



Statement by the Interception of Communications Commissioner's Office (IOCCO) on the publication of the Journalist Inquiry Report

4th February 2015

Today IOCCO has published the report from its inquiry into the use of Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act (RIPA) to identify journalistic sources.

The Rt Hon. Sir Anthony May, Interception of Communications Commissioner said:

"In October 2014 due to the serious nature of the concerns reported in the media about the protection of journalistic sources, and the allegations that the police had misused their powers under Chapter 2 of Part 1 of RIPA to acquire communications data the Rt Hon. Sir Paul Kennedy, who was at the time acting as interim Commissioner, considered it necessary to launch this inquiry and make an additional report to the Prime Minister.

I share and fully support the concerns that were raised and have overseen my office's undertaking of this inquiry since returning to my post as Commissioner on 1st January 2015. I am very pleased to be able to publish our inquiry report today and I hope that Parliament and the public will find it helpful. Our report sets out the extent to which these powers have been used by police forces to identify journalistic sources, examines the appropriateness of the use of Chapter 2 of Part 1 of RIPA for this purpose, and makes recommendations to ensure adequate safeguards are provided to protect journalistic sources."

In summary the IOCCO inquiry finds:

- In the 3 year period covered by the inquiry 19 police forces sought communications data in relation to 34 investigations into suspected illicit relationships between public officials (sources) and journalists.
- 608 applications were authorised to seek this communications data. This represents a very small percentage (0.1%) of the total applications that were authorised by the police in that period which demonstrates that such usage is not widespread. These figures are also artificially inflated by exceptional investigations like Operation Elveden¹ – removing that investigation from the overall statistics provides context and would represent less than 1 application per police force per year (when averaged out over the 3 years and all UK police forces).²
- Police forces have not circumvented other legislation by using their powers under Chapter 2 of Part 1 of the Act to acquire communications data in these cases. Police forces are not

¹ See Paragraph 7.4 of the report. The Metropolitan Police Service's (MPS's) Operation Elveden accounted for 80% of the 608 applications.

² 124 applications, divided by 46 UK police forces, divided by 3 year period of this inquiry.

randomly trawling communications data relating to journalists in order to identify their sources.

- All of the communications data applications had been authorised by a designated person of the correct rank. The applications related to investigations where public officials were suspected of criminal conduct or where a media organisation had voluntarily disclosed information to the police.
- Generally speaking the police forces did not give the question of necessity, proportionality and collateral intrusion sufficient consideration. They focused on privacy considerations (Article 8 of the European Convention on Human Rights) and did not give due consideration to freedom of speech (Article 10).
- The current Home Office Code of Practice (and the recently revised draft Code said to provide protection for sensitive professions) do not provide adequate safeguards to protect journalistic sources or prevent unnecessary or disproportionate intrusions.
- After careful consideration of all the evidence and the sensitivities and complexities of the considerations required when contemplating an interference with Article 10 of the Convention it is recommended that Judicial authorisation is obtained in cases where communications data is sought to determine the source of journalistic information.

Notes for editors:

IOCCO is an independent oversight body – independent of Government and Parliament – led by the Interception of Communications Commissioner. The Rt Hon. Sir Anthony May was appointed as Commissioner by the Prime Minister in January 2013. Former President of the Queen’s Bench Division of the High Court, Sir Anthony has had a distinguished legal career after being called to the Bar in 1967. Since then he has held numerous judicial posts.

IOCCO’s function is to keep under review the interception of communications and the acquisition and disclosure of communications data under RIPA. The Commissioner is required to make half-yearly reports to the Prime Minister with respect to the carrying out of his functions. In addition to his half-yearly reports to the Prime Minister the Commissioner is also able to report any other matter relating to the carrying out of his functions to the Prime Minister as he sees fit.

IOCCO has full and unrestricted access to all of the information required from public authorities to carry out fully the Commissioner’s statutory oversight function.

IOCCO conducts thorough and robust inspections of public authorities which have powers to intercept communications and acquire communications data. These inspections ensure they are acting within the law. In the last reporting year IOCCO carried out over 100 inspections in and made over 350 recommendations to ensure compliance or to improve systems and procedures.

Contact: For more information about IOCCO’s work please go to: <http://www.iocco-uk.info> or follow IOCCO on Twitter @iocco_oversight