



Ms. Justice Marie Baker

Confidential

Mr. Andrew Munro,  
Assistant Secretary to the Government,  
Department of the Taoiseach,  
Government Buildings,  
Merrion St. Upper,  
Dublin 2.  
31<sup>st</sup> May, 2017

Dear Taoiseach,

Following my request under s.8(3)(b) of the Act of 1993 to be permitted to inspect files relating to the interception of telephone communication, I attended at Garda Headquarters on Monday 29<sup>th</sup> May, 2017 and was provided with the entire Garda files relating to litigation commenced, and now compromised, between [REDACTED] and the Commissioner & ors. Mr [REDACTED] made serious allegations regarding the process engaged in the authorisation of interceptions and having been informed in general of the nature of these allegations, I considered it appropriate that I would investigate the matters in the exercise of my statutory function.

I have examined the files.

Mr [REDACTED] pleaded that he had raised concerns regarding the issue of warrants where he felt the facts did not satisfy the legislative criteria, and a concern of particular seriousness that certain warrants had been issued "because of political influence".

Two sets of warrants were in question. The first relating to [REDACTED] was fully investigated by my former colleague, the then oversight judge, Iarfhlaith O'Neill, who prepared a report dated 3<sup>rd</sup> July 2008. He there confirmed that he had conducted a detailed examination of all documents made available to him for inspection pertaining to the authorization and the application therefor, and that he was "quite satisfied that there were no breaches of the Act of 1993 in the application for, or the grant of any" of the authorisations. I have reviewed the communications with Judge O'Neill and do not consider that any further enquiry by me is necessary or appropriate.

One of the two matters raised in the proceedings by Mr [REDACTED] was not the subject of the investigation by Judge O'Neill, and that concerned the interception of the mobile phone of [REDACTED]. Having regard to the serious nature of the concern expressed by Mr [REDACTED] in his pleadings and because the matters raised were of public and general concern I reviewed fully the entire files relating to [REDACTED] and can now report as follows:

Authorisation was granted to engage the interception on 5<sup>th</sup> October 2005. The basis of the authorisation was regular association by [REDACTED] with known "listed subversives", and his known republican sympathies. It was accepted that it was "not possible" to establish the nature of his

relationships at the time. There was a reasonably held apprehension that he was a member of the Continuity IRA.

Mr [REDACTED] reported to his superior officers on 31 October, 2005 in strong terms that it was "clear" no evidence of any engagement with subversives had emerged from the investigation, and that [REDACTED] was a political activist, not involved with subversive activities. Steps were immediately taken to procure that interception was discontinued.

Mr [REDACTED] had asked that the oversight judge be informed and this was not done.

I am satisfied from my reading of the files that there was no breach of procedures in the granting or operation of the interception warrant in the case of [REDACTED]. I am also satisfied that sufficiently robust processes were in place to ensure proper internal monitoring of the information obtained in the interception and that the monitoring was effective to put an end to the warrant once it became clear that the investigation was not likely to bear fruit.

I am satisfied there is no evidence whatsoever that the interception was commenced or utilised for any political purpose. The correct processes were fully engaged and initiated at Garda level.

I am also satisfied that at the time in October 2005 when Mr [REDACTED] raised the concerns there was no need to refer the matter to the oversight judge. The issue of the warrant was done on reasonable grounds, and the cancellation of the warrant was done with expedition once it was clear that there was no justification for its continued maintenance. My involvement at this point in time was justified because the matter had become one of public interest and therefore my statutory role was engaged.

Yours sincerely



Marie Baker  
Judge of the High Court