



NUJ briefing: Investigatory Powers Bill, Monday 11 April 2016

The National Union of Journalists is the representative voice for journalists and media workers across the UK and Ireland. The union was founded in 1907 and has 30,000 members. We represents staff, students and freelances working at home and abroad in the broadcast media, newspapers, news agencies, magazines, books, public relations, communications, online media and as photographers.

The union is not affiliated to any political party and has a cross-party parliamentary group.

The NUJ code of conduct was first established in 1936 and it is the only ethical code for journalists written by journalists. The code is part of the union rules; members support the code and strive to adhere to its professional principles. The code includes the following clause: "A journalist protects the identity of sources who supply information in confidence and material gathered in the course of her/his work."

Amendments needed to the investigatory powers bill (IPB):

1. Safeguards for journalists should apply across the different powers set out in the bill and not just apply to communications data when the authorities are intending to identify a journalistic source.
2. The new powers in the bill should involve an open and inter partes process. The media need to be able to challenge and appeal requests so that public interest and press freedom arguments are put forward and considered.
3. The IPB should not enable the state to interfere in the legitimate and democratic activities of independent trade unions.

The current draft of the bill:

Clause 68 is the sole reference to journalists on the face of the bill and the clause does not apply to bulk data, interception warrants or equipment interference.

Why PACE offers better safeguards for journalists:

Under the Police and Criminal Evidence Act 1984 (PACE) journalists are notified when the authorities want to access their material and sources, and journalists have the ability to defend their sources in an open court with the chance to challenge and appeal the application and related decisions. The Regulation of Investigatory Powers Act 2000 (RIPA), and the IPB, do not apply the same protections and safeguards when compared to PACE.

(pto)

There is no fundamental difference between the authorities asking for a journalists' physical contacts book or footage and their telephone and communications records. The effect on journalists and sources is exactly the same and the same legal safeguards must cover both.

Trade union surveillance:

Despite parliamentary criticism, the IPB still contains surveillance powers that are justified on the basis of economic well-being and financial stability. The NUJ strongly believes that the state has no right to interfere in the legitimate and democratic activities of independent trade unions and the NUJ is calling for the removal of "the economic well-being of the UK" as grounds for the authorisation of surveillance powers.

Amending the bill:

The NUJ, Guardian News and Media, and Independent Television News (ITN) have worked collaboratively with Gavin Millar QC to draft specific amendments to the bill – we want MPs and Lords to support our proposals.

The same safeguards should apply to all the powers in the bill and cover:

1. The interception of communications,
2. The retention and acquisition of communications data,
3. Equipment interference, and
4. The retention and examination of bulk personal datasets.
5. Interception, acquisition of communications data, and equipment interference powers are provided for both on a targeted basis and in bulk.

For more information about amendments please contact: sarahk@nuj.org.uk

(pto)

Political commitments on protections for journalists:

At the last general election the **Conservative manifesto** pledged that there would be explicit statutory protection for the role of journalists and a commitment that “we will ban the police from accessing journalists’ phone records to identify whistle blowers and other sources without prior judicial protection”.

The Mayor of London, **Boris Johnson**, said on 10th October 2014: “It is of course right that the police should be able to investigate serious criminal matters... But it is crucial that journalists should be able to protect their sources and to give whistleblowers the confidence to come forward and reveal stuff that the public needs to know... I think we are going to have to insist in future the police will not be able to see a journalist’s phone records without some kind of prior judicial approval.”

Chancellor of the Exchequer **George Osborne** told reporters in November 2014 that: “Inappropriate use of (RIPA) ... is a tool used to fight against serious crime, and yet it has been used to investigate journalists and sources that journalists have... That was not what Parliament wanted that Act for. If it’s not something the prosecuting authorities and the criminal justice system can address, then it’s something I think the government will have to address.”

On 11th November 2014, the Secretary of State for Culture, Media and Sport, **Sajid Javid**, told a Society of Editors conference that: “The right to keep sources anonymous is the bedrock of investigative journalism. Without it, you cannot do your jobs. Without it, the corrupt and the crooked sleep easier in their beds. It’s a sacrosanct principle and one that the authorities need a damn good reason to interfere with. RIPA was passed to help with the fight against serious criminal wrongdoing. Not to impede fair and legitimate journalism, no matter how awkward that journalism may be for police officers and local councils. The legislation should never be used to spy on reporters and whistle-blowers who are going about their lawful, vital, business.”

On the 7th October, **Lord Falconer**, who was a member of the last Government when RIPA was passed said: “There are provisions in other legislation which say where there’s an issue about identifying a journalistic source, the application for that material should go before a judge so the judge can balance the public interest in making sure there’s a proper investigation against a need to protect journalistic sources... Going and using Ripa involves no such balance - the police can authorise it themselves so nobody ever considers the balance of, for example, protecting sources... It does look this is not a proper use of the powers.”