



INTERCEPTION OF COMMUNICATIONS IN THE UNITED KINGDOM
A CONSULTATION PAPER

PRESENTED TO PARLIAMENT BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT
BY COMMAND OF HER MAJESTY.
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FOREWORD
BY
THE HOME SECRETARY



Interception plays a crucial role in helping law enforcement agencies to combat criminal activity. On average, one in every two interception warrants which I issue results in the arrest of a person involved in serious crime. The proposals in this consultation paper will help to maintain it as the most powerful weapon in the armoury. And interception plays a wider role in the fight against terrorism of all kinds, and in the protection of the United Kingdom's vital national interest.

All interception of the public telephone system in this country takes place under a strict regime laid down by Parliament - principally the Interception of Communications Act 1985. But those who drafted the current legislation on interception of communications, some fifteen years ago, could not and did not foresee the extraordinary pace of change in the communications industry, especially in the past decade. Faced with a revolutionised communications industry and dated legislation on interception, sophisticated criminals and terrorists have been quick to put the new technology to use. The law must be revised if we are to preserve the ability of the law enforcement and intelligence agencies to prevent and detect serious crime and threats to our national security.

This revolution in communications technology is one of the imperatives for change in the law. But so too is the need to protect human rights - this has been uppermost in our minds in devising these proposals. Disproportionate, or unfettered, use of interception can have consequences for the rights of individuals.

There are some specific areas in which we need to improve the protection offered to the individual. There is currently no basis in law, for example, for the interception of communications on private telephone networks. We intend to put such interception on a statutory footing for the first time. This will ensure that the privacy of those who use these networks is respected, and that they have a means of redress if their communications are intercepted unlawfully.

Robust, independent safeguards are already in force. Interception may only take place when the information cannot reasonably be acquired by any other means. Each warrant is personally authorised by the relevant Secretary of State (in Scotland in respect of serious crime, authorisation will be given by the First Minister), and only when he or she is satisfied that it is strictly necessary. A senior judge reviews this process, and subjects the intercepting agencies to tough scrutiny. An independent tribunal investigates any complaints against the agencies. This document now proposes a new Code of Practice which will provide greater clarity about when and how applications for use of interception are authorised.

The Government is committed to building a safe, just and tolerant society. In the field of interception, there is a difficult balance to be struck. I believe our proposals strike the right balance and will be grateful for views on any of the proposals in this document.

A handwritten signature in black ink, appearing to read 'Jack Straw', with a stylized, cursive script.

JACK STRAW

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Text of Articles 6, 8 and 13 of The European Convention on Human Rights

Article 6

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to the law.

3. Everyone charged with a criminal offence has the following minimum rights:

- (a) to be informed promptly, in a language which he understands and in detail, of the nature and the cause of the accusation against him;
- (b) to have adequate time and facilities for the preparation of his defence;
- (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 13

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

