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The Wilson Doctrine

By Pat Strickland
Joanna Dawson
Samantha Godec

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Summary

The convention that MPs' communications should not be intercepted by police or security services is known as the 'Wilson Doctrine'. It is named after the former Prime Minister Harold Wilson who announced the policy in 1966. According to *The Times* on 18 November 1966, some MPs were concerned that the security services were tapping their telephones. In November 1966, in response to a number of parliamentary questions, Harold Wilson made a statement in the House of Commons saying that MPs phones would not be tapped.

Successive governments have confirmed that the doctrine remains in place.

There have been a number of controversies concerning the doctrine in recent years. The most recent one centres on the Snowden leaks concerning the way in which GCHQ has been collecting metadata – the 'who, when, where and how' of a communication.

In response to a question about this in July 2014 the then Home Secretary, Theresa May, said that the doctrine did not absolutely exclude the use of surveillance powers against parliamentarians, but it did set certain rules which have to be followed.

In October 2015 the Investigatory Powers Tribunal (IPT) gave judgment in a case brought by Caroline Lucas arising from the Snowden leaks, on the status, meaning and effect of the Wilson Doctrine. It concluded

- The Wilson doctrine applies to targeted, but not incidental, interception of parliamentarians' communications
- It was never absolute
- It has no legal effect, but in practice the Agencies must comply with the Draft Code on Interception and with their own guidance
- The doctrine as now constituted is as explained by the Home Secretary in July 2014.

Successive Interception of Communications Commissioners have recommended that the forty year convention which has banned the interception of MPs' communications should be lifted, on the grounds that legislation governing interception has been introduced since 1966.

The *Investigatory Powers Act 2016*, which received Royal Assent on 29 November 2016, placed arrangements on a statutory footing and extended them to members of the devolved administrations and MEPs. Once the relevant provisions commence, the interception of MPs' communications and interference with their equipment will require the approval of the Secretary of State, a Judicial Commissioner, and the Prime Minister.

1. Introduction

The Wilson doctrine requires that there should be no interception of MPs' communications. Introduced in 1966, the doctrine has been upheld in the decades since, and there have been several pieces of legislation to regulate both the interception of communications and the use of surveillance as part of criminal and other investigations by a range of public bodies.

2. Historical background

During the Cold War, the Government believed that communists from the Soviet Union had infiltrated British trade unions to generate political unrest. Information on these activities was not normally disclosed. However, on 20 June 1966, in a statement on the seamen's strike, the then Prime Minister Harold Wilson suggested that outside influences were preventing a settlement of the strike:

> It has been apparent for some time – and I do not say this without having good reasons for saying it – that since the Court of Inquiry's Report a few individuals have brought pressure to bear on a select few on the Executive Council of the National Union of Seamen, who in turn have been able to dominate the majority of that otherwise sturdy union.[1]

Many people at the time believed that this information must have come from the security services. Austin Morgan's biography of Harold Wilson suggests that Harold Wilson's source was MI5.[2]

There was growing concern amongst MPs that their phones were being tapped. According to a *Times* article on 18 November 1966, Harold Wilson answered several questions from MPs on telephone tapping.[3]

1 HC Deb 20 June 1966 c 42-43
2 Austin Morgan, *Harold Wilson,* Pluto Press, 1992, p288
3 "Prime Minister's directive against tapping M.P.s' telephones" *The Times* 18 November 1966

3. The Wilson doctrine

Following concerns from MPs that their phones were being tapped, the former Prime Minister Harold Wilson set out the doctrine named after him on 17 November 1966.

In a statement to the House of Commons, he said there had been no tapping of MPs' phones since his Government had entered office and gave a commitment that any change in policy would be subject to a statement in the House:

> With my right hon. Friends I reviewed the practice when we came to office and decided on balance – and the arguments were very fine – that the balance should be tipped the other way and that I should give this instruction that there was to be no tapping of the telephones of Members of Parliament. That was our decision and that is our policy. But if there was any development of a kind which required a change of policy, I would, at such a moment as seemed compatible with the security of the country, on my own initiative make a statement in the House about it.[4]

The doctrine was extended to members of the House of Lords by the Earl of Longford as Lord Privy Seal on 22 November 1966.[5]

Successive governments have upheld the policy as stated in 1966. In October 1997, the then Prime Minister Tony Blair described the policy in response to a Parliamentary Question:

> **Mr. Winnick:** To ask the Prime Minister if it is Government policy that interception of telephones of hon. Members by the Security Service requires his authorisation; and if he will make a statement.
>
> **The Prime Minister:** This Government's policy on the interception of telephones of Members of Parliament remains as stated in 1966 by the then Prime Minister, the Lord Wilson of Rievaulx, and as applied by successive Governments since. In answer to questions on 17 November 1966, Lord Wilson said that he had given instructions that there was to be no tapping of the telephones of Members of Parliament and that, if there were a development which required such a change of policy, he would at such moment as seemed compatible with the security of the country, on his own initiative, make a statement in the House about it.[6]

This was again confirmed in 2001, and it was noted that the Wilson doctrine also extended to the House of Lords.[7]

In 2009, Gordon Brown reaffirmed that the Wilson doctrine was still in place:

> **David Davis:** To ask the Prime Minister whether any hon. Member has been subject to (a) official surveillance and (b) interception of communications in the last two years. [288592]

4 HC Deb 17 November 1966 c639
5 HL Deb 22 November 1996 cc122-3
6 HC Deb 30 October 1997 c860w
7 HC Deb 19 December 2001 c367w

> **The Prime Minister:** The Wilson doctrine continues to apply to all forms of surveillance and interception that are subject to authorisation by Secretary of State warrant.[8]

The Coalition Government's position was confirmed in 2013:

> **Lord Strasburger:**To ask Her Majesty's Government whether the Wilson Doctrine on the interception of MPs' telephone calls still applies; whether it covers internet-based communications; and whether it applies to members of the House of Lords.[HL1217]
>
> **Lord Wallace of Saltaire:** Though it has been the longstanding practice for successive Governments not to comment on surveillance or interception operations. I can confirm that the Wilson Doctrine still applies, and applies to both Houses I refer the noble Lord to the then Prime Minister Tony Blair's written answer to Norman Baker MP on the terms of the Wilson Doctrine on 19 December 2001, Official Report, column 367W. and his subsequent confirmation that it continues to apply on 30 March 2006, Official Report. columns 95 and 96WS. His earlier written reply to a question by Norman Baker on 4 December 1997, Official Report, column 321W, made it clear that the Wilson Doctrine applied to telephone interception and to the use of electronic surveillance by any of the three security and intelligence agencies. This is still the position.[9]

However, in July 2014, the then Home Secretary Theresa May, made it clear that the doctrine "does not absolutely exclude the use of these powers against parliamentarians":

> **Mr Tom Watson (West Bromwich East) (Lab):** The Home Secretary has been very kind this week. May I just ask her this question? The former head of GCHQ told me last week that the Wilson doctrine extended to all the digital communications of parliamentarians. Will she confirm that the effect of that is that only MPs and peers of the realm are excluded from this legislation?
>
> **Mrs May:** Obviously, the Wilson doctrine applies to parliamentarians. It does not absolutely exclude the use of these powers against parliamentarians, but it sets certain requirements for those powers to be used in relation to a parliamentarian. It is not the case that parliamentarians are excluded and nobody else in the country is, but there is a certain set of rules and protocols that have to be met if there is a requirement to use any of these powers against a parliamentarian.[10]

3.1 Criticism of the Wilson doctrine

Prior to the abolition of this role under the *Investigatory Powers Act 2016*, the Interception of Communications Commissioner formerly had responsibility for keeping under review the interception of communications by intelligence services and some other public authorities.[11] In December 2005, the then Interception of

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8 HC Deb 21 July 2009 c1166W
9 HL Deb 3 July 2013 WA238
10 HC Deb 15 July 2014, col 713
11 Under section 240 of the *Investigatory Powers Act 2016*, the role of the Interception of Communications Commissioner was abolished. This oversight body was replaced on 29 January 2017 by an Investigatory Powers Commissioner, pursuant to section 227 of the *Investigatory Powers Act 2016*. The former regulatory framework is briefly described in section 7 of the Library Standard Note 6934, *The Data Retention*

Communications Commissioner, Sir Swinton Thomas, advised the Prime Minister that the Wilson doctrine should be not be sustained, given the new regulatory framework under the *Regulation of Investigatory Powers Act 2000*. Tony Blair made a statement on 15 December 2005 on the advice given by the then Interception of Communications Commissioner, Sir Swinton Thomas, on the interception of MP's communications. The advice was unpublished.

> **The Prime Minister (Mr. Tony Blair):** The Government have received advice from the Interception of Communications Commissioner, Sir Swinton Thomas, on the possible implications for the Wilson Doctrine of the regulatory framework for the interception of communications, under the Regulation of Investigatory Powers Act 2000.
>
> The Government are considering that advice. I shall inform Parliament of the outcome at the earliest opportunity.[12]

In March 2006, the Prime Minister announced that the Wilson doctrine would remain in place.[13]

The Guardian reported that Tony Blair was in favour of removing the Wilson doctrine, but many colleagues disagreed:

> The move reportedly led to rows in cabinet, with Mr Blair said to favour lifting the prohibition but facing stiff opposition from some colleagues, including the defence secretary, John Reid.
>
> It also sparked bitter opposition from a number of MPs. Labour's Colin Challen tabled a motion calling for the Commons to be able to debate the matter and have the final say.
>
> The Speaker, Michael Martin, also expressed serious concern about the proposal.[14]

The issue was raised again by the then Interception of Communications Commissioner in his annual report for 2005-2006.[15] Sir Swinton Thomas said:

> It is fundamental to the Constitution of this country that no-one is above the law or is seen to be above the law. But in this instance, MPs and Peers are anything but equal with the rest of the citizens of this country and are above the law.
>
> …
>
> In my view the Doctrine flies in the face of our Constitution and is wrong. I do not think that it provides MPs with additional protection. I think in fact that it is damaging to them.
>
> To the best of my knowledge, there is no other country in the world that provides the privilege to its elected representatives and Peers to be immune from having their communications lawfully intercepted with the accompanying advantage that they may be immune from criminal investigation and prosecution. [16]

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and Investigatory Powers Bill and in more detail in Library Standard Note 6332, *Interception of Communications*.

12 HC Deb 15 December 2005 c151WS; HC Deb 30 March 2006 cc95-6WS

13 HC Deb 30 March 2006 cc95-6WS

14 "Ban on MP phone tap to stay", *Guardian*, 30 March 2006

15 Annual report of the Interception of Communications Commissioner 2005-06, HC 315 2006-07, pp 12-14

16 *Ibid* para 55

The Commissioner argued that the situation had changed substantially since 1966, with legislation that gave interception oversight from an independent commissioner and led to it requiring a warrant signed by the Secretary of State:

> Some MPs may fear that the situation now is the same as it was in 1966 when it was at least theoretically possible for the Executive to intercept communications for its own purpose but it is not, for the following reasons –
>
> 1. For there to be interception, there must be a Warrant in place, signed by the Secretary of State authorising the interception.
> 2. The grounds for doing so are very limited by Section 5(3) of the Act. They are essentially National Security (including terrorism) and the prevention or detection of serious crime.
> 3. There is oversight by the Commissioner to prevent wrongful use, and I have made it clear that the Commissioner would personally ensure that there was no improper interception of the communications of any public figure.
> 4. It is important to appreciate that in reality it is impossible to achieve the interception of a telephone conversation by a Government Agency without a Warrant and the safeguards attached to it. So those who support the retention of this particular privilege have nothing to fear unless they are engaging in terrorism or serious crime.
> 5. The interception of communications is the most important investigative tool in the investigation of serious crime, such as fraud, drug smuggling, the downloading of child pornography, sexual offences with minors and perjury. Of course, I do not think that Members of Parliament are engaging in serious crime and terrorism. Indeed I have the greatest respect for our democratic institutions. However to maintain that no MP or Peer ever has or ever will engage in serious crime is absurd.
> 6. Nonetheless it is clear to me that a number of Ministers and many MPs from the Speaker of the House of Commons downwards, who I have spoken to on this subject, are determined to maintain this privileged status.[17]

The Rt. Hon. Sir Paul Kennedy was appointed Interception of Communications Commissioner on 11 April 2006. In his Annual Report for 2006, published on 28 January 2008, Sir Paul supported the views of his predecessor:

> I have not in this report referred to the Wilson Doctrine but I adopt without qualification what was said about it by Sir Swinton Thomas last year. In times like these it seems to me to be totally indefensible.[18]

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17 Annual report of the Interception of Communications Commissioner 2005-06, HC 315 2006-07, para 51

18 Report of the Interception of Communications Commissioner for 2006, 28 January 2008, HC 252

4. The NSA files and metadata

In June 2013, details of surveillance activities carried out by the US's National Security Agency (NSA) were revealed to *The Guardian* by former NSA contractor Edward Snowden. Over several months, the newspaper published information from the leak.

4.1 Prism

Information about the NSA's Prism programme was first published on 7 June 2013. The *Guardian* reported that the NSA could access information about internet communications from users of US-based internet companies such as Google.[19] In the same month, the newspaper also revealed that GCHQ (Government Communications Headquarters) had access to Prism:

> The documents show that GCHQ, based in Cheltenham, has had access to the system since at least June 2010, and generated 197 intelligence reports from it last year.
>
> The US-run programme, called Prism, would appear to allow GCHQ to circumvent the formal legal process required to seek personal material such as emails, photos and videos from an internet company based outside the UK.[20]

Further background is in a Library Briefing, *Intelligence Services: Key issues for the 2015 Parliament* (May 2015).

The issue of surveillance of MPs and members of the House of Lords under Prism was raised in the House of Commons in November 2013:

> **Mr David Davis:** To ask the Secretary of State for the Home Department whether the Wilson Doctrine on the interception of the telephone calls and electronic messages of hon. Members still applies; and whether the security agencies restrict co-operation with their American counterparts to prevent them applying such electronic surveillance to hon. Members and Members of the House of Lords.
>
> **James Brokenshire:** I can confirm that the Wilson Doctrine continues to apply.[21]

According to the Intelligence and Security Committee of Parliament, GCHQ had conformed with their statutory duties when using the NSA's Prism programme. In their July 2013 special report the Committee wrote:

> Further, in each case where GCHQ sought information from the US, a warrant for interception, signed by a Minister, was already in place, in accordance with the legal safeguards contained in the Regulation of Investigatory Powers Act 2000.[22]

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19 "NSA Prism program taps in to user data of Apple, Google and others", *The Guardian*, 7 June 2013

20 "UK gathering secret intelligence via covert NSA operation", *The Guardian*, 7 June 2013

21 HC Deb 5 November 2013 c116W

22 Intelligence and Security Committee of Parliament, Statement on GCHQ's Alleged Interception of Communications under the US PRISM Programme, July 2013

4.2 Tempora and metadata

The *Guardian* also reported that Edward Snowden's files had revealed GCHQ's ability to collect metadata from communications channels across the world:

> One key innovation has been GCHQ's ability to tap into and store huge volumes of data drawn from fibre-optic cables for up to 30 days so that it can be sifted and analysed. That operation, codenamed Tempora, has been running for some 18 months.[23]

Metadata is general information that reveals the 'who, when, where and how' of a communication, but not its specific content.

In a parliamentary question in March 2014, David Davis indicated that another Member of Parliament had been was told that the Wilson doctrine did not apply to metadata, and asked the Government for clarification:

> **Mr Davis:** The Wilson doctrine is a convention whereby Government agencies do not intercept communications with Members of Parliament without explicit approval from the Prime Minister. In a letter to my hon. Friend the Member for Enfield North (Nick de Bois) in 2012, the Minister told him that the Wilson doctrine did not apply to metadata, thereby exposing whistleblowers to risks from which parliamentary privilege should protect them. Will he review this policy, discuss it with the Prime Minister and report to the House?
>
> **Mr Maude:** I absolutely understand the point that my right hon. Friend makes and I will undertake to look at this with my right hon. Friends the Home Secretary and the Prime Minister.[24]

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23 "GCHQ taps fibre-optic cables for secret access to world's communications", *The Guardian*, 21 June 2013

24 HC Deb 12 March 2014 c306

5. The Investigatory Powers Tribunal judgment

In October 2015 the Investigatory Powers Tribunal gave judgment in a case brought by Caroline Lucas and Baroness Jones of Moulsecoombe, arising from the Snowden leaks, on the status, meaning and effect of the Wilson Doctrine.[25] The Tribunal reached the following conclusions about the doctrine:

- The Wilson doctrine applies to targeted, but not incidental, interception of parliamentarians' communications.[26]
- The doctrine was never absolute. It is unlikely that the policy was intended to rule out any tapping of telephones or other direct surveillance and certainly not incidental interception, particularly once RIPA was passed by Parliament.
- The doctrine, as elaborated by Mr Wilson, allows for a change in policy to permit the interception of communications of parliamentarians, subject only to the need for a Prime Minister to reveal or announce such change to Parliament at some stage in the future.
- The doctrine is not enforceable by way of parliamentarians' legitimate expectation that their communications will not be intercepted. Given that it is clear that the policy could be changed without notification to Parliament, parliamentarians can have no legitimate expectation in this regard.
- The doctrine as now constituted is as explained by the Home Secretary in July 2014:

> Obviously, the Wilson Doctrine applies to parliamentarians. It does not absolutely exclude the use of these powers against parliamentarians, but it sets certain requirements for those powers to be used in relation to a parliamentarian. It is not the case that the parliamentarians are excluded and nobody else in the country is, but there is a certain set of rules and protocols that have to be met if there is a requirement to use any of these powers against a parliamentarian.[27]

The Tribunal also concluded that the Agencies must in practice comply with the Draft Interception Code and with their own Guidance, as cited in the judgment, which provide additional safeguards with respect to the interception of parliamentarians' communications.

The Draft Code requires particular consideration to be given in cases where the subject of the interception might reasonably assume a high degree of privacy, or where confidential information is involved, including communications between an MP and another person concerning constituency business. The warrant application should make it clear if the communications in question might include such material.

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25 [2015] UKIPTrib 14_79-CH

26 This is both in respect of RIPA section 8(1) warrants at date of issue and section 8(4) warrants at the date of accessing/ selecting such communications.

27 HC Deb 15 July 2014, col 713

The Guidance issued to the Agencies on the Wilson Doctrine, disclosed for the first time during the proceedings, sets out the process to be followed when seeking authorisation to intercept a parliamentarian's communications. This makes clear that particular care must be taken to consider whether the interception is necessary and proportionate, and requires that the advice be sought of a legal adviser, the head of the warrantry section and a senior policy officer. The Director General must also be informed. Before deciding whether to issue a warrant, the Secretary of State must consult the Prime Minister, via the Cabinet Secretary.[28]

The Guidance also states that the Wilson doctrine does not apply to the interception of the communications of a Member of a devolved administration. The Tribunal agreed with this interpretation, stating:

> There was and is no such protection for the benefit of elected Councillors, for MEPs, for MSPs or for Members of the Welsh or Northern Ireland Assembly.[29]

A further issue raised by the claimants was that of the compatibility of the regime with Articles 8 (privacy) and 10 (freedom of expression) of the European Convention on Human Rights (ECHR). The Tribunal concluded that the interception regime provides a sufficient and adequate system for ECHR purposes, and one that does not require the Wilson doctrine to underlie it.

Emergency debate

Following this decision, on 19 October 2015 an emergency debate was called by the Shadow Leader of the House of Commons, Chris Bryant. Issues including the meaning of the doctrine, its continued existence, and the position in respect of members of the devolved assemblies and the European Parliament were considered. The Home Secretary restated her view that the doctrine remained in place.[30]

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28 See para 11 of the judgment
29 Para 22 (iv)
30 HC Deb 19 October 2015, c694 - 731

6. Prison surveillance

6.1 Alleged events at Woodhill prison

On 3 February 2008, the *Sunday Times* reported that conversations between Sadiq Khan (then a Member of Parliament) and a constituent at Woodhill Prison had allegedly been secretly recorded during 2005 and 2006:

> The bugging operation recorded conversations with his constituent, Babar Ahmad, who is facing deportation to the United States under new extradition laws.
>
> …
>
> Khan made two visits to Ahmad in 2005 and 2006 while he was on remand at Woodhill prison in Milton Keynes. Both meetings were secretly recorded. Ahmad's family say he arranged the meetings because he was no longer free to go Khan's constituency office in Tooting, south London, and wanted to see his MP.
>
> Knowing that Khan was coming, the anti-terrorist squad requested the bugging.[31]

The then Justice Secretary, Jack Straw, announced on 4 February 2008 that an inquiry into the matter would be conducted within two weeks by Sir Christopher Rose, the Chief Surveillance Commissioner.[32]

Sir Christopher Rose published his report on 21 February 2008. The Commissioner confirmed that the visits were subject to surveillance but were not covered by the Wilson doctrine. He highlighted that current legislation did not preclude surveillance of MPs:

> The legislation does not exempt Members of Parliament or anyone else from liability to covert surveillance if the circumstances warrant it. My views are not sought on the legislation or on the 1966 Wilson Doctrine which relates to the tapping of MPs' telephones and which, as the present Prime Minister said in his written Parliamentary answer on 12th September 2007, applies to all forms of interception subject to authorisation by Secretary of State warrant. The surveillance which I am investigating does not appear to me to be within the Wilson Doctrine, because it does not give rise to interception as defined by the legislation, nor would it require authorisation by the Secretary of State.[33]

The then Home Secretary reiterated this point in her statement to the House on 21 February 2008:

> This is in line with the Government's stated position on the doctrine. As the facts set out in Sir Christopher's report make clear, it is not relevant in this case.[34]

The Chief Surveillance Commissioner added a 'coda' to his report drawing attention to the potential for confusion about the Wilson

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31 "Police bugged Muslim MP" *Sunday Times* 03 February 2008, p1
32 HC Deb 04 February 2008 c661
33 Report on two visits by Sadiq Khan MP to Babar Ahmed at HM Prison Woodhill, Cm 7336 February 2008
34 HC Deb 21 February 2008 c536

doctrine and its application to surveillance operations, and suggested that clarification would be helpful:

> There is manifest scope for confusion in the minds of officers of public authorities and MPs as to the correct inter-relationship between the Wilson Doctrine and the legislation. It is obvious, but worth saying, that law enforcement agencies are expected to enforce and obey the law. In addition to law enforcement agencies, there are many hundreds of other public authorities empowered by the legislation to carry out directed surveillance. In the light of my findings and the different circumstances with regard to terrorism and covert surveillance capacity which prevail now, in comparison to 1966, I believe that clarification of this inter-relationship would be welcomed by everyone.

The then Home Secretary undertook to review the Code of Practice on surveillance.[35] A revised Code of Practice on surveillance was published in 2010,[36] and a further one was published in 2014.[37]

6.2 Recording of prisoners' telephone calls – 2006-2012

On 11 November 2014, Chris Grayling, the then Secretary of State for Justice, announced to the House that telephone calls between prisoners and their MPs may have been recorded and, in some cases, listened to by prison staff. The issue dated back to 2006 and was likely to have been resolved in 2012 as a result of changes to the system:

> In 2012, this Government implemented greater control over those whom prisoners were allowed to contact, limiting them to specifically identified phone numbers. As part of that process, prisoners supply the legal and otherwise confidential telephone numbers that they wish to contact. Prison staff are then required to carry out checks that the number is indeed a genuine number that should not be recorded or monitored, so that confidentiality is respected but not abused.[38]

Chris Grayling highlighted that the offices of 32 current MPs had been recorded and listened to, with 15 of these in cases where phone numbers had been correctly identified as confidential.[39] In response to the announcement, the Shadow Justice Secretary, Sadiq Khan, asked whether this issue contravenes the Wilson Doctrine.[40]

The Justice Secretary confirmed it did not:

> The Wilson doctrine applies to intercept activity, so the routine monitoring of calls of this kind, while not within the prison rules, is not covered by the Wilson doctrine.[41]

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35 HC Deb 21 February 2008 c538
36 Home Office, Covert surveillance and property interference, revised Code of Practice, 2010
37 Home Office Covert Surveillance and Property Interference: Code of Practice, December 2014
38 HC Deb 11 November 2014 c1314
39 HC Deb 11 November 2014 c1315
40 HC Deb 11 November 2014 c1317
41 Ibid

7. Labour MPs: police monitoring

On 25 March 2015, former undercover police officer Peter Francis revealed that police had monitored Labour politicians in the 1990s and continued to do so after they became MPs.[42]

> Peter Francis, a former undercover police officer, said he read secret files on 10 MPs during his 11 years working for the Metropolitan police's special branch.[43]
>
> Peter Francis states that he personally collected information on Diane Abbott, Jeremy Corbyn and Bernie Grant. Other MPs named by the whistleblower are: Harriet Harman, Peter Hain, Jack Straw, Ken Livingstone, Tony Benn, Joan Ruddock, and Dennis Skinner.[44]

In early March 2015, the Home Secretary established a public inquiry into undercover policing and the special demonstration squad. In an Urgent Question on 26 March 2015, Peter Hain requested that the remit of the inquiry include the surveillance of the MPs named by Peter Francis.[45]

Along with other MPs, Peter Hain also called for disclosure of all relevant information and for each affected MP to have their Personal Registry.[46]

Further information is on the Undercover Policing Inquiry website.

42 'Police continued spying on Labour activists after their election as MPs', *The Guardian*, 25 March 2015
43 *Ibid*
44 *Ibid*
45 HC Deb 26 March 2015 c1581
46 Peter Hain, 'Why were special branch watching me even when I was an MP', 25 March 2015; HC Deb 26 March 2015 c1581

8. Investigatory Powers Act 2016

On 29 November 2016, the *Investigatory Powers Act* 2016 (IPA) received Royal Assent. The IPA reforms the legislative framework governing the use of intrusive surveillance powers by the security and intelligence agencies and law enforcement.[47]

Various types of warrant may be sought under the IPA, including:

- A targeted *interception* warrant, which authorises the interception of communications and acquisition of associated communications data.[48] This makes the content of the communication available to persons other than the sender or recipient.[49] It may relate to a particular person, organisation or premises, or groups of connected subjects.[50]
- A targeted *examination* warrant, which authorises the examination of the content of such communications.[51]
- A targeted *equipment interference* warrant, which authorises the access of a device, system or network.[52]

Section 26 of the IPA requires the Secretary of State to obtain approval from the Prime Minister (as well as a Judicial Commissioner) before deciding to issue a targeted interception or examination warrant where the subject is a member of either House of Parliament; the Scottish Parliament; the National Assembly for Wales; the Northern Ireland Assembly; or a UK member of the European Parliament.[53]

Section 111 of the IPA requires the Secretary of State to obtain approval from the Prime Minister (as well as a Judicial Commissioner) before issuing a targeted equipment interference warrant where the subject is a member of either House of Parliament; the Scottish Parliament; the National Assembly for Wales; the Northern Ireland Assembly; or a UK member of the European Parliament.[54]

These provisions place the arrangements concerning the interception and examination of parliamentarians' communications, as well as interference with their equipment, on a statutory footing. The IPA also extends the arrangements to members of the devolved assemblies and to MEPs. These provisions will be brought into force by means of regulations made by the Secretary of State.[55]

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47 *Investigatory Powers Act 2016*
48 *Ibid*., section 15(2)
49 *Ibid*., section 4(1)
50 *Ibid*., section 17
51 *Ibid*., section 15(3)
52 *Ibid*., section 99(2)
53 *Ibid*., Explanatory Notes, para 94
54 *Ibid*., Explanatory Notes, para 334
55 *Ibid*., Explanatory Notes, para 759

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