

GCE

LAW: RESTRICTIONS, INCLUDING THOSE RESTRICTIONS PERMITTED BY THE EUROPEAN CONVENTION ON HUMAN RIGHTS

STATE SURVEILLANCE SUGGESTED IDEAS FOR TEACHING AND LEARNING



SUGGESTED IDEAS FOR TEACHING AND LEARNING

Teacher /Lecturer:	
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Course:	A Level Law
Topic:	Restrictions, including those restrictions permitted by the European Convention on Human Rights
Session:	Interception of communications Surveillance

Component:	A Level Components 2 and 3
Ref. to specification:	Human Rights Law
Suggested time allocation:	6 – 8 hours

Aims and Objectives: At the end of these sessions the student will be able to:

- Explain the history of state surveillance
- Explain and apply the provisions of the Police Act 1997 , the Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016
- Discuss & evaluate the admissibility of surveillance evidence

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce topic, PowerPoint presentation can be used to introduce the topic, state the objectives and for the topic area.
- Organise the class into small groups and ask them the following questions: Who carries out surveillance? What forms can surveillance take? Who is likely to be subjected to surveillance? Should surveillance evidence be admissible in court? Surveillance v Right to Privacy?? These questions should begin to generate a good discussion of state surveillance .Feedback answers to class and emphasise the competing interest of right to privacy and the right of the state to carry out surveillance
- Explain brief history of surveillance prior to 1985 - see cases of ***Malone v MPC (1979); Malone v UK (1985).***
- Discuss the case of ***Khan (1996)*** and the subsequent ***Police Act 1997*** and bugging with reference to key sections - ***Section 93(2) grounds ; S93(5)- authorisation; section 91(1) & section 96 role of independent surveillance commissioners***
- Initiate Class discussion - Do you think the involvement of the Independent Commissioners provides oversight and scrutiny? Is this enough control over the actions of the police? Should the judiciary be involved in the authorization process?
- Explain the Regulation of Investigatory Powers Act 2000 (repeals ICA 1985) and key sections - ***Section 5 – grounds & proportionality test; S 26 intrusive surveillance; S 28 & 29 Directed Surveillance ; S 32 – authorisations for intrusive surveillance; S 65 Role of Tribunal***
- ***Discuss the new law in the Investigatory Powers Act 2016***

- Initiate class discussion - Reform needed? Should surveillance evidence be admissible in Court? Students to research and debate the arguments for and against allowing intercept evidence in court, compare other countries that allow it e.g. US, Canada, New Zealand, Ireland, Australia, Hong Kong and South Africa
- Put students into groups and use past paper essay questions to test levels of understanding - feedback to class

Student Activities:

- Students in small groups discuss - Who carries out surveillance? What forms can surveillance take? Who is likely to be subjected to surveillance? Should surveillance evidence be admissible in court? Surveillance v Right to Privacy? Feedback answers to class
- Still in small groups – Police Act 1997 – discuss the involvement of independent Commissioners in the authorisation process, does this offer enough safeguards?
- Students in small groups – Research the use of intercept evidence in court in other countries compared to Britain and prepare and take part in a class debate for and against the use of intercept evidence in court
- Past paper questions

Suggested links/ resources:

- PowerPoint
- Past paper questions
- Internet
- Cases
- Handout

Assessment

During the lesson	Group exercises, past paper questions and direct questioning illustrate how well the students have understood state surveillance
Subsequent to lesson	Homework –essay question on State surveillance

TOPIC: State Surveillance

Questions:		Expected answers:
1.	Who carries out surveillance?	Some students will usually answer the police, MI5; MI6; Local Authorities; Benefits Agency etc
2.	What forms can surveillance take?	Mail interception, telephone tapping, bugging, GPS tracking; CCTV, undercover agents computer hacking etc
3.	Who is likely to be subjected to surveillance?	Students usually answer – those involved in crime, terrorism
4.	Should surveillance evidence be admissible in court?	Answer will depend on students own viewpoints
5.	Surveillance v Right to Privacy??	A discussion could take place here of Article 8 right to privacy and the need of state to protect its citizens from crime, terrorism etc
6.	What were the grounds under the ICA for obtaining a warrant	s 2 -grounds for gaining a warrant 1. Interests of national security 2. Prevention or detection of serious crime 3. Safeguard the economic well-being of the UK
7.	Who do you think was in charge of authorising the warrants under the ICA?	Students usually say a judge - explain Home Secretary and possible conflict of interests
8.	When the Police Bill was going through Parliament 3 groups argued for exemption from the Act – i.e. they could not be the subjects of bugging. Who do you think the 3 groups were?	<ul style="list-style-type: none"> • Lawyers • Doctors • Catholic priests There are NO exemptions under the ACT
9.	Under the Police Act do you think the involvement of the Independent Commissioners provides oversight and scrutiny?	Answer depends on students viewpoints
10.	Should the judiciary be involved in the authorization process?	Students usually answer yes to this question, to give independent oversight and protection to the public
11.	Should surveillance evidence be admissible in Court?	Britain's security services fear that allowing intercept evidence to be used in a court of law would undermine its work - but globally the UK's stance on this issue is an exception. An argument in favour could be that it would lead to more convictions, but is it reliable and trustworthy evidence?