

2.15 Deputy T.M. Pitman of the Attorney General regarding parliamentary privilege and the security of confidential contact between politicians and their constituents:

In the light of recent concerns about parliamentary privilege and the security of confidential contact between politicians and their constituents, would H.M. Attorney General either confirm or deny that a number of States Members have had their phones tapped over the past 12 months. Further still, should this be the case, would he confirm the number and whether any of these taps is still ongoing?

The Attorney General:

I have been previously asked questions about whether or not telephone intercepts have been granted. The answer is always going to be the same. For policy reasons I neither confirm nor deny whether intercepts under the Regulation of Investigatory Powers (Jersey) Law have been issued. It may be helpful to Members if I just add a couple of things about the process generally of granting intercepts. The statutory authority to grant an intercept is under Article 10 of the Regulation of Investigatory Powers (Jersey) Law 2005. The grounds upon which it is permissible to issue such a warrant are: “(a) in the interests of national security; (b) for the purpose of preventing or detecting serious crime; (c) for the purpose of safeguarding the economic well-being of Jersey; or (d) for the purpose of giving effect to a mutual legal assistance agreement with a foreign country in respect of criminal matters involving serious crime.” I will just add that the process requires that an interception warrant has to be applied for, it is not something which the Attorney General just dreams up one night on his own account. Under Article 11 the application for an intercept warrant may be issued by one of the following people: “The Chief Officer of Police, the agent of the Impôts, the Chief Immigration Officer, the Director General of the Security Service; the Chief of the Secret Intelligence Service; the Director of G.C.H.Q., (Government Communications Headquarters); the Chief of Defence Intelligence of the Ministry of Defence of the Government of the U.K. or a competent authority from an outside jurisdiction.”

Deputy T.M. Pitman:

Could I ask the Attorney General would I be right in assuming that his answer is confirmation?

The Attorney General:

No, he would not be right at all.

2.15.1 Senator S. Syvret:

I declare an indirect interest in this matter. I put it to the Attorney General that my phones and my emails were in fact tapped, intercepted, call it what you will, because when I was questioned at the police station a variety of questions that were put to me can only have originated from information so obtained.

The Attorney General:

I remind the Assembly that the Senator is under criminal investigation and it is completely inappropriate that a person under criminal investigation should seek to put questions to the Attorney General in this Assembly. It is completely inappropriate. **[Approbation]** The Senator should be aware of that. I have no intention of answering his question.

2.15.2 Senator S. Syvret:

A supplementary. The matter is not *sub judice*. I do wish the Attorney General would in fact hurry up and charge me, but perhaps in respect of taking communications technology, he might explain why following my arrest and the copying of my S.I.M. (Subscriber Identity Module) card a number of people, including some very prominent national public figures up and down the U.K., have received intimidating phone calls in the evening from the police who have got the contact information for them from my phone S.I.M. card?

The Attorney General:

I have absolutely nothing to say in answer to the Senator's question, if that was a question.

2.15.3 Deputy G.P. Southern:

In a totally general way, does serious crime, which he referred to twice in his statement, include breaches of the Data Protection Act, as it appears to do under the Police Powers and Criminal Evidence Act?

The Attorney General:

No. Serious crime is defined under Article 1(1) of the Regulation of Investigatory Powers as meaning: "Conduct which constitutes one or more offences (a) which involve the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose; and (b) for which a person has attained the age of 21 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more." As the data protection offences do not carry sentences of 3 years or more these would not amount to serious crime which would make an intercept warrant legitimate under the Regulation of Investigatory Powers Law.

2.15.4 Deputy G.P. Southern:

Can the Attorney General then clarify that what he has just stated about the law concerning ... sorry, I have forgotten the name of the law, under the R.I.P.A. (Regulation of Investigatory Powers) Law are different or the same as those under P.P.C.E.?

The Attorney General:

Intercept warrants are granted under the Regulation of Investigatory Powers Law. There are occasions when property interference warrants may be issued under the Police Procedures and Criminal Evidence Law.

2.15.5 The Deputy of St. John:

Could the Attorney General confirm or otherwise whether Jersey is participating with the U.K. and other European countries in storing all phone call data and email data, *et cetera* - texts - which are being as of, I think, a fortnight ago, being automatically stored for government use or government research, I presume, in England. Is Jersey participating in that?

The Deputy Bailiff:

I am sorry, Deputy, I think that is too far removed from the original question. You need to ask a specific question about that.

The Attorney General:

If I might just assist the Deputy, it is better directed to the Minister for Home Affairs.