



Scotland's Blueprint for a Security and Intelligence Agency

An Initial Assessment

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Executive Summary

- An independent Scotland is unlikely to face the severity of threats currently faced by the UK. Given this more benign threat picture, the creation of a new Scottish Security and Intelligence Agency seems unnecessary, with more promising avenues including developing and expanding an intelligence division within Police Scotland.
- Significant resourcing, capability and legislative hurdles would affect the creation of a new Scottish Security and Intelligence Agency. This would take years to develop, and create short-term vulnerabilities for Scottish national security.
- A Scottish Security and Intelligence Agency would not have automatic access to 'Five-Eyes' intelligence, but would need to negotiate some limited access. This could severely constrain a new agency's investigations and its ability to protect an independent Scotland.
- This also creates a potential vulnerability for wider UK national security. A weak Scottish security and intelligence capability could make Scotland an attractive environment for hostile intelligence organisations, and provide a route into the UK. As a result, the Westminster government would have a strong incentive to co-operate in attempts to mitigate this problem.
- Were co-operation to be ineffective, the perception of Scotland as a vulnerability to the UK could exacerbate tensions between the Holyrood and Westminster governments over security issues.

Scotland's Blueprint for a Security and Intelligence Agency

On 18 September 2014, people in Scotland will vote on whether the country should stay in the UK, or leave and become a new, separate and independent state. In the run-up to the referendum, the implications of a Yes vote – for both Scotland and the UK as a whole – are being fiercely debated.

As part of RUSI's work on the defence and security implications of such an outcome, the Institute has scrutinised the Scottish government's plans for an independent Security and Intelligence Agency. A new agency would replace, rather than replicate, the current UK government's security and intelligence agencies, namely MI5 (the Security Service), MI6 (the Secret Intelligence Service) and GCHQ (the Government Communications Headquarters).

The proposal for the new Security and Intelligence Agency is outlined in the November 2013 Scottish government White Paper, *Scotland's Future: Your Guide to an Independent Scotland*, which details the potential key benefits of the new agency and the measures required in the event of a Yes vote. The new agency would be one of three components – along with Police Scotland and the Scottish armed forces – set up to ensure Scotland's security.¹ The agency's functions would include the investigation of threats; liaison with Police Scotland and other relevant bodies in Scotland, the rest of the UK and internationally; intelligence gathering, receipt and handling; the production of open-source intelligence material; assessment and analysis; the production of risk and threat assessments; the protection of Scotland's critical infrastructure; and cyber-security functions.

According to the White Paper, these functions would be carried out from 'day one of independence', though an undetermined transition period is envisaged, during which collaboration with the relevant UK agencies and a gradual transfer of expertise would occur. The cost of setting up the agency is unspecified, while annual spending on security and intelligence capabilities is estimated at £206 million.

Meanwhile, complications arise from the fact that matters of UK national security are highly sensitive and based on the UK's foreign-, security- and defence-policy postures. Indeed, any decisions regarding UK national security are closely related to broader matters of sovereignty and democratic accountability. As noted in the UK's *Scotland Analysis: Security*, 'The creation of an independent Scottish state would see an end to the current arrangements for ensuring Scotland's security, as Scotland ... would no longer be part of the UK's national security infrastructure and capabilities'.²

While this briefing paper primarily focuses on what a Scottish agency would need in order to respond to the threats facing an independent Scotland, further consideration should be given to the role of intelligence in helping to identify political and economic opportunities. This would also have a bearing on the type of overseas role a new agency would assume.

The Threat Landscape

The precise nature and level of the security threats facing Scotland – and the consequent responsibilities of the proposed Security and Intelligence Agency – are viewed differently by the Scottish and UK governments. Table 1 summarises the threats identified in both the Scottish government's *Scotland's Future: Your Guide to an Independent Scotland* and the UK's *Scotland Analysis: Security*.

Table 1: Comparison of Perceptions of Priority Threats to Scotland.

Scottish Government White Paper	UK National Security Strategy	RUSI Analysis
Terrorism	Tier One	Organised crime
Cyber-security	International terrorism	Cyber-security and cyber-
Critical infrastructure	Attacks on UK cyberspace/	espionage
resilience	cyber-crime	International and Irish-
	Natural hazards	related terrorism
	Tier Two	Energy security
	Overseas instability	Natural hazards
	Organised crime	
	Tier Three	
	Border security	

Source: *The Scottish Government, Scotland's Future: Your Guide to an Independent Scotland* (Edinburgh: The Scottish Government, November 2013); *HM Government, Scotland Analysis: Security, Cm 8741* (London: The Stationery Office, October 2013).

Notably, the Scottish government's White Paper does not mention organised crime as a key national-security threat. However, the Scottish government estimates the social and economic costs of drugs abuse in Scotland to be £2.6 billion per year, with an estimated 92 per cent of the 350 organised crime groups in Scotland thought to be involved in drug-related crime.³

Cyber-security, meanwhile, is cited as a key concern of the Scottish government and of businesses operating in Scotland. The financial services industry, defence manufacturing, energy and utilities sectors are all vulnerable to cyber-attacks and cyber-espionage. The Royal Bank of Scotland Group, along with many other major financial institutions, has experienced

a number of these attacks.⁴ Yet building a new set of capabilities to protect these industries will be expensive.

The threat to Scotland from Al-Qa'ida-inspired or Northern-Irish terrorism, as identified in both White Papers, is not as severe as that in England, Wales and Northern Ireland, although there has been one case – the terrorist attack at Glasgow airport in June 2007, which injured five members of the public. Overseas, two Scottish citizens were killed in the attack on the Tigantourine gas facility near In Amenas, Algeria in January 2013. This latter incident raises a major challenge for a new Scottish Security and Intelligence Agency: how it protects Scottish interests and the approximately 1 million Scottish citizens living overseas.⁵

Challenges in Creating a New Agency

Finance and Timescale

As noted, the Scottish government has estimated that the new agency would cost £206 million per year to run. This figure is derived from Scotland's apparent contribution to UK security and intelligence spending as a proportionate share, based upon its population. Yet it is an entirely meaningless figure. For, whilst this may be an equitable means of distributing the tax burden within the union, the budget for such an agency needs to be based on the scale and nature of the security threats faced by an independent Scotland, rather than the size of its population.

The cost of actually setting up the new agency is also omitted from the proposal and needs to be considered before the true value of such an agency can be ascertained. Indeed, it is questionable whether a security and intelligence agency of any standing or quality can be developed within eighteen months. It will unavoidably take sustained effort, extensive training and substantial experience to reach an appropriate level of capability, and for the agency to attain a position whereby these capabilities could subsequently be demonstrated to foreign services.

Organisation and Infrastructure

A new agency will also face a number of logistical issues. Recruiting and vetting sufficiently able staff in the required numbers will be a key challenge. Providing the necessary training is not feasible within the anticipated eighteen-month timeframe. Meanwhile, the UK would have a closer intelligence relationship with New Zealand, thanks to the Five Eyes, than with Scotland.

In order to fulfil its functions from 'day one of independence' as envisaged, the agency would therefore need to rely heavily on the transfer or secondment of staff from UK intelligence agencies. Yet there is no indication of the scale or anticipated length of the planned transition period, during which this

might occur. While some Scottish citizens currently serving in MI5, MI6 and GCHQ may wish to transfer to the new agency, the incentives would have to be attractive for people to move to a smaller, less well funded agency with more limited intelligence and potential for action. At the same time, though it is highly likely that support to a new agency would be forthcoming from MI5, MI6 and GCHQ, the provision of support is dependent on those agencies being able to absorb the loss of capacity, given current and future threats to the UK.

Intelligence Unplugged?

The Scottish White Paper highlights the UK government's assertion that it 'is clearly in the UK's interests to be surrounded by secure and resilient neighbouring countries'.⁶ While this point is indeed made, it is with the express caveat that it would take time to build confidence in the mechanisms and controls established by an independent Scotland. Any intelligence-sharing agreement between the Holyrood and Westminster governments would be highly political and not a straightforward process. A Scottish government should not assume co-operation.

The Scottish White Paper further suggests that 'the Scottish and Westminster Governments will engage closely as equal and co-operative allies in tackling issues of joint interest such as terrorism and serious organised crime'.⁷ In the case of law enforcement, this is certainly true and both English and Welsh police forces have an excellent relationship with Police Scotland. Yet intelligence sharing between UK agencies and an independent Scotland would be neither automatic nor immediate. Intelligence sharing would require the Scottish government to invest in physical and personnel security measures both domestically and overseas, and the Scottish government would also need to spend time and effort creating trust and confidence in the new agency structures.⁸

At the same time, as part of the transition period set out in the Scottish White Paper, it is assumed that the Scottish government would try to implement a comprehensive intelligence-sharing agreement with the UK government. However, the new agency would not have the same level of access to much of the crucial intelligence currently employed in defence of Scotland and its citizens. The UK draws on intelligence provided by international partners across the world; these relationships are the result of historical legacies longstanding co-operation and established trust. The most crucial examples are the relationship with the US; the Five-Eyes Agreement which further incorporates Australia, Canada and New Zealand; and the Club of Berne, which facilitates intelligence sharing between European agency heads. The UK government would not be able to share the intelligence it receives from international partners with a new Scottish agency without breaching

established principles of intelligence handling and risking severe damage to its own global relationships.

Furthermore, a new Scottish agency would not benefit from automatic entry into any of these agreements. It is widely understood within the community that intelligence agencies must contribute to these partnerships and cannot free-ride on the investments made by other governments. It is not self-evident what value, if any, a Scottish agency would bring to the table.

Finally, given the priorities laid out in the Scottish White Paper, it is assumed that a foreign-intelligence capability is envisaged by the Scottish government, as is some kind of signals-intelligence (SIGINT) capability, such as that currently provided by GCHQ. While UK government departments and agencies draw on a wide range of such sources to create a rich intelligence picture, SIGINT in particular is very expensive to develop and maintain. Yet without such intelligence, the capabilities of a Scottish agency would be very restricted, and intelligence officers would be forced to conduct investigations hampered by considerable blind spots. This seems a fundamental flaw in the current plan and a substantial concern, given the increasingly transnational nature of the principal security threats identified in the White Paper.

An International Footprint

In a highly globalised world, Scotland will need to establish its own international relationships. While the Scottish government already operates Scotland House in Brussels and the Scottish Affairs Office in Washington, its White Paper suggests that the Scottish government plans to create an overseas network between seventy and ninety international offices. If the functions of these offices are primarily focused on trade promotion, consular activities and some diplomacy, the intelligence requirement would not be sufficiently high to warrant a presence. However, from an intelligence and law-enforcement perspective, it is assumed that the Scottish government would want some liaison functions in London, Washington, Paris, Berlin and Brussels, as well a hub in the Middle East.

The White Paper also assumes that the intelligence priorities of the UK government would match those of the Scottish government. This is not the case and would depend on whether Scotland was a member of NATO and the EU, as well as other international bodies.⁹ It remains to be seen whether membership of either organisation is possible. In particular, President of the European Commission José Manuel Barroso recently said that he doubts Scotland could obtain the approval of every one of the EU's twenty-eight member states, which would be a requirement for entry.

At the same time, despite confident assertions regarding its prospects of obtaining membership of NATO, there has been a failure to acknowledge the

fact that an independent Scotland's potentially anti-nuclear policy would likely cause major ructions between the Holyrood and Westminster governments, not least because of the relocation of the UK's Trident weapons system from Faslane. Indeed, a Scottish government with different international priorities would not be supported by the UK's intelligence machinery. Similarly, a key relationship with the US may be strained by the Scottish government's particular handling of the release of Lockerbie bomber Abdelbaset Ali Al-Megrahi.

Table 2: Key Aspects of the Legislation Underpinning the UK Intelligence Agencies.

Security Service Act 1989	Intelligence Services Act 1994
<ul style="list-style-type: none"> • Gave MI5 a statutory basis. • Outlined the principal functions of the agency and indicated the nature of threats it was responsible for combating. • Defined the role and responsibilities of the Director General, including their accountability to the Secretary of State. • Placed statutory limitations on the use of intercept warrants, defining the circumstances of their use and codifying the procedure under the Secretary of State. (These provisions have now been superseded by subsequent legislation). 	<ul style="list-style-type: none"> • Gave MI6 and GCHQ a statutory basis. • Outlined the principal functions of these agencies and gave statutory definitions to the circumstances in which those functions may be exercised. • Defined the roles and responsibilities of the heads of each agency, including their accountability to the Secretary of State. • Further delineated the use of intercept warrants and expanded the statutory basis for their use to all three agencies. • Created the Intelligence and Security Committee to oversee the expenditure, administration and policy of the agencies. (The Justice and Security Act 2013 subsequently expanded its remit to include oversight of operational activity).

Legislation in a Post-Snowden World

A legislative framework would need to be devised for the new agency, defining its function and powers, as well as its subsequent regulation and oversight. As part of this framework, the White Paper proposes legislation which builds on and updates the UK government's Regulation of Investigatory Powers Act 2000 (RIPA). The Snowden revelations have raised questions regarding the suitability of RIPA to regulate monitoring of communication technologies never envisaged at the time of its enactment. In light of this, the Scottish Government's approach, as outlined in the White Paper, is welcome.

Yet little detail has been provided to elucidate the content of such legislation; the White Paper only specifies that the 'right balance' will be found between protecting freedoms and protecting national security. With a substantial gulf

remaining in the broader debate about where this balance lies, this task would certainly not be without either controversy or difficulty.

In this regard, a number of broad statements are made in the White Paper, describing the proposed oversight controls as 'wide-ranging and comprehensive',¹⁰ and there is reference to oversight commissioners equivalent to those in Westminster. However, there is insufficient detail upon which meaningful conclusions may be drawn. Legislation mirroring the function of the Security Service Act 1989 and the Intelligence Services Act 1994 would need to be drafted and, critically, approved – which may prove a delicate task in a post-Snowden world.

Feasibility of the Current Proposals

In view of the significant challenges outlined above, the feasibility of the Scottish blueprint for a Security and Intelligence Agency is problematic. A Scottish Security and Intelligence Agency would lose automatic access to the full range of capabilities and technical infrastructure offered by MI5, MI6 and GCHQ.

Table 3: The Possible Size and Shape of a New Scottish Security and Intelligence Agency.

Section	Estimated Personnel
Liaison	60
Agent Running	20
Surveillance	200
Technical (including intercept, transcribers, etc.)	200
Assessment Centre	50
Protective Security	35
Central Staff (Legal, IT, Training, etc.)	75
Desk Officers/Investigators	80
TOTAL	720

This raises serious concerns for Scottish national security, given that the Scottish White Paper envisages a new agency with the capacity and capability to investigate threats; liaise with other relevant agencies; gather and handle intelligence; produce open-source intelligence material; provide the government with assessment and analysis; and protect Scotland's critical infrastructure and cyber-security functions. Given the lack of detail in the Scottish White Paper regarding the size of the agency it envisages, it is difficult to assess the degree to which these capabilities could be retained, particularly within the short time-frame in which the agency is expected to become fully operational. Based on our own analysis of what a new Scottish

Security and Intelligence Agency would require, Table 3 provides a potential breakdown of roles and personnel.

There have been suggestions that an independent Scottish state could adopt a similar setup to those found in the Nordic states. This proposal has merit, though it is important to recognise the different scale of security and intelligence functions within these countries (the Finnish Security Intelligence Service has approximately 200 employees, whereas the Swedish Security Service has upwards of 1,000). It is also worth pointing out that none of the Nordic countries' services were built from scratch, as Scotland's is likely to have to be, but have evolved over time, as outlined in Table 4.

Table 4: Evolution of Nordic Security and Intelligence Agencies.

Country	Primary Security and Intelligence Service	Former Institution(s)
Denmark	Danish Security and Intelligence Service (Politiets Efterretningstjeneste)	Security Police (Sikkerhedspoliti); National Commissioner's Intelligence Department (Rigspolitechefens Efterretningsafdeling)
Norway	Norwegian Police Security Service (Politiets sikkerhetstjeneste)	Police Surveillance Agency (Politiets overvakningstjeneste)
Sweden	Swedish Security Service (Säkerhetspolisen)	General Security Service (Allmänna säkerhetstjänsten); National Police Security Agency (Rikspolisstyrelsens säkerhetsavdelning)
Finland	Finnish Security Intelligence Service (Suojelupoliisi)	Finnish Security Police (Suomen turvallisuuoliisi)

An Alternative Model

Given the serious constraints and challenges facing a Scottish Security and Intelligence Agency, not least the limited intelligence the agency would be able to collect, the authors believe that it would be better to consider a more modest and straightforward model based on the Danish Security and Intelligence Service (PET), which is part of the Danish police but reports directly to the Minister of Justice. The PET's mandate is to counter threats from terrorism, extremism, espionage and organised crime in Denmark as well as threats directed at Danish nationals and interests abroad. The PET conducts investigations, disrupts activities and pursues prosecutions; and it performs a further role in preventative security, working with public and private actors to strengthen resilience against threats. Approximately 800 staff are employed in various roles, including intelligence officers, analysts, investigators and legal advisers.

Should the Scottish people vote Yes in the referendum, the authors believe that developing an intelligence division within Police Scotland is the most promising avenue to explore. Police Scotland was established in early 2013 and is responsible for policing across Scotland. The creation of a single police force was one of the biggest reforms in Scotland's public sector since devolution and the biggest change to Scottish policing for more than forty years.¹¹ The chief constable is supported by a command team of four deputy chief constables (DCC), assistant chief constables and three directors. We recommend creating a new intelligence division led by a new director of intelligence (at the rank of deputy chief constable). This would potentially cost less than the amount the White Paper currently allocates to the agency, although we accept that even this scenario would have cost implications.

The merger of police forces was not without problems and it is worth raising them again in light of the plan to create a Scottish Security and Intelligence Agency. The move to a single police service was hampered by poor information, a lack of clarity about roles, and difficult relationships between the government, Police Scotland and the Scottish Police Authority. There have been significant changes to governance arrangements, and some important strategies and plans are still under development.¹² This major reform of the Scottish police aims to save £1.1 billion by 2026, but, according to Audit Scotland, it is not clear how these savings will be achieved.

On this basis we question whether the Scottish Government can actually afford to create an entirely new agency. Significant resourcing, capability and legislative hurdles in the creation of a Scottish Security and Intelligence Agency remain. An independent Scotland could have a first-class security and intelligence capability, but the political arguments for an intelligence agency are no match for the economic, diplomatic and technical realities of developing a new intelligence division in Police Scotland.

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Notes and References

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