

More details emerge of the UK's illegal mass spying

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UK charity Privacy International has begun a legal case calling for the British government to end the use of data collected by the US National Security Agency's (NSA's) mass surveillance system, Prism.

The papers also call for an injunction on the "Tempora" system, used by the UK's Government Communications Headquarters (GCHQ) programme to systematically spy on the entire British population.

GCHQ monitors all outgoing and incoming communications via its access to the fibre-optic cables through which all UK Internet traffic passes. Some 600 million "telephone events" are monitored each day by tapping more than 200 fibre-optic cables, including those that connect the UK to the US.

According to the *Guardian*, the legal claim was submitted to the Investigatory Powers Tribunal (IPT).

The IPT is a tribunal, supposedly tasked with investigating claims regarding the UK's spy agencies. It was created under the Regulation of Investigatory Powers Act (RIPA) 2000, meets in secret and is not required to make a determination on a complaint.

On this basis, it is not possible to have a complaint heard before an open public court. Carly Nyst, head of international advocacy at Privacy International, wrote in the *Guardian* Tuesday, "[W]hen Privacy International informed the foreign secretary that it intended to challenge such practices in the British courts, the government's lawyers notified us that we could not bring such a claim in the administrative court, which would be the normal route. Rather, we have been forced to take our concerns to the IPT."

Nyst described the IPT as a "quasi-judicial body that meets and deliberates in secret, the decisions of which are neither public nor appealable to any higher authority."

Nyst noted that according to the IPT's 2010 report, in

its entire history it had only "ruled in favour of the complainant a total of 10 times, out of more than a thousand cases." The document revealed that out of 180 cases, none found in favour of the complainant.

Privacy International's claim states, "Through their access to the US programme, UK authorities are able to obtain private information about UK citizens without having to comply with any requirements of RIPA."

Under RIPA, there is legal requirement that intelligence officials acquire a warrant from a minister before performing a wiretap.

The claim adds, "If UK authorities are to be permitted to access such information in relation to those located in the UK in secret and without their knowledge or consent, the European Convention on Human Rights (ECHR) requires there to be a legal regime in place which contains sufficient safeguards against abuse of power and arbitrary use. There is no such regime."

The organisation again cites the convention in its attempt to force an injunction against the operation of Tempora, stating, "Bulk interception of communications and bulk inspection of such data is disproportionate interference with the rights guaranteed by article 8 of the ECHR, and it is not being undertaken pursuant to a legal regime containing sufficient safeguards to render it in accordance with the law."

It adds that RIPA "does not provide sufficiently specific or clear authorisation for such wide-ranging and universal interception of communications, nor any sufficient or proper safeguards against misuse that are known and available to the public."

Tempora was originally set up in autumn 2011 after being first trialled by GCHQ in 2008. It was part of a wider GCHQ programme, Mastering the Internet (MTI), set up under the last Labour government, and

whose detailed operation was confirmed by former NSA subcontractor Edward Snowden.

From its 2011 launch, the gigantic amounts of data it amassed were shared with the NSA (see “Communications of millions subject to US-UK spying”). Last year, according to documents seen by the *Guardian*, 550 analysts from GCHQ and the NSA were employed to filter the contents.

Tempora not only monitors and stores all electronic and phone call data of all British citizens, but those of billions of people internationally. These numbers are constantly increasing as the Internet expands. A June 21 report in the *Guardian*, based on Snowden’s documents, stated, “For the 2 billion users of the world wide web, Tempora represents a window on to their everyday lives, sucking up every form of communication from the fibre-optic cables that ring the world.”

This capability will be vastly expanded as GCHQ’s capacity is being upgraded to take in data from new super cables carrying data at 100 gigabits a second.

In May 2009, the *Sunday Times* first drew attention to MTI, noting that its existence only came to light through a GCHQ job advertisement carried in the computer trade press. The article reported MTI was being established at a cost of £1 billion over a three-year period. The *Times* reported it “will rely on thousands of ‘black box’ probes being covertly inserted across online infrastructure.”

At the time, Labour Home Secretary Jacqui Smith denied the government had any plans to establish an all-embracing computerised database that would be able to store all communications data in the UK. Making no mention of the already approved MTI, Smith said, “The government recognised the privacy implications of the move [and] therefore does not propose to pursue this move.”

The article revealed Lockheed Martin, the American defence firm, had been given a £200 million contract as part of MTI, and Detica, a British IT firm closely connected to the intelligence agencies, was also enlisted. Describing MTI, the *Times* explained, “A huge room of supercomputers will help the agency to monitor—and record—data passing through black-box probes placed at critical traffic junctions with internet service providers and telephone companies, allowing GCHQ to spy at will.”

In an interview published Monday in the news magazine *Der Spiegel*, Snowden gave further details of Tempora. The interview was held via encrypted e-mail with encryption specialist Jacob Appelbaum and documentary filmmaker Laura Poitras before Snowden left the US for Hong Kong and began making public his revelations.

Asked what were some of the “big surveillance programs that are active today and how do international partners aid the NSA?” he stated, “Tempora is the signals intelligence community’s first ‘full-take’ Internet buffer that doesn’t care about content type and pays only marginal attention to the Human Rights Act. It snarfs everything, in a rolling buffer to allow retroactive investigation without missing a single bit. Right now the buffer can hold three days of traffic, but that’s being improved. Three days may not sound like much, but remember that that’s not metadata.

“ ‘Full-take’ means it doesn’t miss anything, and ingests the entirety of each circuit’s capacity.”

Every piece of data sent and received through the Internet by British Internet users was intercepted, explained Snowden. “If you download something and the CDN (Content Delivery Network) happens to serve from the UK, we get it. If your sick daughter’s medical records get processed at a London call centre...well, you get the idea.”

The British government is imposing unprecedented cuts in public spending, with more than £165 billion being cut from health, education and welfare. The one area where spending is being substantially increased is on the illegal spying network. In his recent Spending Review, Chancellor George Osborne announced a 3.4 percent funding increase to the intelligence services’ £1.9 billion budget. It equates to them receiving another £100 million in funding annually from 2015.



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