AN ROINN DLÍ agus CIRT agus COMHIONANNAIS

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DEPARTMENT OF JUSTICE and EQUALITY 51 St. Stephen's Green Dublin 2

Facsuimhir/Fax: (01) 661 5461

Mr. T.J. McIntyre

Our ref: 156/209/2011 OIC Ref: 110126

Re: Application for review to OIC under the Freedom of Information Acts, 1997 and 2003

Dear Mr McIntyre,

I refer to your correspondence to the Office of the Information Commissioner for a review of the Department's decision on your request for

....all records from 2001 onwards held by the Department relating to either:

- a) The lawful interception of communications
- b) Legislative measures intended to address the unlawful interception of communications

.....records relating to the Interception of Postal Packets and Telecommunications Act 1993

Following a review of the original decision, I enclose records which the Department is prepared to release.

Yours sincerely,

Aisling Brennan

Freedom of Information Officer

2 August 2013

Complaints Referee under

Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and

Criminal Justice (Terrorist Offences) Act 2005

Information Note

Statutory Basis

The statutory basis for the Complaints Referee is set out in Section 9 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and Section 65 of the Criminal Justice (Terrorist Offences) Act 2005. The appointment of a person to act as Referee is made by the Taoiseach.

The function of the Complaints Referee is to investigate any complaint from a person who believes that a communication (i.e. postal packet and telecommunications message) sent to or by him/her has been intercepted or that there has been access to data related to him/her following a disclosure request.

As the Complaints Referee is an independent office, neither the Department nor the Minister has a role in its operation, other than to co-operate with the Referee in the investigation of any complaint.

Practical Activities - Lawful Interception of communications

Under the 1993 Act, the Complaints Referee is appointed for the purpose of receiving written complaints from members of the general public concerned that communications sent to or by them have been intercepted.

The fact that a communication may or may not have been the subject of interception is not the sole issue for the Complaints Referee; rather, the issue is whether any breach of the 1993 Act has occurred. Therefore, if, in reality, no interception has occurred, then no breach of the 1993 Act could have occurred. It is only in cases where an interception has occurred could a breach of the provisions of the Act arise.

It is important to emphasise, in adjudicating on complaints, that no disclosure (intended or unintended) about whether an interception has or has not occurred should be made (unless there has been a breach of the 1993 Act, see below). This is to prevent the subject of a lawful interception from learning, by default or otherwise, of the fact of interception. This necessarily requires that even where no interception has occurred, the complainant should not be informed of this fact. The response should



be confined to informing the complainant that no breach of the 1993 Act occurred in his/her case.

However, if the Complaints Referee finds that, in a case where an interception has occurred and a breach of the 1993 Act is disclosed, this fact must be revealed in order to allow a remedy for the complainant.

In practical terms, it is understood that the Complaints Referee does not find it necessary to investigate all complaints received, as it may be obvious from the complaint that it is mostly unlikely that interception has occurred in that case. For example, section 9 (4) of the 1993 Act provides that the Referee shall investigate a complaint under the Act other than one appearing to him to be frivolous or vexatious.

Where a complaint is deemed to warrant investigation, the Complaints Referee may contact the Minister to (i) determine whether an interception has been authorised in respect of the complainant; and (ii) if so, whether the 1993 Act has been followed in making such an authorisation.

Contact with the Minister usually takes the form of a letter stating that a complaint has been made and that the Complaints Referee wishes to visit the Department on a specified date to conduct an investigation. In order to make such an investigation practicable, the letter will usually cite a time period (weeks to months) during which the interception is alleged to have occurred, so that the Minister can gather together relevant documentation in advance of the visit.

On the day of the visit, the Complaints Referee is provided will all relevant documentation for examination. Any queries are answered, and any additional documentation requested is provided and examined.

In due course, the Complaints Referee notifies the Minister that the investigation has been concluded, as well as of the outcome of the investigation.

Outcomes - Lawful Interception of communications

Where the Complaints Referee finds that there has been a breach of the relevant provisions of the 1993 Act he will:

- inform the complainant of this;
- · report his findings to the Taoiseach;
- if he thinks fit either quash the authorisation and/or direct the destruction of the copies of the communications intercepted and/or recommend the payment of a sum in compensation.

Where the Complaints Referee finds no breach but concludes that the offence being investigated was not a serious offence he will refer the issue to the judge designated under section 8 and inform the Minister of this. If the designated judge agrees, the Complaints Referee will:

- inform the complainant of this;
- · report his findings to the Taoiseach;
- if he thinks fit either quash the authorisation and/or direct the destruction of the copies of the communications intercepted and/or recommend the payment of a sum in compensation.

Where no breach is disclosed the complainant will be informed only that there has been no contravention of the relevant provisions of the Act.

Practice Activities - Telecommunications Data Disclosure

Unlike the situation pertaining to lawful interception, the Minister has no role in the processing of telecommunications data disclosure requests to the service providers or, indeed, any responses which the telecommunications service providers make to such requests from the Garda Síochána or the Defence Forces. In other words, the latter two organisations deal directly with the service providers, without any intermediary presence by the Minister or the Department.

Accordingly, neither the Minister nor the Department have any input into investigations relating to telecommunications data disclosure by the Referee.



Lawful Interception

Briefing Note for An Taoiseach

1. Lawful Interception Regime

- 1.1 The lawful interception of both telecommunications ('phone taping') and post is statutorily governed by the provisions of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993.
- 1.2 The 1993 Act provides that only the Minister for Justice, Equality and Law Reform may grant authorisations to intercept and then only for the purposes of the investigation of serious crime and in the interests of the security of the State. Only the Garda Commissioner and the Chief of Staff of the Defence Forces are entitled to apply for such authorisations, and the latter can do so only with the recommendation of the Minister for Defence.

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1.4 The 1993 Act also provides for statutory complaints and oversight functions in the form of a 'Complaints Referee' and a 'Designated Judge', respectively.

Complaints Referee

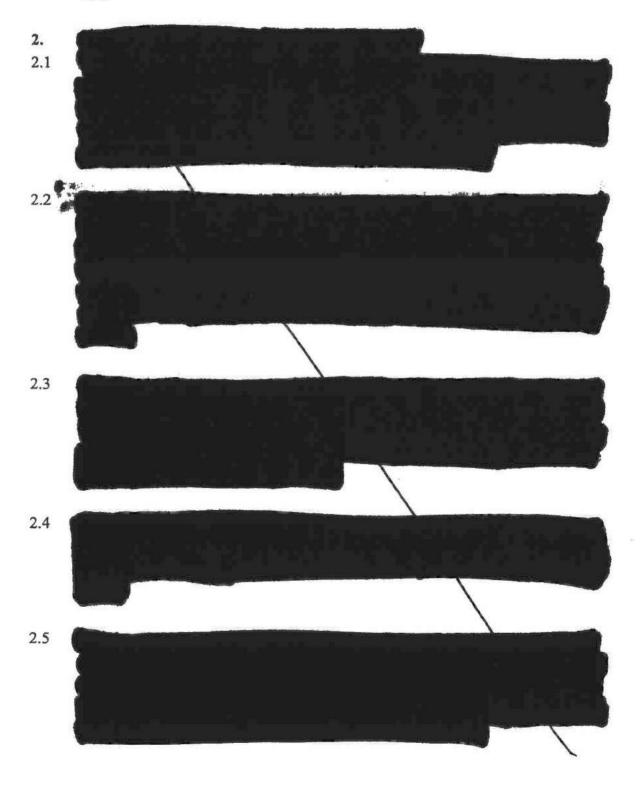
- 1.5 The Complaints Referee currently a Judge of the Circuit Court, Mr Justice Carroll Moran is charged with investigating complaints of contravention of the 1993 Act made by persons who believed that their messages may have been intercepted unlawfully. The Complaints Referee has statutory powers of access to all documentation in all relevant organisations.
- 1.6 If the Complaints Referee upholds a complaint, he may, inter alia:
 - inform the complainant of this;
 - report his findings to the Taoiseach;
 - if he thinks fit either quash the authorisation and/or direct the destruction of the copies of the communications intercepted and/or recommend the payment of a sum in compensation.

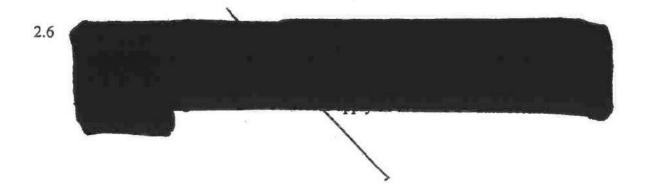
Designated Judge

1.7 The Designated Judge – a Judge of the High Court (currently Mr Thomas C. Smyth) – is charged with keeping under review the operation of the 1993 Act, of ascertaining whether its provisions are being complied with and of

reporting to the Taoiseach on these matters at least once per annum. The Designated Judge's role is one of general oversight rather than in response to individual complaints.

1.8 The Designated Judge has statutory powers of access to all documentation in all relevant organisations. In all his reports to the Taoiseach to date, the Designed Judge has confirmed his satisfaction with the operation of the 1993 Act.





Department of Justice, Equality and Law Reform 2 March, 2007

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Lawful Interception and Associated Matters Brief for Incoming Minister

Lawful Interception

The lawful interception of both telecommunications ('phone tapping') and post is statutorily governed by the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993.

The 1993 Act provides that only the Minister for Justice, Equality and Law Reform may grant 'authorisations' to intercept and then only for the purposes of:

- (i) the investigation of serious crime (i.e., crime punishable by a sentence of five years imprisonment or more); or
- (ii) in the interests of the security of the State.

Applications for Authorisations

Only the Garda Commissioner and the Chief of Staff of the Defence Forces are entitled to make applications for authorisations to intercept. The Garda Commissioner may make applications in relation to either or both (i) and (ii) above. The Chief of Staff may make applications in relation to only (ii) above, and such a request must be accompanied by the supporting recommendation of the Minister for Defence.

Role of Nominated Officer

All applications for interception authorisations are required to be initially examined by either 'the Nominated Officer' One of these officers is required to make a submission to the Minister stating his opinion as to whether or not the conditions justifying interception are met in each case.

Interception Authorisations - Warrants

Where the conditions justifying interception stand fulfilled to the satisfaction of the Nominated Officer or Acting Nominated Officer, the Minister, if he also considers that all conditions stand fulfilled, may then grant the application by authorising the interception.

| This i | s usually | done b | y the | Minister | signing | and | dating | a | 'warrant' | authorising |
|---------|-----------|-----------|--------|------------|-----------|--------|---------|-----|-----------|--------------|
| interce | ption by | the relev | ant co | mmunica | tions ser | vice 1 | provide | | | |
| | 3 | and the s | upply | of the int | tercepted | mat | | 700 | | ng authority |
| (either | the Gard | a Síochá | ina or | the Defen | ce Force | s). | | 18 | | |



Oral Authorisations

In cases where there is exceptional urgency to instituting the interception and the Minister is not available to sign a warrant, the Minister may grant an 'oral authorisation' to the Nominated Officer or Acting Nominated Officer.

Where an oral authorisation is granted, it must be confirmed by the Minister signing a warrant as soon as may be thereafter.

Renewal of Warrants

Warrants remain in force for a maximum period of three months, although they may be renewed at the end of that period. However, renewal is not automatic but is based on the conditions justifying the original authorisation continuing to exist.

Cancellation of Warrants

Warrants may be cancelled at any time at the request of the requesting authority (either the Garda Síochána or the Defence Forces),

Non-Disclosure of Interception Authorisations

In the 1993 Act, there is a statutory requirement to limit to the minimum necessary the disclosure of the fact that an authorisation has been granted, with 'necessary' here meaning necessary for the purpose of the prevention or detection of serious crime or in the interests of the security of the State.

It is also the case that this statutory requirement prohibits any public statement by any party confirming or denying the existence of an interception in any particular case or, indeed, the number of interceptions granted in any period of time.

Judicial Oversight

There are two statutory-based judicial oversight mechanisms in operation in relation to lawful interception. A 'Complaints Referee', currently Judge Carroll Moran of the Circuit Court, has the power to investigate complaints made by members of the public concerning contravention of the 1993 Act. Where a complain is upheld, the Complaints Referee may recommend a compensation payment.

Moreover, a 'Designated Judge', currently Judge Thomas C. Smyth of the High Court, provides a more general oversight function, making annual reports to the Taoiseach on whether the 1993 Act is being complied with generally. To date, all such reports have affirmed this.

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Designated Judge under

Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and Criminal Justice (Terrorist Offences) Act 2005

Information Note

Statutory Basis

The statutory basis for 'the designated judge' is set out in Section 8 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and Section 67 of the Criminal Justice (Terrorist Offences) Act 2005. The designation of a judge of the High Court to act as 'the designated judge' is made by the Government, following acceptance by him/her of an invitation from the President of the High Court, after consulting with the Minister for Justice, Equality and Law Reform, to undertake the relevant duties.

Functions of the Designated Judge

The functions of the 'designated judge' are to:

- (i) keep the operation of both the 1993 Act and Part 7 of the 2005 Act under review;
- (ii) ascertain whether their provisions are being complied with;
- (iii) report to the Taoiseach at intervals of not more than 12 months on such matters as s/he thinks desirable or considers appropriate in relation to the operation of both statutes; and
- (iv) report to the Taoiseach from time to time in relation to any matters relating to both statutes which s/he considers should be so reported.

Section 67(1)(c) of the 2005 Act envisages that the report on the operation of Part 7 of that Act should be included in the report on the operation of the 1993 Act, i.e., that there should be a combined report rather than separate reports.

As 'the designated judge' is an independent office, neither the Department nor the Minister has a role in its operation, other than to co-operate with 'the designated judge' in the performance of his/her oversight duties.

Powers of the Designated Judge

In the performance of his/her duties, 'the designated judge' has the power to investigate any case in which an interception authorisation has been given or any case

in which a data disclosure request has been made. S/he is also entitled to access and inspect any official document relating to an authorisation or application.

Moreover, every person who is concerned with these matters is obliged to give to 'the designated judge', on request by the latter, such information as is in that person's possession relating to the authorisation or application.

Findings of the Designated Judge

If 'the designated judge' informs the Minister for Justice, Equality and Law Reform that s/he considers that a particular interception authorisation that is in force should not have been given or should be cancelled or that the period for which it was in force should not have been extended, the Minister shall inform the Minister for Communications, Energy and Natural Resources and shall then cancel the authorisation.

In addition, 'the designated judge' may, if s/he thinks it desirable to do so, communicate with the Taoiseach or the Minister for Justice, Equality and Law Reform on any matter concerning interceptions or disclosure requests and with the Data Protection Commissioner in connection with the Commissioner's functions under the Data Protection Acts 1988-2003.

Interaction with the Complaints Referee

Under the 1993 Act, the Complaints Referee is appointed for the purpose of receiving written complaints from members of the general public concerned that communications sent to or by them have been intercepted or who believe that data in the possession of a service provider have been accessed following a disclosure request. The current Complaints Referee is Judge Carroll Moran, Judge of the Circuit Court.

In respect of a particular complaint, where the Complaints Referee finds no breach but concludes that the offence being investigated was not a serious offence, s/he shall refer the issue to 'the designated judge' and inform the Minister for Justice, Equality and Law Reform of this. If 'the designated judge' agrees with the conclusion of the Complaints Referee, the Referee shall:

- inform the complainant of this;
- report his findings to the Taoiseach;
- if s/he thinks fit, either quash the authorisation and/or direct the destruction of the copies of the communications intercepted and/or recommend the payment of a sum in compensation.

If 'the designated judge' disagrees with the conclusion of the Complaints Referee, the Referee shall give notice in writing to the complainant stating only that there has been no breach of the Act in relation to the relevant authorisation.

Practical Activities - Telecommunications Data Disclosure

Unlike the situation pertaining to lawful interception, the Minister has no role in the processing of telecommunications data disclosure requests to the service providers or, indeed, any responses which the telecommunications service providers make to such requests from the Garda Siochána or the Defence Forces. In other words, the latter two organisations deal directly with the service providers, without any intermediary presence by the Minister or the Department. Accordingly, neither the Minister nor the Department have any input into investigations relating to telecommunications data disclosure.

Department of Justice, Equality and Law Reform 12 February, 2008

SECRET

Interception of Post and Telecommunications Procedures Brief for Incoming Minister

Lawful Interception

The lawful interception of telecommunications ('phone tapping') and post is governed by the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993.

The 1993 Act provides that only the Minister for Justice and Law Reform may grant 'authorisations' to intercept and then only for the purposes of:

- the investigation of serious crime (i.e. crime punishable by a sentence of five years imprisonment or more); or
- (ii) in the interests of the security of the State.

Applications for Authorisations

Only the Garda Commissioner and the Chief of Staff of the Defence Forces are entitled to make applications for authorisations to intercept. The Garda Commissioner may make applications in relation to either or both (i) and (ii) above. The Chief of Staff may make applications in relation to only (ii) above, and such a request must be accompanied by the supporting recommendation of the Minister for Defence.

Role of Nominated Officer

Applications made to the Minister are handled exclusively

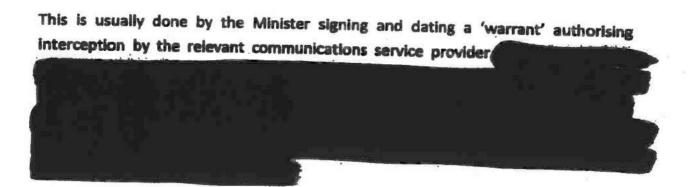
All applications for interception authorisations are required to be initially examined by either 'the Nominated Officer' or 'the Acting Nominated Officer'

One of these officers is required to make a submission to the Minister stating his opinion as to whether or not the conditions justifying interception are met in each case.

Interception Authorisations - Warrants

Where the conditions justifying interception stand fulfilled to the satisfaction of the Nominated Officer or Acting Nominated Officer, the Minister, if he also considers that all conditions stand fulfilled, may then grant the application by authorising the interception.

SECRET



Oral Authorisations

In cases where there is exceptional urgency to instituting the interception and the Minister is not available to sign a warrant, the Minister may grant an 'oral authorisation' to the Nominated Officer or Acting Nominated Officer. Where an oral authorisation is granted, it must be confirmed by the Minister signing a warrant as soon as may be thereafter.

Renewal of Warrants

Warrants remain in force for a maximum period of three months, although they may be renewed at the end of that period. However, renewal is not automatic; the conditions justifying the original authorisation must continue to exist.

Cancellation of Warrants

Warrants may be cancelled at any time at the request of the requesting authority (either the Garda Síochána or the Defence Forces),

Non-Disclosure of Interception Authorisations

in the 1993 Act, there is a statutory requirement to limit to the minimum necessary the disclosure of the fact that an authorisation has been granted, with 'necessary' here meaning necessary for the purpose of the prevention or detection of serious crime or in the interests of the security of the State.

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Judicial Oversight

The 1993 Act provides for two oversight mechanisms as the operation of the Act's provisions.

A 'Complaints Referee', currently Judge Carroll Moran of the Circuit Court, has the power to investigate complaints made by members of the public who believe their communications have been intercepted. The Referee may investigate whether there has been a contravention of the 1993 Act's provisions. If a complaint were upheld, the Complaints Referee would quash the interception, report the matter to the Taoiseach and recommend a compensation payment.

A 'Designated Judge', currently Mr. Justice Iarfhlaith O'Neill of the High Court, provides a more general oversight function of keeping the Act under review and making annual reports to the Taoiseach on whether the Act is being complied with generally.



1815/11/02

Meteor seeks equipment supplier as Lucent quits GSM work

By Jamie Smyth

METEOR has issued a tender worth tens of millions of euro to secure a new equipment supplier following a decision by its current supplier Lucent to stop new development work on GSM networks.

GSM is the base technology standard which most European operators have deployed to supply telecoms services. However, Lucent has decided to focus its research and development budget on new third generation mobile technologies.

Meteor, which has more than 110,000 subscribers, said yesterday it would continue to use its Lucent equipment but confirmed it was now seeking a second equipment firm to complete its network.

A Meteor spokesman said interoperability between different equipment would not be an issue and it made sense for an operator to have more than one vendor. Meteor would have issued the tender even if Lucent was continuing to develop GSM, he said.

But industry sources said the decision by Lucent to stop development for the GSM market, which dominates the mobile market in Europe, may cause Meteor some initial problems.

"It's a disruption for any operator to get a new supplier, said Mr Paul Mullen, senior consultant at Hardiman Telecommunications.

Mr Jim Dwyer, sales manager for Lucent Ireland, said there was a price to be paid by Meteor for bringing on board two operators. Vodafone and O₂ took eight years before they chose to sign deals with second operators, he added.

Lucent could continue to provide network to Meteor under its current deal because the firm would provide maintenance and do contract development for its GSM customers, said Mr Dwyer

GSM customers, said Mr Dwyer.

He admitted Meteor's decision
to issue the tender for an alternative supplier would "obviously
have an impact on us [Lucent]."

Lucent, which employs 800 staff in the Republic, is in the midst of a major restructuring which has seen it shed more than 50,000 employees worldwide. The US firm recently reported its 10th consecutive quarterly loss.

Ericsson, Nortel and Nokia are the three firms likely to benefit from Lucent's decision to stop developing GSM.

Meteor, which introduced its mobile service in the Republic in February 2001, covers 84 per cent of the population with its network. But because of the low population density in the remaining parts of the Republic, it will prove proportionately more expensive to install equipment to cover the remaining 16 per cent of the population.

Meteor is expected to make a strategic decision shortly on whether to prioritise its remaining network roll-out in the Republic or concentrate on turning a profit.

It is estimated Meteor has spent more than €100 million on building its existing network. The full cost of rolling out a GSM mobile network to cover 99 per cent of the Republic is estimated to be more than €200 million.

Meteor's most recent financial results show it made a pre-tax loss of €6.3 million for the 12 months to December 31st, 2002.

slaims untrue leteor says Icent

By Adrian Weckler

going into 3G or something."

Meteor will not walk away from der, according to a spokesman Lucent as an equipment provi was no rift between It and for the mobile phone company The spokesman said that then

84 per cent population coverage in Ireland and could be

much closer to total coverage by the time a second supplier

> Media reports during the cent by offering a tender for a week suggested that Meteor was creating tension with Lusecond equipment provider.

Lucent would continue to be "Walking away from them The spokesman said that its main provider in Ireland.

in Ireland

"I think we might only find ourselves in that kind of situation way down the line if, for example, we were considering is not on the radar," he said.

phone technology.

the American market. The spokesman suggested that there might be little for a second provider to supply, given that the company was at

Ireland Jim Dwyer said the company would continue to manufacture and service existing GSM equipment models.

Meteor until 2004, and fully "We have a contract with intend to complete that con-Meteor

Wireless International, a division of American cellular recently changed chief Meteor is owned by Western company Western Wireless. It tract," he said.

ue of the tender.

Instead, it will focus more on WCDMA (wideband codedivision multiple access) kit for Sales manager for Lucent in

Dwyer said there was no difficulty whatsoever with

> This may lead to speculation that the company is seeking a Europe-wide contract for new operations in the Balkans. rather than just for its network The spokesman would not comment on the potential va-Lucent is discontinuing research and manufacturing of new versions of GSM mobile

was taken on.

executives, with Stewart Sherriff replacing David Sims.



Lucent contract to stay: Stewart Sherriff, David Sims' recent replacement as chief executive of Meteor

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Legal expert voices internet concerns

CAROL COULTER, LEGAL AFFAIRS CORRESPONDENT

Irish law does not adequately protect a wide category of internet users from interception of their messages, according to a lecturer in information technology law.

The concern has been raised by the chairman of Digital Rights Ireland, T J McIntyre, who has written to a number of Senators drawing attention to problems with the Criminal Justice (Mutual Assistance) Bill, currently before the Oireachtas.

Mr McIntyre said the Bill, which seeks to fit requests for assistance from other states into the existing Irish legal framework based on the 1993 Interception of Postal Packets and Telecommunications Messages (Regulation) Act, is not sufficient.

He said the Act deals with an interception regime rooted in an era when we only had Telecom Eireann. While other licensed

operators were added following deregulation, not all are covered.

"Webmail [such as Gmail or Hotmail], Voice-over IP [such as Skype] and Instant Messaging Services [such as AOL Instant

Messenger] would appear to fall into this category," he said.

Another problem with the 1993 Act was that it covered the message being transmitted - not when it reached its destination, he added.

Messages that had been opened, and remained in e-mail inboxes, or voicemail messages, would appear not to be protected.

This situation appeared to breach an EU directive which requires the interception of citizens' personal communications to be regulated by legislative measures "necessary, appropriate and proportionate within a democratic society", he said.

He was also critical of the level of judicial oversight provided for in the legislation, and where a judge must be designated for this purpose.

The latest available annual report from the designated judge comes to a single page, he said, with the substantive part limited to a single sentence.

Mr McIntyre said that the equivalent UK official publishes annual reports that detail the number of warrants issued and analyse breaches of legislation.



Investor Relations

About eircom



Home > About eircom > The Board

The Board

A list of the members of the Board is set forth in the table below.

Board Members

| Name | Age | Position | | | |
|-----------------|-----|--|--|--|--|
| Pierre Danon | 50 | Executive Chairman | | | |
| Con Scanlon | 53 | Vice Chairman | | | |
| Rex Comb | 43 | Chief Executive Officer | | | |
| Peter E. Lynch | 48 | Chief Financial Officer | | | |
| Andrew MacLeod | 49 | Chief Operating Officer | | | |
| Cathal Magee | 53 | Managing Director, Retail Fixed Services | | | |
| John Conroy | 46 | Non-executive director | | | |
| Robert Topfer | 47 | Non-executive director | | | |
| John Fanning 34 | | Non-executive director | | | |

Pierre Danon has served as the executive chairman of eircom since August 2006. He was chief executive officer of Cap Gemini, and prior to that Mr. Danon was chief executive officer at BT Retail. He was a senior vice president for three years at Xerox Corporation and held various management positions at Rank Xerox. He is currently an advisor on this transaction for Babcock & Brown and he is a senior advisor to J.P. Morgan Securities Ltd. He will continue in his position at J.P. Morgan Securities Ltd. or one of its affiliates while working at eircom. Mr. Danon is also a board member of EMAP plc.

Con Scanlon has served as vice chairman of the board of eircom since August 2006. He has served as vice chairman of the board of directors of Valentia Telecommunications since November 2001, as vice chairman of the board of directors of eircom since March 2004 and as vice chairman of the board of directors of eircom Limited since November 2001. He is a former non-executive director and former chairman of the ESOT and has been general manager of the ESOT since July 2004. Mr. Scanlon has served as a director of a number of our group entities since 1998 and was secretary general of the Communications Workers Union until July 2004.

Rex Comb has served as chief executive officer of eircom since August 2006. Mr. Comb was group managing director of the Linfox Logistics business for nearly four years. Prior to his role at

Linfox, Mr. Comb was the managing director of Mattel Australia Ltd.

Peter Lynch has served as chief financial officer of eircom since January 2001 and on the Board of Directors of eircom Group since March 2004. He is a trustee of eircom 's main pension fund, the eircom Superannuation Fund. Prior to joining eircom, Mr Lynch was Group Finance Director of Adare Printing Group plc and Managing Director of ABN AMRO Hoare Govett Stockbrokers Limited. He is a Fellow of the Institute of Chartered Accountants in Ireland and a member of the Securities Institute.

Cathal Magee has been managing director of eircom retail since January 2002 and has served on the board of directors of eircom since March 2004. Prior to this appointment he was managing director of the Fixed-Line Business, eircom Ireland, a position he held since the public flotation of the company in 1999. He has been a member of the executive board of eircom since he joined the company in March 1995 and also held the position of managing director, Business Transformation and HR director during that period. He is a director of the ESOT and a non-Executive Director of EBS Building Society and Voluntary Health Insurance Board (VHI). Prior to joining eircom, Mr. Magee worked for the National Australian Banking Group in the United Kingdom and Ireland.

Andrew MacLeod has served as the chief operating officer of eircom since August 2006. He served as chief executive officer of MCI's Europe, Middle East and Africa operations. Mr. MacLeod was also chief operating officer of Cable & Wireless Global where he was responsible for all product, operations and infrastructure activities across Europe, North America and Asia, and prior to holding that position was strategy director and chief technology officer of Cable & Wireless Communications.

Robert Topfer has served on the board of directors of eircom since August 2006. He joined Babcock & Brown in 2000 and has been an executive chairman of Babcock & Brown Capital Management Pty Limited since December 2004. He is head of Corporate Finance of Babcock & Brown Australia Pty Limited and co-ordinates Babcock & Brown's Corporate Principal Investment and Funds Management activities world-wide. Previously he served as a founding partner of Atanaskovic Hartnell and as a partner of Allen Allen & Hemseley.

John Fanning has served on the board of directors of eircom since August 2006. Mr. Fanning is an investment banker for Babcock & Brown Australia, and prior to that he was a partner at Ernst & Young Australia and a director for Ernst & Young Transaction Advisory Services Limited for a period of one year.

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DEPARTMENT OF JUSTICE and LAW REFORM 94 St. Stephen's Green Dublin 2 Facsuimhir/Fax: (01) 661 5461

Covernment Secretariat,
Department of the Taoiseach,
Dublin 2.

Dear

I acknowledge receipt of your correspondence of today enclosing copies of the following reports and note that they have been laid before each House of the Oireachtas.

(i)

(ii) the report from Mr. Justice Iarfhlaith O'Neill to the Taoiseach pursuant to Section 8(2) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Terrorist Offences) Act 2005, and the statement required under Section 8 (7) of the 1993 Act.

Yours sincerely,



7 February 2011



7 February 2011

Department of Justice and Law Reform 94 St Stephen's Green Dublin 2

Dear

I attach copies of

(i)



(ii) the report from Mr Justice Iarfhlaith O'Neill to the Taoiseach pursuant to Section 8(2) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Terrorist Offences) Act 2005, and the statement required under Section 8(7) of the 1993 Act.

Both reports have been laid before each House of the Oireachtas and also enclosed are copies of the presentation forms.

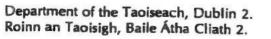
Yours sincerely



Government Secretariat

Tel: Fax:









Garda accused of bugging her ex-boyfriend

Mark Tighe

A FEMALE garda suspected of obtaining the phone records of her ex-boyfriend has been reported as the first person who may have breached phone-tapping rules introduced in legislation in 1993.

The case is highlighted in a report prepared by Iarfhlaith O'Neill, a High Court judge'designated to monitôr the state's phone-tapping activities.

Security sources say that the case involves a garda who was stationed in the force's crime and security division, which carries our spying and intelligence services.

The garda is accused of obtaining phone records of her former boyfriend to track his movements and activities after they separated. The man became suspicious and complained to gardai because his ex-girlfriend allegedly knew details of calls he had made.

In a report to the Oireachtas earlier this month, O'Neill said that he investigated a number of alleged breaches of Section 64(2) of the Criminal Justice (Terrorist Offences) Act 2005.

Under Section 64(2) no garda below the rank of chief superintendent can request an individual's phone records from a service provider to aid investigations of criminal offences.

O'Neill said: "These breaches are alleged to have been committed by a member of An Garda Siochána.

"As a result of my investigations, I was concerned that these breaches may have occurred. These alleged breaches are now the subject matter of a criminal investigation and also disciplinary proceedings under the garda disciplinary code."

O'Neill said that the extent of the alleged non-compliance with the 2005 Act had been 'rigorously investigated and fully understood''. He said all appropriate steps had been taken to ensure future compliance with the act.

The rest of O'Neill's report

states that on November 18 last year he attended garda headquarters, then army headquarters in McKee Barracks and later the Department of Justice offices on St Stephen's Green.

In each location he reviewed documents relating to phone tapping and phone records and spoke to people involved in the operation of the act. He said that all his queries were answered to his satisfaction.

"As a result of the forgoing, I am satisfied that there is, as of the date of this report (November 26, 2010) full compliance with the provisions of the above acts," he said.

A spokesman for the Data Protection Commissioner (DPC) said that gardai had informed it of the apparent data breach last June.

Gardai refused to comment on the case.

Gardai and the Department of Justice have refused to release details of how many requests for phone records or how many phone taps are authorised each year. They say that such information is sensitive.

The Labour party has called for a review of the powers given to gardai to access personal records and said they should only be used in exceptional circumstances.

In 2007 the DPC said that, based on audits of phone companies, it estimated gardai were making 10,000 requests for citizens' phone records each year. Security sources say the figure is now likely to be closer to 15,000 as gardai regularly seek phone records to aid investigations.

Despite its resistance to publishing details about requests to access the phone records of private citizens, Ireland may be forced to do so by a 2009 European Council directive.

The directive requires member countries to legislate to provide their data protection commissioners with the number of requests made for phone records and the legal justification invoked.

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* Impagnet und com-



Gardai are too quick to use bugs, says study

Mark Tighe

A SMALL number of requests by gardai to plant bugging devices was refused last year because the proposed surveillance was deemed disproportionate or premature.

The revelation is contained in the first report on the state's use of new spying powers cre-ated by the 2009 Criminal Justice (Surveillance) Act. It also reveals gardai are primarily planting devices in "emergency" cases that do not require permission from the courts.

The act allows gardai, the defence forces and Revenue officials to break into people's

homes to plant recording devices and use the information obtained in criminal prosecutions.

Permission for the action, which can last up to three months, must be granted by a District Court judge unless the need for the surveillance is considered an emergency

The report, by Kevin Feeney, a High Court judge, says there were "less than 10 cases" where a garda request to get a "section five" district court authorisation to plant surveillance devices was rejected by garda management.

Noirin O'sullivan, an assistant commissioner and head of Crime and Security, the garda's intelligence unit,

decides whether to proceed with surveillance applications.

Feeney said that as gardai plan to introduce a written protocol "it would appear unlikely

that there will be a substantial number of cases where applications by individual gardai . . . will be refused".

The judge said the number of cases where gardai obtained district court authorisation to plant devices was "a small double-figure number".

Having reviewed a third of those cases Feeney said he was satisfied the spying powers were used "in an appropriate manner". He said surveillance involved matters such as "the delivery of controlled drugs and investigations of crimes of serious violence invariably targeted against organised crim-inal or subversive groupings". Feeney said gardai used emer-

gency "section seven" powers to plant devices for up to 72 hours without district court approval "roughly twice the number of times as they had gained section five authorisations, and the number was a "double figure".

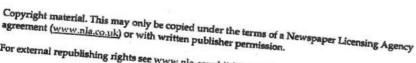
In section seven cases gardai receive permission to plant devices from a senior officer when an offence is likely to occur or the security of the state is at risk.

Feeney said gardai were also approved to use "a substantial number of tracking devices . . . being less than 100" which does not require court approval but permission from senior officers. Feeney said the Defence Forces had received permission from the district court to install surveillance equipment "on less than 10 occasions". In each case the spying was necessary for the purpose of maintaining the security of the state.

The judge's examination of Revenue's use of the act revealed the majority of its cases, "in small double figures" involved planting tracking devices. Feeney's review cov-ered the period from July 12, 2009 to July 31, 2010.



Report: Mr Justice Feeney





Department of the Taoiseach,
Dublin 2.



I refer to your letter to me of 7 January 2011 with regard to the report from Mr. Justice Iarfhlaith O'Neill, the 'Designated Judge' pursuant to the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Terrorist Offences) Act 2005.

From this Department's perspective, it is not considered that there is any material in the report the publication of which would be prejudicial to the prevention or detection of crime or to the security of the State.

Yours sincerely,



27 January 2011.



Report of the Designated Judge pursuant to the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Terrorist Offences) Act 2005.

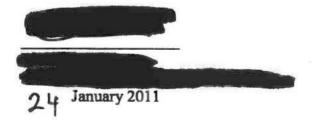
Mr. Justice Iarfhlaith O'Neill has submitted a report (beneath) under section 8(2) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and section 67(1) the Criminal Justice (Terrorist Offences) Act 2005 to the Taoiseach.

The Department of the Taoiseach has forwarded a copy to this Department in order to establish whether there is any material in the report which might be excluded on the basis that it would be prejudicial to the prevention or detection of crime or to the security of the State in advance of the Taoiseach laying the report before the Oireachtas.

The Garda authorities have been consulted and are of the view that there is no such material in the report.

The report is positive as to the operation of the Acts' provisions. It refers to alleged breaches of the 2005 Act (retention of communications data) by a member of the Garda Síochána. This is a matter which was brought to the attention of the Designated Judge by the Garda Authorities when it came to their attention. The Garda in question is being dealt with as set out by the Judge — a criminal investigation is being carried out and disciplinary proceedings are being contemplated. The Judge is satisfied at the action taken by the Garda Authorities to ensure future compliance. The matter may, however, attract unfavourable comment.

A draft response to the Department of the Taoiseach is across.



Commissioner An Garda Síochána Phoenix Park Dublin 7

Confidential

Report of the Designated Judge pursuant to section 8 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and section 67 of the Criminal Justice (Terrorist Offences) Act 2005

I am to refer to the Report of the Designated Judge, Mr. Justice Iarfhlaith O'Neill, (copy attached) which has been submitted to the Taoiseach in accordance with the provisions of the Acts.

The Taoiseach is obliged to lay a copy of the report before each House of the Oireachtas with a statement of whether any matter has been excluded under section 8(8) of the 1993 Act, that is to say, any matter which would be prejudicial to the prevention or detection of crime or to the security of the State.

The Assistant Secretary to the Government has sought the views of this Department in this regard and has requested a response by 21 January 2011 at the latest. I should be grateful for your views as to whether, from the Garda perspective, there is any such material in the report.



12 January 2011.



OIFIG AN ARD-RÚNAÍ, AN ROINN DLÍ AGUS CIRT, COMHIONANNAIS AGUS ATHCHÓIRITHE DLÍ OFFICE OF THE SECRETARY GENERAL, DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM



Department of the Taoiseach Dublin 2

10/01/11

Dear

I write to acknowledge receipt of your letter, of the 7th January, and the enclosed report. I will bring these to the attention of the

Yours sincerely,



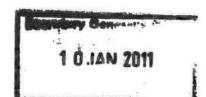


Government Secretariat Rúnaíocht an Rialtais

7 January 2011



Department of Justice and Law Reform 94 St Stephen's Green Dublin 2





l attach a copy of a report from Mr Justice Iarmaith O'Neill to the Taoiseach, pursuant to Section 8(2) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and Section 67(1) of the Criminal Justice (Terrorist Offences) Act 2005.

Under Section 8(7) of the 1993 Act the Taoiseach is obliged to lay a copy of the report before each House of the Oireachtas together with a statement of whether any matter has been excluded under Section 8(8). That subsection provides that if the Taoiseach considers, after consultation with the designated judge, that the publication of any matter in such a report would be prejudicial to the prevention or detection of crime or to the security of the State, he may exclude the matter from those copies to be laid before the Houses.

I would be grateful if you would let me know, by 21 January 2011 at the latest, whether you consider that there is any matter in the report that would be prejudicial to the prevention or detection of crime or to the security of the State and about which, therefore, the Taoiseach should consult with Mr Justice O'Neill in relation to possible exclusion from the copies to be laid before the Houses.

Yours sincerely





REPORT OF THE DESIGNATED JUDGE PURSUANT TO SECTION 8(2) OF THE INTERCEPTION OF POSTAL PACKETS AND TELECOMMUNICATIONS MESSAGES (REGULATION) ACT 1993 AND

SECTION 67(1) OF THE CRIMINAL JUSTICE (TERRORIST OFFENCES) ACT 2005

I am the 'Designated Judge' under the above-mentioned Acts.

In the course of the year since my last report, of 2nd December, 2009, a number of alleged breaches of s. 64(2) of the Act of 2005, were investigated by me. These breaches are alleged to have been committed by a member of An Garda Síochána. As a result of my investigations, I was concerned that these breaches may have occurred. These alleged breaches are now the subject matter of a criminal investigation and also disciplinary proceedings under the Garda Disciplinary Code. From the point of view of compliance with the requirements of the Act of 2005, I am satisfied that the full extent of the alleged non-compliance with the Act has been rigorously investigated and fully understood and all appropriate steps taken to ensure future compliance.

On Thursday 18th November, 2010, I attended at the headquarters of An Garda Síochána at 'The Depot', Phoenix Park, Dublin, and later on the same date, at the headquarters of the Army in McKee Barracks, Blackhorse Avenue, Dublin, and at the Office of the Department of Justice, Equality and Law Reform, St. Stephen's Green, Dublin 2. In each of these locations, such documents and records pertaining to the operation of the above Acts, as were requested by me, were made available and were

examined by me. I also spoke to the persons with responsibility for the operation of the above Acts in each location, and all of my queries were answered to my satisfaction.

As a result of the foregoing, I am satisfied that there is, as of the date of this report, full compliance with the provisions of the above Acts.

Signed:

Mr. Justice Iarfhlaith O'Neill 26th day of November, 2010

20/12/09

JOHN BURNS



A day-long review of phone taps sets alarm bells ringing

Are you reassured that a High Court ixego oversees use of phone tage by the partial and array intelligence? well, don't be, in the second year in the job. Justice tarbilatib O'Neill has filed pretty much the muse

one part of the part of the year of the part of the pa The hade sectores that he visited Gards Headquareers, Army FQ and the respectation of fusible all in one day. He visued all the relevant flies and spoke to the officials with responsibility for plane impring.

All of my quaries were answered to my satisfaction, "the tudge reports. "I am satisfied that there is compilates with the populations of

reports. Tam satisfied that there is compliance with the provisions of the act." well, I'm not.

These conclusions are in marked contrast to those of the phone-tap oversier in Britain, a former judge. In his 2007 report, for example, that judge found 24 "interception errors or prescribes" out of a only unerports. or breaches out of 3,000 warrants. Surely similar "mistakes" happen

here? Not according to the one-page pro-forms reports being filed each year following one-day whirlwind tours of inspection.



Government Secretariat Rúnaíocht an Rialtais

14 December 2009



Department of Justice, Equality & Law Reform 94 St Stephen's Green Dublin 2

Dear

I attach a copy of the recent report from Mr Justice Iarfhlaith O'Neill to the Taolseach, pursuant to Section 8(2) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Terrorist Offences) Act 2005, which has been laid before each House of the Oireachtas.

I also enclose a copy of the presentation form and the statement required under Section 8(7) of the Act.

Yours sincerely



Government Secretariat

Tel:





THE HIGH COURT DUBLIN 7

Mr. Justice Iarfhlaith O'Neill

2nd December, 2009

Mr. Brian Cowen, T.D. An Taoiseach Office of An Taoiseach Government Buildings Merrion Street Dublin 2

Re: Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993, and the Criminal Justice (Terrorist Offences) Act 2005

Dear Taoiseach,

I enclose herewith my report as the "Designated Judge" pursuant to s. 8(2) of the Act of 1993, and s. 67(1) of the Act of 2005.

Yours sincerely,

Taripharin O Nem

Encl.

REPORT OF THE DESIGNATED JUDGE PURSUANT TO SECTION 8(2) OF THE INTERCEPTION OF POSTAL PACKETS AND TELECOMMUNICATIONS MESSAGES (REGULATION) ACT 1993 AND

THE CRIMINAL JUSTICE (TERRORIST OFFENCES) ACT 2005

- 1. I am the "Designated Judge" under the above-mentioned Acts.
- On Tuesday 1st December, 2009, I attended at the headquarters of An Garda Síochána at "The Depot", Phoenix Park, Dublin, and later on the same date, at the headquarters of the Army in McKee Barracks, Blackhorse Avenue, Dublin, and at the offices of the Department of Justice, Equality and Law Reform, St. Stephen's Green, Dublin 2. In each of these locations, such documents and records pertaining to the operation of the above Acts, as were requested by me, were made available and were examined by me. I also spoke to the persons with responsibility for the operation of the above Acts, in each location, and all of my queries were answered to my satisfaction.
- 3. As a result of the foregoing, I am satisfied that there is compliance with the provisions of the above Acts.

Signed:

Scry Hart Weill

Mr. Justice Iarthlaith O'Neill

2nd December, 2009

Clerk of the Seanad

I enclose copies 3 of the under mentioned documents to be laid before the House. The information sought below is as set out.



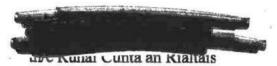
th/c Rúnaí Cúnta an Rialtais

11 December 2009

| 1 | Department or other body laying document | Taoiseach. |
|---|--|---|
| 2 | Title of documents | Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Terrorist Offences) Act 2005 - Report to the Taoiseach (dated 2 December 2009), pursuant to Section 8(2) of the 1993 Act - Statement (dated 11 December 2009) pursuant to section 8(7) of the 1993 Act |
| 3 | If laid pursuant to statute, state Title and Section of Act | Interception of Postal Packets and Telecommunications Messages (Regulation) 1993 - Section 8(7) |
| 4 | Is there a statutory period in relation to the laying of the document? | No No |
| | If so, give particulars | |
| _ | Is a motion of approval necessary? | No |

Clerk of the Dáil

I enclose copies 3 of the under mentioned documents to be laid before the House. The information sought below is as set out.



11 December 2009

| 1 | Department or other body laying document | Taoiseach. |
|---|--|--|
| 2 | Title of documents | Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Criminal Justice (Terrorist Offences) Act 2005 - Report to the Taoiseach (dated 2 December |
| | | 2009), pursuant to Section 8(2) of the 1993 Act - Statement (dated 11 December 2009) pursuant to section 8(7) of the 1993 Act |
| 3 | If laid pursuant to statute, state Title and Section of Act | Interception of Postal Packets and Telecommunications Messages (Regulation) 1993 - Section 8(7) |
| 4 | Is there a statutory period in relation to the laying of the document? | No |
| | If so, give particulars | |
| 5 | Is a motion of approval necessary? | No |

BAILE ÁTHA CLIATH 2 Dublin 2

Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 Section 8(1) as substituted by the Criminal Justice (Terrorist Offences) Act 2005, Section 66

Report to the Taoiseach

Statement pursuant to Section 8(7) of the Act

This is to certify that no matter has been excluded from the attached report, dated 2 December 2009, in pursuance of subsection 8(8) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993.



11 December 2009

The Honourable Mr Justice Iarfhlaith O'Neill Judge of the High Court Four Courts Inns Quay Dublin 7

CONFIDENTIAL

Dear Judge O'Neill,

I am writing to you in your capacity as the 'designated judge' pursuant to Section 8 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 (as amended by Section 66 of the Criminal Justice (Terrorist Offences) Act 2005).

The most recent report which you made to the Taoiseach on the operation of Section 8 (2) of the Act, was dated 24 December, 2008.

In order to facilitate the preparation of your next report, which must be made at an interval of not more than twelve months since the previous report, please do not hesitate to contact me to arrange for your next visit to the Department. My telephone number is

Yours sincerely,



28 October, 2009



Government Secretariat Rúnaíocht an Rialtais

Our Ref.: S26983B

24 December, 2008

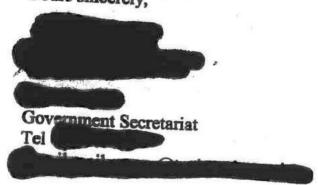


Dean

I attach a copy of the recent report from Mr. Justice Iarfhlaith O'Neill to the Taoiseach pursuant to Section 8(2) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993 and the Criminal Justice (Terrorist Offences) Act 2005, which is being laid before each House of the Oireachtas today.

I also enclose a copy of the presentation form and the statement required under Section 8(7) of the Act.

Yours sincerely,





REPORT OF THE DESIGNATED JUDGE PURSUANT TO SECTION 8(2) OF THE INTERCEPTION OF POSTAL PACKETS AND TELECOMMUNICATIONS MESSAGES (REGULATION) ACT 1993 AND THE CRIMINAL JUSTICE (TERRORIST OFFENCES) ACT 2005

- Since taking up my appointment as Designated Judge on 30th December, 2007, I
 have kept the operation of the above Acts under review.
- 2. On 4th December, 2008, I attended at the headquarters of An Garda Siochána at "The Depot", Phoenix Park, Dublin, and later on the same date at the headquarters of the Army in McKee Barracks, Blackhorse Avenue, Dublin, and at the offices of the Department of Justice, Equality and Law Reform, St. Stephen's Green, Dublin.

In each of these locations, such documents and records pertaining to the operation of the above Acts, as were requested by me, were made available and were examined by me. I also spoke with the persons with responsibility for the operation of the above Acts in each location and all of my queries were answered to my satisfaction.

 As a result of the foregoing, I am satisfied that there is compliance with the provisions of the above Acts.

Sarplant New Jarthlaith O'Neill

5th December, 2008

Clerk of the Dáil

I enclose 3* copies of the under mentioned document(s) to be laid before the House. The information sought below is as set out.



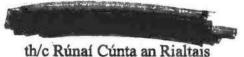
th/c Rúnaí Cúnta an Rialtais 24 December, 2008

| 1 | Department or other body laying document | Taoiseach. |
|---|--|--|
| 2 | Title of document | Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993 Section 8(1) as substituted by the Criminal Justice (Terrorist Offences) Act, 2005 Section 66. Report to the Taoiseach (dated 5 December, 2008), pursuant to Section 8(2) of the Act and Statement (dated 24 December, 2008) pursuant to Section 8 (7) of the Act. |
| 3 | If laid pursuant to statute, state Title and Section of Act | Interception of Postal Packets and Telecommunications Messages (Regulation) 1993 - Section 8(7). |
| 4 | Is there a statutory period in relation to the laying of the document? | No |
| | If so, give particulars | |
| 5 | Is a motion of approval necessary? | No. |

^{*} Three copies of the document in respect of each House, or six copies where it is to be laid before one House only

Clerk of the Seanad

I enclose 3*copies of the under mentioned document(s) to be laid before the House. The information sought below is as set out.



th/c Rúnaí Cúnta an Rialtais 24 December, 2008

| 1 | Department or other body laying document | Taoiseach. |
|---|--|--|
| 2 | Title of document | Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993 Section 8(1) as substituted by the Criminal Justice (Terrorist Offences) Act, 2005 Section 66. Report to the Taoiseach (dated 5 December, 2008), pursuant to Section 8(2) of the Act and Statement (dated 24 December, 2008) pursuant to Section 8 (7) of the Act. |
| 3 | If laid pursuant to statute, state Title and Section of Act | Interception of Postal Packets and Telecommunications Messages (Regulation) 1993 - Section 8(7). |
| 4 | Is there a statutory period in relation to the laying of the document? | No |
| | If so, give particulars | |
| 5 | Is a motion of approval necessary? | No. |

^{*} Three copies of the document in respect of each House, or six copies where it is to be laid before one House only

BAILE ÁTHA CLIATH 2 Dublin 2

Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993 as substituted by the Criminal Justice (Terrorist Offences Act, Section 66

Report to the Taoiseach

Statement pursuant to Section 8(7) of the Act

This is to certify that no matter has been excluded from the attached report, dated 5 December 2008, in pursuance of subsection 8(8) of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993.



Assistant Secretary to the Government

24 December, 2008

The Designated Judge visited on 4 December, 2008

The Hon. Mr. Justice Iarfhlaith O'Neill Judge of the High Court The Four Courts Inns Quay Dublin 7

CONFIDENTIAL

Dear Judge O'Neill,

I refer to our recent telephone conversation and wish to confirm your schedule of visits in accordance with your role as the 'designated judge' pursuant to Section 8 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 (re interceptions) and Section 67 of the Criminal Justice (Terrorist Offences) Act 2005 (re data retention).

Date of visit - 4 December 2008



Department of Justice, 94 Stephen's Green at 3.00pm Contact person is the undersigned.

I enclose herewith a copy of the 2007 Reports made by your predecessor. Yours sincerely,



6 November 2008

The Honourable Mr Justice Iarfhlaith O'Neill Judge of the High Court Four Courts
Inns Quay
Dublin 7

CONFIDENTIAL

Dear Judge O'Neill,

I am writing to you in your capacity as the 'designated judge' pursuant to Section 8 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993.

As you know, the most recent report to the Taoiseach on the operation of Section 8 (2) of the aforementioned Act, prepared by your predecessor, was dated 21 December, 2007. Pursuant to the Act, such reports are to be made at such intervals, being intervals of not more than twelve months, as you as designated judge think desirable.

In order to facilitate the preparation of the next report, please do not hesitate to contact me to arrange for your next visit to the Department. My telephone number is (direct line).

Yours sincerely,



21 October, 2008

(Ref: 4113/08. Last modified:04/03/2008 08:10:24)

QUESTION NOS: 111, 148, 502 & 501

Chun an Aire Dlí agus Cirt, Comhlonannais agus Athchóirithe Dlí

To the Minister for Justice, Equality and Law Reform

QUESTION: 111. To ask the Minister for Justice, Equality and Law Reform if he will make a statement on the report submitted to him on 14 December 2007 by the designated judge under the Interception of Postal Packages and Telecommunications Messages (Regulation) Act 1993 Section 8(1) as substituted by the Criminal Justice (Terrorist Offences) Act 2005, Section 66.

- Eamon Gilmore

148. To ask the Minister for Justice, Equality and Law Reform when he last received a report from the Complaints Referee appointed under Section 9 of the Interception of Postal Packets and Telecommunication Messages (Regulation) Act 1993; the main findings of the report; and if he will make a statement on the matter.

- Eamon Gilmore

* 502. To ask the Minister for Justice, Equality and Law Reform when he last received a report from the High Court Judge, designated under Section 8 of the Interception of Postal Packages and Telecommunication Messages (Regulation) Act 1993, to keep the Act under review; the main findings of the report; and if he will make a statement on the matter.

- Eamon Gilmore

* 501. To ask the Minister for Justice, Equality and Law Reform when he last received a report from the judge designated under Section 67 of the Criminal Justice (Terrorist Offences) Act 2005, to keep under review the provisions in the Act in regard to powers given to An Garda Siochána to access data in regard to telephone records; and if he will make a statement on the matter.

- Eamon Gilmore

For ORAL answer on Tuesday, 4th March, 2008.

ANSWER-

I propose to take Questions Nos. 111, 148, 502 and 501 together.

The most recent report of the Designated Judge to the Taoiseach on the operation of both the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and Part 7 of the Criminal Justice (Terrorist Offences) Act 2005 was made on 14 December, 2007. This report, with no material excluded, was laid before the Houses of the Oireachtas on 21 December, 2007.

The Deputy will be aware that the Designated Judge's oversight function and the ensuing reports to the Taoiseach, pursuant to Section 8 of the 1993 Act and Section 67 of the 2005 Act, provide an important public safeguard in relation to the State's lawful interception and telecommunications data access arrangements. In particular, these reports set out the findings of the Designated Judge's ongoing review of the operation of both the 1993 Act and Part 7 of the 2005 Act, including whether the Garda Siochána and the Permanent Defence Force are complying with their provisions.

I am pleased to note that in his most recent report, the Designated Judge expressed satisfaction that the provisions of both statutes are being complied with, after having inspected and checked the records maintained by the Garda Síochána, the Permanant Defence Force and my Department and after having received a satisfactory explanation to such queries as he raised. I welcome this finding, as I do the similar, previous findings of earlier reports of the Designated Judge.

In relation to reports by the Complaints Referee pursuant to Section 9 of the 1993 Act, such reporting provides a further safeguard in relation to the State's lawful interception arrangements by forming part of an independent complaints procedure for members of the public who believe that a communication sent to or by them has been intercepted. I am pleased to note that, to date, no such report has been received by