of legislation to give the security and intelligence agencies the authority “to acquire intelligence and evidence from electronic communications in order to investigate, understand, and disrupt threats [of terrorism] to national security”; it further noted that these powers “are subject to strict safeguards and robust oversight.”²⁸⁷

In terms of the cyber related issues, there have been significant developments. In 2011, a National Cyber Security Strategy was developed; this strategy was reviewed resulting in the most recent strategy being published in November 2016. One of the pillars of the cyber strategy was the creation of the National Cyber Security Centre (NCSC) in 2016. The NCSC is responsible for management of the UK’s response to cyber threats and attacks as well as ensuring mitigation and resiliency. Operating under GCHQ leadership and utilizing the experience and capabilities of GCHQ, the NCSC

²⁸⁶ “Policy Paper: The National Security Strategy.”

²⁸⁷ HM Government, Cabinet Office, *National Security Strategy and Strategic Defence and Security Review 2015: A Secure and Prosperous United Kingdom* (London: Williams Lea Group, 2015), 85; HM Government, Cabinet Office, *National Security Strategy and Strategic Defence and Security Review 2015: First Annual Report 2016*, accessed July 18, 2018, 14, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/575378/national_security_strategy_strategic_defence_security_review_annual_report_2016.pdf.

“brings together expertise into a single, national authority as a cornerstone” of the UK’s cyber security measures.²⁸⁸ Furthermore, the UK’s armed forces have developed an offensive posture as it relates to cyber defense. Through joint efforts between the Ministry of Defence (MOD) and GCHQ, the National Offensive Cyber Programme gives the military the advanced capabilities required to launch cyber-based counter-attacks once attacks are detected.²⁸⁹

2. Institutions

The UK’s institutions provide efficient ways and means in ensuring the effectiveness of their security and intelligence agencies. As the range of threats and the security environment changes the security and intelligence institutions have adapted to respond to the new security challenges of our time. As discussed earlier in detail, the main institutions (NSC, JIC, MI5, and GCHQ) that help to bolster the UK’s effectiveness have had many years to develop the foundations on which they operate. What the UK has done, therefore, was look to academia to provide the research necessary to address the threats and to create programs that offer training on new capabilities, tools, and perspectives for security and intelligence personnel.²⁹⁰

The launching of the Diplomatic Academy by the FCO in February 2015 is one such institution that utilizes academia to provide training for security and intelligence personnel. The academy’s mandate is to “be a centre of excellence to help all staff from across government working on international issues to share expertise and learn from one another. It will help the organisation, [the FCO], extend its networks and to engage with

²⁸⁸ HM Government, Cabinet Office, *National Security Strategy and Strategic Defence and Security Review 2015*, 41–42; HM Government, Cabinet Office, *National Security Capability Review*, accessed July 20, 2018, 22, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705347/6.4391_CO_National-Security-Review_web.pdf.

²⁸⁹ HM Government, Cabinet Office, *National Security Strategy and Strategic Defence and Security Review 2015: First Annual Report 2016*, 14–15.

²⁹⁰ For more on the discussion of the UK government’s use of academic research to inform its policy decisions, see Gareth Davies and Andrew Thompson, “Using the UK Research Base to Make Better Policy,” *Civil Service Quarterly* (blog), *Government of the United Kingdom*, June 3, 2016, <https://quarterly.blog.gov.uk/2016/06/03/using-the-uk-research-base-to-make-better-policy/>.

academic and diplomatic institutions.”²⁹¹ Of the 11 faculties in the academy, there is one faculty specifically dedicated to training security and intelligence personnel, the faculty of security, defense, and intelligence.²⁹² The most recent initiative of an institution offering similar training for intelligence and security practitioners was the launch of the Defence Cyber School (DCS) on March 7, 2018, by the Defence Academy of the United Kingdom.²⁹³ As part of the UK government’s National Cyber Security Strategy 2016–2021, the DCS is the realization of the government’s commitment to ensuring continued research, development of advanced capabilities, and technically sound personnel to address threats to the UK in the digital realm.²⁹⁴

As it pertains to cooperation of the UK’s security and intelligence agencies on an international level, the most active area of cooperation has been in countering terrorism, and the United States’ intelligence services have been one of its most active allies, but others do exist. To this end, a Joint International Counter Terrorism Unit, created in April 2016, spearheads the government’s efforts in assisting with the international community’s response to terrorism.²⁹⁵ The responsibility for this unit falls primarily under the FCO and the Home Office, assisted by other departments of government.²⁹⁶ Additionally, collaboration is provided to the Counter Terrorism Group (CTG) of which the UK is a leading member. The CTG consists of 30 “European intelligence and security services from EU and non-EU countries. The CTG is the largest and most significant joint operational counter-terrorism group in the world, both by number of countries and quantities of intelligence involved”; in this regard, the UK works closely with the group, sharing intelligence on a daily basis.²⁹⁷

²⁹¹ “Opening of New Diplomatic Academy,” Government of the United Kingdom, February 9, 2015, <https://www.gov.uk/government/publications/opening-of-new-diplomatic-academy>.

²⁹² Jon Davies, “The Diplomatic Academy: A First for Britain’s Foreign Office,” American Foreign Service Association, accessed July 23, 2018, <http://www.afsa.org/diplomatic-academy-first-britains-foreign-office>.

²⁹³ “About the Defence Cyber School,” Defence Academy of the United Kingdom, accessed July 23, 2018, <https://www.da.mod.uk/colleges-and-schools/technology-school/defence-cyber-school>.

²⁹⁴ Defence Academy of the United Kingdom, “About the Defence Cyber School.”

²⁹⁵ HM Government, Cabinet Office, 14.

²⁹⁶ HM Government, Cabinet Office.

²⁹⁷ HM Government, Cabinet Office, *National Security Capability Review*, 20.

3. Resources

As part of the most recent NSSSDR published in 2015, there has been consideration of the resources required for improving the effectiveness of the UK's security and intelligence agencies. As the strategy is being realized and updated, the annual reports of 2016 and 2017 have addressed successes in resource allocation and plans for future apportioning. Resources in terms of human, monetary, and political will are aspects of the UK's strategy that are considered as being integral to improving the effectiveness of intelligence and security agencies.

The human resource aspect of intelligence effectiveness is usually a challenge for most states. While some intelligence collection methods offer great advantages, they can also bring disadvantages as well. For example, open source and signals intelligence are excellent collection measures, but the volume of information they provide requires analysis in order to provide the pieces of the puzzle that forms the bigger picture on which policy or operational decisions are made. In this example, a lack of or insufficiently trained/experienced analysts can result in delays that can cost lives.

The UK has experienced similar challenges within the last few years as individuals listed as persons of interest ended up committing acts of terror. Most recently, in 2017 all three London Bridge attackers who killed eight persons and wounded another 50 or so were on the intelligence services radar. At the time, this radar had approximately 3,000 persons who were of interest and another 20,000 who were at one time or another, subjects of scrutiny.²⁹⁸ This particular issue has not escaped the attention of the state; the first annual report of the NSSSDR in 2016 spoke to government being on track to increasing the intelligence and security personnel by an additional 1,900 persons. Additionally, the launch of the NCSC under the leadership of GCHQ (mentioned earlier) would have added to the approximately 8,000 persons employed at GCHQ. Finally, the government has considered continuous training opportunities for ensuring expertise and

²⁹⁸ For more information on the shortage of security and intelligence personnel, including expert opinions on some of the reasons for these issues within the UK, see Mark Townsend, "How a Crippling Shortage of Analysts Let the London Bridge Attackers Through," *The Guardian*, June 11, 2017, <https://www.theguardian.com/uk-news/2017/jun/10/london-bridge-attackers-intelligence-overload>.

currency; this is evident by the recently opened DCS and Diplomatic Academy, which provide opportunities for intelligence professionals.²⁹⁹

In the government's security strategy, specific monetary resources are allocated demonstrating their commitment to ensuring the agencies acquire the advanced equipment and other capabilities necessary for improving effectiveness. The government's 2016 report estimates that "an additional £2.5bn [\$3.18 billion]" would be invested by 2021 in the intelligence and security agencies to bolster their capabilities; in cyber, the NSSDR 2015 calls for an investment of £1.9 billion (\$2.4 billion), which is "being invested through the new National Cyber Security Programme and National Offensive Cyber Programme."³⁰⁰

The political will of the government is evident in two main areas. First, in 2017 the government initiated a reprioritization of its spending in response to an evolving and complex security environment by establishing a fund, "worth £25 million [\$31.8 million] each year."³⁰¹ The Counter-Terrorism Accelerator Fund has utility in responding "to emerging threats and risks more quickly and to introduce innovative and transformational approaches to counter the terrorist threat."³⁰² Second, the government has made continued efforts at ensuring the intelligence agencies have the required amended and new legislation needed for them to be both effective and still be under strict oversight mechanisms.

E. CONCLUSION

This chapter looked at a consolidated democracy, the UK, which has had its intelligence and security machinery in place for a number of decades. It focused on how this intelligence machinery evolved during World War II and further developed after the Cold War when priorities for intelligence in general shifted. The chapter then considered

²⁹⁹ HM Government, Cabinet Office, *National Security Strategy and Strategic Defence and Security Review 2015: First Annual Report 2016*, 14–15; Davies, "The Diplomatic Academy: A First for Britain's Foreign Office."

³⁰⁰ HM Government, Cabinet Office.

³⁰¹ HM Government, Cabinet Office, *National Security Capability Review*, 19.

³⁰² HM Government, Cabinet Office.

how the domestic intelligence agencies reinvented themselves as the security environment changed; first, as it pertains to terrorism and then as new threats to the UK emerged—the cyber threat being chief among them. While the UK only acknowledged the existence of its intelligence machinery in the 1980s and early 1990s, the resources needed to ensure its effectiveness have always been forthcoming from the government. Oversight of intelligence by legislative, judicial, and informal means was slow in developing with many teething problems, but as a long-standing democracy the UK developed and improved on these aspects of scrutiny to include improvement in control mechanisms by the executive. With this in mind, there are still many challenges for the UK as the country's security and intelligence agencies have some of the most far-reaching powers. These powers are frequently scrutinized and civil society groups are calling for more robust oversight mechanisms. In some cases, the government accedes to these requests, which suggests that democracy is alive and functioning. Such realities can no doubt auger well for continued improvement of the agencies' effectiveness and their continued oversight.

V. FINDINGS AND CONSIDERATIONS FOR TRINIDAD AND TOBAGO

In addressing the thesis question—what template of a properly functioning domestic intelligence agency can Trinidad and Tobago pattern or emulate to counter the country’s range of national security threats effectively—previous chapters discussed issues of oversight, control, and accountability in relation to achieving intelligence transparency and effectiveness. The suggestion was that Trinidad and Tobago could utilize the civilian-led intelligence agency model as the preferred model based on the threats and security environment outlined in the introductory chapter. This chapter examines the merits of the intelligence reforms of the cases presented. Thereafter, the chapter presents considerations for Trinidad and Tobago, in alignment with the tenets of the suggested model, to arrive at the best possible answer to the question proffered.

A. FINDINGS OF THE CASE STUDIES

Trinidad and Tobago can learn much from the foundational steps that both Romania and the United Kingdom made that set them on the path to developing proper functioning domestic intelligence agencies. In this regard, the analysis considers the aspects most important for Trinidad and Tobago: the political will, the legislative foundations, avenues for accountability and transparency, and measures for effectiveness.³⁰³

1. Political Will

In Romania, the political will for change in the business of intelligence stemmed from the tyrannical nature of the Ceausescu regime and the oppressive system of the Securitate that was masked as domestic intelligence. Even after the toppling of the communist system of governance, the Securitate still had strongholds in government and society. The politicians, through democratic institutions like the parliament, established

³⁰³ Based on the author being a citizen of Trinidad and Tobago and having an understanding of the concerns predominantly raised by the society in general, these aspects are considered important discussion points for the public’s acceptance of an intelligence agency.

laws and mechanisms to ensure there could not be a return of the Securitate version of intelligence. Politicians developed systems to ensure past members still functioning in official capacities or seeking political positions would be held to account for their crimes and/or debarred from holding public office, respectively. Granted, implementing a number of these measures was a precondition for Romania to join the NATO and EU communities, but these systems were critical in gaining the public's acceptance of intelligence as a necessary institution. While there were instances and accusations of improper practices, attempts to both address and restrict such occurrences are continuing and are a testament to the commitment of the successive political directorates in Romania. In the decades that followed, Romania's politicians, through successive Presidents, Prime Ministers, administrations, and parliaments, ensured continuous improvements in intelligence control, accountability, oversight, and effectiveness motivated by factors both internally and externally.

In the UK, the circumstances were similar, but motivation for intelligence reform was predominantly because of internal pressures from civil society, media, and politicians. Some indirect pressure came from the EU through the ECHR, which was instrumental in the UK passing the Human Rights Act in 1998. It was essential for the UK to be in alignment with the EU legislation, and the passage of the Human Rights Act assisted in advancing intelligence reform. Consequently, Sir David Omand attributes this reactivity in the UK's political will to a combination of factors surrounding the development of intelligence organization and structure, an emergent fourth estate, and the growth and impact of the EU's adoption of the convention on human rights.³⁰⁴

2. Legal Foundations

After the change from a system of communism to democracy, one of the first steps of Romania's interim leaders was to establish a constitution. Building upon the constitution, which in itself spoke to the national security of Romania and the role intelligence should play, was the National Security Law. Thus, the development of

³⁰⁴ For a closer look at these factors, see Omand, "Can We Have the Pleasure of the Grin without Seeing the Cat?," 601–05.

Romania as a new democratic country ensured that its intelligence agencies (and other institutions) received legislative authority that addressed the provisions necessary for control, oversight, and accountability of the intelligence community. In light of modern UK history, the state was in constant preparation for military engagement for the majority of the 20th century; intelligence was therefore a necessary part of military preparation. At the end of the Cold War, intelligence agencies reviewed their roles and functions focusing on the new threats they would face. Thus, while legislation of intelligence was not a priority for the UK because of its past, when legislation was eventually adopted it too brought provisions for control, oversight, and accountability for the spying community. With the rapid improvement in technology, communication, and information transmission, intelligence agencies had to keep abreast of and utilize the information technology revolution. Legislation was therefore necessary to both govern and make use of the tools of the future.

In both Romania and the UK, the legislation enacted regarding the intelligence agencies specified the roles, missions, and limits of what they can and cannot do as well as the process to be followed once intrusive measures are necessary. Legislation also ensured that intelligence was placed under civilian control and instituted measures at the different branches of government to foster additional control functions and transparency.

The difference between the countries lies in the catalyst that drove the enactment of such legislation. As noted previously, legislation regarding intelligence in Romania stemmed from its violent democratic transition, which saw its foundations in a written constitution and laws that specifically acknowledged the need for and addressed the implementation of intelligence. The UK does not have a formalized constitution, and so, unlike Romania, documented acknowledgment of the country's need for intelligence (as part of a constitution) is absent. The principles of the European system, especially with regard to human rights and the adoption of the convention on human rights, was one of the main catalysts that drove the UK to legislate its intelligence agencies. Furthermore, in response to such factors as media scrutiny, civil society petitions and activism, and an increasingly well informed public, legislation to strengthen the reins of the civilian leaders

and increase control, accountability, and oversight have continued to be significant themes and amendments to the laws governing intelligence over time.

3. Avenues for Accountability and Transparency

As discussed in the section on institutions of control, accountability resides at many levels in both the Romanian and UK intelligence community; further, transparency is a crucial aspect for Romanian intelligence, especially after the experiences of the communist past. Similarly, calls for more transparency are a constant cry of civil society groups and the media in the UK, with the government yielding in some respects and increasing the reaches of agencies in others.

There is a structured chain of command in each of Romania's six intelligence agencies where, inside each agency, accountability resides ultimately with their respective directors. Similar systems exist in the UK's MI5 and GCHQ where ultimate accountability lies with the director general and director, respectively. Beyond the level of the agencies, the CSAT (chaired by the President of Romania) is the main coordinating body for national security and intelligence; it is the responsible institution to which agency directors are accountable in Romania. In the UK, the NSC (chaired by the Prime Minister) also has the role of coordinating national security and intelligence. Both these organizations, CSAT and the NSC, reside at the strategic level in the coordinating functions of security and intelligence. At the operational level, the CNI in Romania and the JIC in the UK are responsible for setting the priorities for the agencies and utilize the products the agencies provide them to make both policy and security related decisions.

Both Romanian and British agencies are responsible to the Parliament, via standing and ad hoc committees in Romania and the ISC in the UK, for their activities and actions. In Romania, the Parliament, the Ministry of Public Finance, and the Court of Audit control and oversee the agencies' spending. In the UK, the Parliament (via the ISC) and the NSA (who is the Public Accounting Officer for the Single Intelligence Account that funds all three agencies) controls and oversees the intelligence community's spending. As such, there is a high degree of accountability at different levels for spending by the intelligence community.

In a similar vein, transparency, which is a close relative to accountability in intelligence, is equally as important as agencies (both in Romania and UK) are mandated by law to be subjected to investigations and interviews, to submit documents, and accommodate unannounced visits by the parliamentary committees in Romania and the ISC in the UK. The intelligence agencies themselves have recognized the importance of keeping the public generally informed about what they do. In this regard, they seek to engage the public on the business of intelligence making sure information that is not sensitive in nature is available through various means. Finally, the public, civil society, and the media have the ability to petition the state through various means (such as CNSAS, the Ombudsman, and the 2001 FOIA in Romania, and in the UK, through the IPT, IPC, PHSO, and the FOIA established in 2000). Citizens can look into the files and dossiers kept by the Securitate (Romania) and view declassified intelligence files from the National Archives (UK). Both states have systems for citizens to make appeals if they perceive unfair treatment by agencies, and can request and receive any type of information from the government once such information is not detrimental to national security.

4. Requirements for Effectiveness

Effectiveness of Romanian intelligence services took some time in developing as the major focus was ensuring the other branches of the state and not just the executive oversaw intelligence. In the UK it was completely opposite as the intelligence community existed for decades with minimal legislation or oversight by the other branches of government. Consequently, the UK has taken under two decades to institute legislation and oversight mechanisms while for eight decades it was perfecting its effectiveness. In Romania's case, external motivations, such as acceptance into NATO and the EU which mandated such assurance, were critical aspects for ensuring intelligence effectiveness. By contrast, in the UK, motivation came from the government's preparations for the next state-on-state conflict or conflict within Europe. Later on, terrorism and, most recently, cyber threats have dominated concerns for the UK and in many respects Romania as well.

There is now an additional incentive to ensure intelligence is timely, accurate, and relevant especially after September 11, 2001. The result of the attacks on the United States saw the introduction of greater intrusive measures and powers for intelligence and security agencies in both states. Thus, Romania and the UK underwent extensive reforms in this regard. At the strategic level, Romania developed a national security strategy and CSAT, while the UK developed the NSC and the NSSSDR. In both cases, these developments are responsible for directing the priorities for security and intelligence as well as controlling and coordinating the agencies responsible for procuring and analyzing said intelligence in a focused manner.³⁰⁵

At the operational level, both states' agencies improved their internal systems and structures to become better at gathering and analyzing data so that agencies could provide intelligence to both aid decision makers and assist other security institutions like law enforcement. At the tactical level, there was continuous training, coordination and cooperation with external and internal intelligence agencies, and improvement in technical capabilities. Additionally, in the UK, via strategic direction, cyber defense, awareness, and eventually offense are new areas where intelligence agencies (e.g., GCHQ) are building capacities and capabilities to be better prepared for the evolving cyber threat. Finally, underlying the activities at the three levels mentioned, strategic, operational, and tactical, are the creation of institutions and allocation of resources by the states, which supports the development and improvement of the intelligence agencies.

B. RECOMMENDATIONS FOR TRINIDAD AND TOBAGO

In examining the cases, it was determined that Romania's SRI and the UK's MI5 offer the most appropriate examples that have direct bearing on crafting a workable model for a domestic intelligence agency that can adequately respond to the current security environment within Trinidad and Tobago. While the usefulness of the STS and GCHQ is evident, there is no agency in the Trinidad and Tobago context, at least at the

³⁰⁵ It should be noted that these actions by both states were belated as the intelligence agencies roles, missions, and responsibilities were already established, in Romania's case—early in the democratic transition. The research has shown that these strategic systems are needed from the outset to direct the focus of intelligence agencies and ensure proper coordination. In this way unhealthy competition and unnecessary duplicity of effort are avoided.

time of writing, which has any mandate for ensuring communications security on a national level. Consequently, the proposed model for a domestic intelligence agency would not resemble a GCHQ or STS type institution at this time.³⁰⁶

1. Domestic Intelligence Agency

SRI and MI5 have similar roles and responsibilities; they both support policy makers with intelligence for strategic level decision making. Additionally, they provide support to LEA regarding contemporary national security issues, such as terrorism, transnational organized crime, and cyber security related threats. In Trinidad and Tobago, the proposed template would be similar to the one adopted by SRI and MI5. Similar because part of the SSA's new mandate speaks to the formulation of programs and intelligence support to decision makers in addition to supporting the various services tasked with security and defense. As such, as was hypothesized, the civilian-led domestic intelligence agency would be the most suitable construct for Trinidad and Tobago at this time.

One area in which this proposed template deviates from that of the SRI and MI5 models is concerning intelligence fusion and the role of intelligence in fueling national operations. Due to the size of Trinidad and Tobago and the scarcity of resources, it would be prudent to synthesize and fuse the country's intelligence assets, especially when joint and interagency operations are becoming the new normal. As such, this model should allow the SSA to be the lead agency regarding domestic intelligence, but when other agencies' resources and expertise are required for domestic intelligence (and vice versa) the national security architecture requires a system that allows intelligence fusion. Hence,

³⁰⁶ Establishing an agency along these lines would require more in-depth review and can therefore be a topic for follow-on research. Such research can guide whether a requirement exists, now or in the future, for an agency specifically charged with communications security in Trinidad and Tobago. Further, research in terms of the applicability, roles, responsibilities, and for how such an agency can best be configured, though indirectly related, is not the focus of the thesis question. The utility in reviewing these types of agencies is that they provide areas that should be considered by any intelligence agency that does not have the benefit of an STS or GCHQ within its intelligence community.

besides proposing that the SSA be the lead in domestic intelligence, this model calls for improved coordination and collaboration among the existing intelligence agencies.³⁰⁷

2. Interagency Coordination, Cooperation, Sharing, and Fusion

Much like in the UK or Romania, coordination and collaboration are necessary so that all operations regarding security and defence are intelligence driven in Trinidad and Tobago. Thus, intelligence fusion is necessary in this proposed model, which is achievable via a centralized intelligence fusion and operations management center. The person responsible for directing the work of the NSCS can also be assigned the responsibility of directing the work of the fusion center, which would have the responsibility for setting intelligence priorities and directives. While each agency will have its specific areas of expertise, there should be no overlapping of agency responsibilities, and the intelligence generated from this fusion center can be used at either the strategic or the operational levels. In this model, efficiency in the state's intelligence architecture is achievable once the ITAC focuses on strategic level intelligence, which would drive government's policies and planning for measures that are strategic in nature and leave the operational level intelligence function as a responsibility for the SSA. The SSA will therefore focus on the contemporary threats, which the government has deemed serious crime. The SSA can support LEA and the TTDF as required for internal security and defense, respectively. The SSA's role should always be supportive; as such, no powers of arrest should be conferred on members of the agency. Additionally, LEA must practice its due diligence in investigating and evidence gathering to maintain its ability to prosecute persons involved in serious crime.

³⁰⁷ The agencies that have intelligence roles and functions in Trinidad and Tobago are: Integrated Threat Assessment Centre, SSA, Special Branch, and DFIU; they can be classified as agencies with missions relating to foreign, domestic, criminal, and defense intelligence, respectively. Further, as there is limited information concerning the mandate and structure of the Integrated Threat Assessment Centre, the Special Branch, and the DFIU, no comment can be made regarding the template to which these agencies should conform; however, because one focuses on strategic threats, one is a law enforcement body, and the other is military focused there are grounds for additional research that can suggest the practicality of using a foreign intelligence template, civilian-law enforcement template, and a military template (which were not explored in this research), respectively.

3. Legal Framework

In order for this model to work, Trinidad and Tobago must restructure its legal framework for intelligence, which should outline agencies' mandates, the internal control structure, and to whom the agency is accountable at the executive, legislative, and judicial levels. Whatever the decision, the intelligence community should support each other (and ultimately the security sector) allowing for collaboration and coordination among agencies through the fusion center and when so required. Although the government has initiated this legislative step, it is lacking in some areas, which the government should consider for review.

In this context, the legal framework should clearly define the relationship between the Director of the SSA and the NSC (or even the operational arm of the NSC—the NSCS), which the SSA Act 2016 (Amendment) does not stipulate.³⁰⁸ As illustrated in Romania and the UK, the preferred practice is that final authority ought not to reside with only the Minister but ultimately by the NSC, which the director ought to be equally accountable to along with all other directors of intelligence agencies. Furthermore, such an arrangement removes direct control of intelligence from one individual to a body of officials within the executive.

The legal framework should also stipulate the levels of authority (like the NSC, ministerial, director etc.) for different types of activities or operations with which the agency will engage, especially when such activities are intrusive in nature but necessary due to the type of threat or threats. Such regulations will aid in restricting the autonomy of the agency and provide varying levels of control mechanisms.

Furthermore, subsidiary regulations and codes of conduct for intelligence are necessary for a number of reasons. The most crucial of these is to stipulate the levels of authority for the different types of activities or operations in which the agency will engage. Of equal importance are measures that will ensure only relevant information is collected, collected information is utilized appropriately, and that the information is

³⁰⁸ “Strategic Services Agency Act of 1995, Chapter 15:06§ 6 (1995), Section 4 (4): (b) (c), and (5)—The Director,” 5.

shared in tandem with security directives. Collection should utilize procedures that involve the least amount of intrusion possible while adhering to the rule of law and ethical standards.³⁰⁹

The government's amendment of the SSA legislation is a step in the right direction as it puts Trinidad and Tobago on the path to achieving success in intelligence reform. Such reform, however, must not only address reform in the SSA but in all other intelligence agencies, especially those that came into existence without legislation. Governing of the entire intelligence community, including those entities existing as part of the police service, military, and any other organization should be in accordance with legislative guidance and control mechanisms that specifically indicate the *raison d'être* for each agency, its mandates, and the general guiding principles that dictate the agency's operations. Specifically concerning the SIA, the government should decide whether the SIA would be disbanded and its staff, resources, and equipment transferred to another agency. It is necessary to create a separate legal framework to legalize its existence, and provide a specific mandate either internally or externally centered, if it is retained. Should the state choose to keep the SIA, consolidate agencies, or introduce other intelligence agencies, the organization of the intelligence community would be more effective if based on specific mission sets. An overarching National Security Strategy or similar framework should articulate such mission sets. Unfortunately, it appears that a document of this nature is not yet crafted; if it is, the researcher was unable to locate it. If it is not, then the NSC should consider developing such a strategy.

³⁰⁹ In this regard, the researcher found evidence that legislation does exist to address this concern. The government enacted the Interception of Communications Act, Chapter 15:08 on December 17, 2010, which "seeks to regulate and facilitate the interceptions of communications for law enforcement purposes, on the one hand, whilst balancing the privacy of individuals on the other hand." The act allows only three institutions in Trinidad and Tobago the authority to intercept communications, the SSA, the TTPS, and the TTDF. Furthermore, interceptions are authorized by warrants, and the act regulates the process for interceptions as well as procedures for how data is to be stored, used, or destroyed. Finally, the Minister is responsible for periodic submission of reports to the Parliament concerning the interceptions of communications undertaken within the reporting period. See: Edmund Dillion, *Interception of Communications Act, Chapter 15:08: 2016 Annual Report For the Period January, 2016 – December, 2016*, 11th Republican Parliament: 3rd Session, Parliament of Trinidad and Tobago, April 23, 2017, <http://parlcloud.ttparliament.org:8080/paperslaiddownload/Default.aspx?path=DocumentsPapersLaid/Eleventh%20Parliament/Fourth%20Session,%20Eleventh%20Parliament/Administrative%20Reports/Interception%20of%20Communications%20Annual%20Report%202016.pdf>.

Furthermore, it is worthwhile to organize the intelligence community for security intelligence and support for policy formulation as Trinidad and Tobago has never been and is not in the near future likely to be under threat from any other state. Security intelligence and support to policy makers are the two areas of priority based on the threats identified. Despite these two areas of priority, intelligence agencies ought not to be involved in policy generation or recommendations, such jobs are the responsibility of policy makers, ministers, and the NSCS, and the like. Some of the new functions of the SSA, outlined in the appendix of this thesis, suggest that the state's intent is for the SSA to be involved in strategic aspects of intelligence. Specifically, one of the SSA's new mandates is to generate policies and programs for the state as part of the attempt to eradicate or significantly curtail serious crime in Trinidad and Tobago. As such, some of the functions that now fall under the SSA's responsibility should be reassessed; policy formulation ought not to be an intelligence function, which was highlighted in Chapter II.

4. Effectiveness of Roles and Missions

Following the UK and Romanian model, Trinidad and Tobago should strive to improve the effectiveness of its intelligence community by ensuring the agencies have focused roles and missions. For example, counterterrorism may be a consideration for domestic intelligence, while countering organized crime would be a concern for criminal intelligence. A clearly defined focus for each agency helps eliminate overlap and competition among agencies. As noted earlier, the agencies in Trinidad and Tobago appear aligned toward missions related to foreign, domestic, criminal, and defense intelligence. As such, the NSC should consider assigning agencies responsibilities according to these four areas (foreign, domestic, criminal, and defense), which would improve the respective agencies' ability in fulfilling their roles and missions. Furthermore, developing plans at all functional levels—strategic, operational, and tactical—would tailor intelligence for specific areas of expertise.

In terms of interagency cooperation and collaboration, this is possibly the only way to ensure effectiveness of the security architecture in Trinidad and Tobago. As the country continues to explore measures aimed at mitigating its reliance on the oil and gas

industry, agencies are required to do a lot more with a lot less. In this context, interoperability is a key concern for Trinidad and Tobago, and strengthening coordination and cooperation starts with clearer roles and missions for the intelligence community. Thus, the government must consider improving interoperability across two dimensions. The first allows agencies the ability to work with law enforcement to “gain the advantage over ... targets ... [being investigated] by covertly [or overtly] obtaining information about them, which ... can [be used] to counter their activities.”³¹⁰ Much like the role of SRI or MI5, intelligence must be able “to provide assistance to other agencies, organizations, and departments in combating threats to national security.”³¹¹ The second is being able to work in tandem with other countries’ intelligence professionals. Such alliances can only happen when a number of areas already discussed—training, equipment, systems, and facilities—are comparable and functional. Only then, can there be effective collaboration on the myriad of transnational issues (especially terrorism and cyber security) that the state, its allies, and partners face.

In terms of resources, utilizing intelligence for support to national security and policy makers would provide the most effective use of resources to realize agencies that are proficient in the highlighted areas of concern for Trinidad and Tobago, the Caribbean, and international partners and allies. It therefore follows that training to be proficient in these two mission sets—security intelligence and support to policy makers—is necessary to achieve agencies that are properly suited to executing the mandates of government relating to these two areas. Ideally these should be missions for the SSA and ITAC, respectively. For Trinidad and Tobago, this may present a challenge in terms of capacity and the necessary resources to affect not only the level of training that is required but technologies, equipment, and overall resources for use in an operational capacity. In this area of deficiency the government should seek avenues for collaboration and partnerships with other Caribbean nations that may be further advanced in these aspects, as well as other international allies or partners that can help to build capacity, experience, technologies, and equipment. Eventually, it would be prudent for the government to

³¹⁰ Hannah, O’Brien, and Rathmell, *Intelligence and Security Legislation*, 5.

³¹¹ Hannah, O’Brien, and Rathmell.

establish institutions and facilities supportive of the technical aspects of intelligence, such as SIGINT, databases, and communications security. Furthermore, establishing training academies and partnerships with academia will help to build a cadre of think tanks, which are necessary to facilitate consistent recruitment, ongoing training of personnel, and development of industry professionals. Such measures will ensure continued expertise, retention, and skills currency of intelligence personnel.

5. Control, Oversight, and Transparency

Besides promoting effective intelligence agencies, this model is also suggesting a clear set of control and oversight mechanisms, which are in line with practices employed by the UK and Romania. Three aspects are instructive in considering oversight—legislative, internal, and external. Under legislative oversight, the government should consider a standing joint select committee along with far reaching authorities like those of the standing committees in Romania’s parliament or the ISC in the UK. Such a committee should have a specific focus on reviewing matters of intelligence pertaining to agency personnel and activities of the agency and report to the parliament on all matters regarding the intelligence agencies. The act should be reviewed to consider giving authority to the parliament’s Public Accounts Committee³¹² to review the agency’s expenditure and budget allocations, allowing for transparency of the agency’s plans and activities. In this regard, it is necessary for such persons belonging to these committees to have appropriate clearances for the types of information they are to review, and such persons should undergo specialized training and vetting to ensure they have the ability do their jobs effectively and securely.

Under internal oversight mechanisms, it would be useful for the government to consider the inclusion of an inspector general. Such a post gives the executive another layer of oversight into the activities of the agency and allows for periodic internal reviews and assessments of the agency’s activities and budget to ensure the agency is operating according to its directives and mandates. The review of reports from the inspector general

³¹² “Committees,” 11th Republican Parliament: 3rd Session, Parliament of Trinidad and Tobago, accessed May 23, 2017, http://www.ttparliament.org/committee_business.php?mid=2.

would allow the NSC to take preemptive steps in initiating any amendments to the agency's structure or systems deemed necessary.

Finally, external oversight is one of the hallmarks of any properly functioning democracy. Consideration should be given to amend the act (or introduce subsidiary regulations) to include mechanisms that allow for the scrutiny of the agency's activities that are unclassified and not deleterious in nature to the national security, agency methods of operation, or agency staff. Furthermore, there ought to be an appropriate system for the declassification of files and documents to allow civil society and the media access to declassified information in alignment with the spirit of legislation relating to freedom of information. Moreover, elected officials should be more knowledgeable about that which they control, and the government and the agencies should initiate a comprehensive public relations campaign that assists the society in understanding why intelligence agencies are necessary.

C. CONCLUSION

Overall, as the Government of the Republic of Trinidad and Tobago continues to adapt to its ever-changing security environment, the government should continue to review and improve upon ongoing reform of the SSA and the intelligence community; nonetheless, there are other aspects that require further consideration. In this regard, intelligence reform should continue according to the principles laid out in the country's constitution and existing laws. Where legislation is silent, amendments and the introduction of new laws are necessary. Hence, the democratization of the intelligence services is a necessary consideration in any further reform of the SSA and the intelligence community in general. Ultimately, the research shows that the cases considered are on the right path to balancing effectiveness and transparency, yet their effort remains a work in progress; it would be instructive for Trinidad and Tobago to embark upon a similar path, and where possible emulate the areas necessary to achieve similar results.

APPENDIX. AMENDED FUNCTIONS OF THE STRATEGIC SERVICES AGENCY

The new functions of the SSA according to the SSA Act 2016 (Amendment) are stipulated in Section 6 as follows:

- 1) The main functions of the Agency are to—
 - a. act as an **office for centralising information** that could facilitate the detection and prevention of serious crime, for **co-ordinating operations** for the suppression of serious crime and for **co-operating with the Services**³¹³ **or the corresponding Services of other countries**;
 - b. **develop strategic intelligence** and **make recommendations** to Government **on the formation of policies** in relation to serious crime;
 - c. **prepare crime prevention strategies** and **stimulate action** toward and **monitor the implementation** of the agreed strategies;
 - d. **advise on policy formation** in respect of the development of human resources engaged in crime prevention activities and **maintain an inventory of all training** undertaken and seek to identify opportunities for training;
 - e. **disseminate** information and intelligence to the Services;
 - f. **provide intelligence and analytical support** for the appropriate operational and intelligence arms of the Services;
 - g. **assist in identifying sophisticated criminal activity** and those who engage in it;
 - h. **help the law enforcement effort** by **identifying links** between individuals and organisations involved in serious crime;

³¹³ In “Strategic Services Agency Act of 1995, Chapter 15:06§ 6 (1995), Section 2 – Interpretation,” 4, *Services* are defined as “the Ministry of National Security, the Customs and Excise Division, the Trinidad and Tobago Police Service, the Trinidad and Tobago Defence Force and any other Ministry or Department so declared by Order of the Minister” of National Security.

- i. **provide strategic intelligence** to assist and promote the efficient and effective use of operational resources so as to enable the development of law enforcement strategies;
 - j. **identify new trends in, and patterns** of criminal activity;
 - k. **provide a nucleus of specialist intelligence personnel** who are able to advise and assist investigating officers concerning operational priorities and deployment of resources;
 - l. **establish channels of communication** with the Services and the corresponding Services of other countries and **provide a national focal point** for the promotion and exchange of information and intelligence about serious crime;
 - m. do all such things as are incidental or conducive to the attainment of the objectives of the Agency.
- 2) In addition to the aforementioned functions, the Agency shall—
- a. **give its assistance** to the Services to which cases of serious crime have been referred;
 - b. **provide a central point for the receipt of all disclosures** made under the laws pertaining to serious crime and **develop such disclosures through the intelligence process and disseminate** to the Services for further action;
 - c. *(Deleted by Act No. 39 of 1997);*
 - d. **prepare, update, monitor, and co-ordinate** all matters relating to crime prevention programmes;
 - e. **negotiate foreign technical assistance** for the crime prevention programmes;
 - f. **contribute to the training** of staff of the Services in crime prevention;

- g. **establish and maintain close contact with corresponding Services in other countries** in order to achieve—
 - i. a rapid exchange of information in respect of all aspects of offences related to serious crime;
 - ii. broad co-operation in investigations concerning serious crime so as to establish—
 - A. the identity, description, place of residence, movements, assets, and activities of persons involved in serious crime,
 - B. the details regarding transactions related to serious crime,
 - C. the movement of proceeds and property derived from serious crime,
 - D. the movement of dangerous drugs, precursor chemicals, weapons of mass destruction, prohibited weapons, firearms, arms, and ammunition as well as equipment, material, and instrumentalities used in serious crime, and;
 - E. the movement of persons involved in trafficking in persons and trafficking in children
- h. **maintain databases** of persons involved in serious crime;
- i. **facilitate the exchange of personnel** and other experts and the posting of liaison officers;
- j. **co-operate with corresponding Services in other countries** to organise, where appropriate, regional and international conferences and seminars to stimulate co-operation.

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