



LAIOG Conference  
18<sup>th</sup> May 2011 Birmingham

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Benefit Fraud –  
Surveillance, Social  
(Networking) & Sentencing

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# Overview

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- Regulation of Investigatory Powers Act 2000 (not 1997!), Part II
  - Surveillance: Directed – Covert- Intrusive
- Authorisations
- Covert Human Intelligence Sources (CHIS)
- Social Networking Sites
- Sentencing & the Proceeds of Crime Act 2002



# Surveillance

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- Directed (section 26 (2) RIPA)
  - covert but not intrusive
  - “Specific investigation or ... operation”
  - “likely to result in the obtaining of private information” (incl. info. re “private or family life”)
  - “Otherwise than ... an immediate response to events ...”
- Covert (s26(9)) – subject “unaware that it is or may be taking place”.



# Surveillance

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- Intrusive (s26(3))
  - Intrusive “if, and only if, it is covert”
  - Relates to “anything taking place on any residential premises or in any private vehicle” and
  - “Involves the presence of an individual on the premises or in the vehicle” or involves a “surveillance device”



# Surveillance - intrusive

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- But see exceptions in s26(4) and (5)
  - Location of vehicle
  - Consent to interception
  - Consistently provides information of same quality and detail as might be expected to be obtained from a device actually on the premises or in the vehicle



# Authorisations

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- Sections 27 - Lawful authorisation
- Section 28 – Authorisation of directed surveillance

Both require that Authorisation must be Necessary & Proportionate for “preventing or detecting crime” etc



# Covert Human Intelligence Sources (CHIS)

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- A person is a CHIS if
  - Establishes or maintains a personal or other relationship for the covert purpose
    - To obtain information, OR
    - Covertly discloses information obtained  
(see s26(8)).



# Covert Human Intelligence Sources (CHIS)

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- Authorisation (see s29(5))
  - Requirements as above plus
    - Qualifying person with day to day responsibility for dealing with source & for source's security & welfare
    - Another qualifying person with general oversight
    - Qualifying person with responsibility for maintaining record(s)



# Intrusive Surveillance

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- Not readily available because authorisation (under s32) requires
  - Necessary & Proportionate
  - For the purpose of preventing or detecting serious crime
  - Authorisation by a “senior authorising officer” (see s 32(6)) which does not include local authority (or DWP) officers!

BUT see also s41(1) authorisations by the Secretary of State



# Useful websites etc

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- [www.surveillancecommissioners.gov.uk](http://www.surveillancecommissioners.gov.uk)
- Home Office Codes of Practice
- [www.legislation.gov.uk/ukpga/2000/23/part/II/data.pdf](http://www.legislation.gov.uk/ukpga/2000/23/part/II/data.pdf)

Archbold Criminal Pleading, Evidence &  
Practice 2011



# Social Networking Sites

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- Evidential value (Experian)
- Involvement/authorisation of CHIS
- Interview
- Proper (permanent) records
- Disclosure-related issues



# Sentencing Guidelines

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- October 2009 Fraud Sentencing Guidelines ([www.sentencing-guidelines.gov.uk](http://www.sentencing-guidelines.gov.uk))
  - Summary trial < £35,000
  - Imprisonment to be considered from £5,000(!); more realistically £20,000!
  - Guidelines based on adult, no previous & after trial
- See recent examples:-
  - [www.laiog.org](http://www.laiog.org)
  - [www.benefitfraud.org.uk](http://www.benefitfraud.org.uk)



# Proceeds of Crime Act 2002

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- Crown Court can be asked to consider Confiscation order under POCA
- Criminal lifestyle (offences over 6 month period)
- Disclosure & Order to provide information (s18)
- Recoverable amount (defendant's benefit)
- Available amount
- Period in default



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*Mr T,*

*Don't forget to mention*

*Direct Public Access!*

*The Clerks x*



# Any questions?

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