

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:137

ANSWERED ON:13.03.2012

LAWFUL INTERCEPTION OF COMMUNICATION

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Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether the Government has notified the Standard Operating Procedure for lawful interception and monitoring of communications within the country;
- (b) if so, the details thereof;
- (c) the details of the agencies authorised to intercept and monitor communication in the country;
- (d) whether the National Technical Research Organisation (NTRO), created after the Kargil war as a dedicated technical agency, does not figure in the list of agencies empowered to intercept calls; and
- (e) if so, the reasons therefor?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI JITENDRA SINGH)

(a) and (b): The procedure to be followed for lawful interception of telephones permissible under Section 5(2) of the Indian Telegraph Act 1885 is governed by Rule 419-A of the Indian Telegraph (Amendment) Rules, 2007. The Central Government with regard to Central Intelligence and Security Agencies keeps updating the internal SOPs/instructions for processing, executing and conducting oversight of such interceptions. The Government constituted an Inter-Ministerial Group headed by Home Secretary to consider issues relating to institutional frame work of Government for interception of messages/tapping of telephones, e-mail etc. As a result, on 19th May 2011, revised/updated SOPs to deal both with changing technology and ensuring a strict compliance of Rule 419-A were issued.

(c) to (e): Section 5(2) of the Indian Telegraph Act, 1885 provides for lawful interception in the interests of the sovereignty, and integrity of India, the security of the State, friendly relations with Foreign States or public order or for preventing incitement to the commission of an offence. This Section read with Rule 419(A) of the Indian Telegraph (Amendment) Rules, 2007 imply statutory requirement that specific order/authorization of the Government is required for any lawful interception of communications. Therefore, the Agencies have to statutorily obtain specific authorization from the Competent Authority (Union Home Secretary in the Central Government and the State Home Secretary for the States) for each case of lawful interception in accordance with provisions of Section 5(2) of the Indian Telegraph Act 1885 and Rule 419(A) of the Indian Telegraph (Amendment) Rules, 2007. Accordingly, it would be inaccurate to state that any Agency of the Centre or State Government, per se, is given a general authorization to undertake Lawful Interception. However, the Central Government from time to time lists some agencies which may make such requests for authorization in specific cases. The issue of listing NTRO can be considered & decided as per the national security imperatives, whenever required.