

Former British spy David Shayler arrested for breaching Official Secrets Act

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Former MI5 intelligence officer David Shayler was arrested Monday after arriving back in Britain from exile in France. His girlfriend Annie Machon, another former MI5 officer, accompanied him. Shayler was freed on bail after being charged with two offences under the Official Secrets Act, which bars Whitehall officials and military staff from revealing sensitive information. If convicted, Shayler could face a maximum four-year prison sentence.

Prior to his release, Shayler was interviewed at Charing Cross Police Station, London. This was rumoured to concern his claim that Britain's overseas security service MI6 backed a failed plot to assassinate Libyan leader Colonel Gaddafi. His solicitor, John Wadham, of human rights group Liberty, denied this. Shayler had made the allegations after fleeing to France three years ago. Earlier this year, a dossier he had compiled on the failed plot was handed to Special Branch.

Shayler was charged with disclosing information about the activities of the Security Services, including the fact that MI5 held files on prominent Labour politicians and celebrities such as John Lennon—and over documents he allegedly took from MI5's headquarters at Millbank. Significantly, he was not charged over his allegations of British involvement in a plot to assassinate Gaddafi. Attempts to force the *Guardian* and *Observer* newspapers to hand over material regarding the alleged 1996 plot were dismissed in court last month.

Also omitted from the charges were Shayler's allegations that the 1994 bombing of the Israeli embassy in London and the IRA bombing of the City of London in 1993 could have been prevented. The allegations were made in an article he wrote for the satirical magazine *Punch*, whose editor presently faces

contempt of court charges.

Shayler appeared at Bow Street Magistrates Court in London on Thursday, charged with two offences under the Official Secrets Act. John Wadham said his client would plead not guilty. In a deal struck by Wadham as a condition for Shayler agreeing to return to Britain, the Crown Prosecution Service (CPS) did not oppose bail. If Shayler is eventually convicted at a jury trial, the CPS has also promised to take into account the three and a half months spent in a Paris jail pending the government's failed extradition attempt. Shayler is due back in court on 21 September.

Shayler left his post in MI5 in 1997. He had worked in the F2 department, specialising in operations against the labour movement, and later at the section monitoring international terrorism, where he was placed in charge of the Libyan desk. He sold his story to the *Mail on Sunday* in August 1997 for £40,000 and fled to France. His initial revelations included the fact that MI5 had bugged prominent individuals, and kept files on leading politicians, including the Northern Ireland Secretary Peter Mandelson, Home Secretary Jack Straw and former Conservative Prime Minister Sir Edward Heath.

While in Paris, he gave an interview to the BBC's *Panorama* programme. In it he said an MI6 officer handed £100,000 to an Arab agent to mastermind the assassination of Gaddafi. The agent, codenamed Tunworth, had links with a militant Islamic group who then arranged a failed attempt on Gaddafi's life in late February 1996. Tunworth's MI6 handler—PT16B—met Shayler while he was in MI5's G9section, responsible for monitoring Libyan activities. PT16B told Shayler that a bomb exploded under the wrong car, Gaddafi was unhurt and several civilians were killed or injured. He said that authorisation for the operation "went all the

way to the top."

There is corroborative evidence that an attempt was made on Gaddafi's life in February 1996. In a communiqué to Arab newspapers dated March 6 that year, the Libyan Islamic Fighting Force claimed to have carried out the assassination attempt.

Shayler says that his revelations were made in the public interest and did not damage national security. Wadham will argue that when European human rights legislation becomes part of British law on October 2, this protects whistle-blowers who claim to have acted in the public interest. As a result, the Official Secrets Act will have to be amended or interpreted to comply with article 10 of the European Convention on Human Rights, which guarantees freedom of expression. At present, Section 1 of the Official Secrets Act does not permit a defence based on public interest or when a disclosure was made that caused no damage to national security. Wadham wrote in the *Guardian* newspaper, "The Human Rights Act imposes a duty on the courts to interpret other laws so that they comply with the European Convention on Human Rights. The key right here is article 10, freedom of expression. Interestingly Tony Blair, Jack Straw and many other cabinet members voted in parliament against the [Official Secrets] act precisely because of the absence of a public interest defence in the legislation itself."

The Human Rights Act guarantees a right to freedom of expression, which can be restricted on grounds of national security only if this is both "necessary" and "proportionate". But the government seems intent on defending the Official Secrets Act at this point. Armed Forces Minister John Spellar said it is essential to maintain the security of the intelligence agencies.

The longer the Shayler case drags on, the more damaging it is proving for both the government and the security services. On July 29 1998, Straw was forced to admit that MI5 holds files on half a million individuals it has investigated since it was established in 1909. Of these, 230,000 were on individuals "no longer being investigated" but available to MI5 officers for their current work. These included all the public figures cited by Shayler, as well as a file on Straw himself during his tenure as president of the National Union of Students. Fully 20,000 files related to "active investigations".

Of the equally damaging charge regarding the plot to kill Gaddafi, Foreign Secretary Robin Cook said, "I'm

perfectly clear that these allegations have no basis in fact. It is pure fantasy."

For these questions to be openly examined in court in the run-up to a general election could prove politically disastrous. Cook and others could be exposed as having either lied or to be incompetent for not knowing what the security services were up to. A case against Shayler would also possibly involve MI5 officers taking the stand. To make matters worse, Shayler has threatened to stand against Prime Minister Tony Blair in his Sedgefield Constituency in a general election.

On August 22, a police inquiry into Julie Ann Davies, a 36 year-old student at Kingston University Surrey arrested under the Official Secrets Act was abandoned. Her lawyer, Gareth Peirce, said that the case against Davies had been "politically inspired". She was active in the campaign to have charges against Shayler dropped. Her computer had been removed along with other personal belongings. Davies is considering taking legal action against the police for wrecking her career and violating her human rights. "They did not tell me what I was supposed to have done," she said.



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