

**OFFICE OF THE DIRECTOR GENERAL OF POLICE
PUDUCHERRY**

STANDING ORDER NO. 03/2022

DATED : 25th of JULY 2022

"GUIDELINES FOR INTERCEPTION OF CALLS"

Introduction:

In today's digital world, it sometimes becomes imperative that after exhausting all the avenues for human intelligence gathering, law enforcement agencies need to intercept lawfully the calls of certain accused/suspects or other persons in order to gather real-time and actionable intelligence.

Background:

With the *substantive* law regarding telephone tapping laid out by Section 5(2) of the Indian Telegraph Act 1885, the *procedural* law regarding the same is found under Rule 419A of the Indian Telegraph Rules, 1951.

Section 5 of the aforesaid Act is produced verbatim below -

1. On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorized in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do, take temporary possession (for so long as the public emergency exists or the interest of the public safety requires the taking of such action) of any telegraph established, maintained or worked by any person licensed under this Act.
2. On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially

authorized in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do 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, for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order: provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under this sub-section.

The cases of 'public emergency' and 'public safety', which include but not limited to, -

- Demonstration during a VIP visit
- Prevention/investigation of heinous cases
- Any matter related to terrorism

In the PUCL vs Union of India, 1996, Hon'ble Supreme Court has held that –

"...Public emergency would mean the prevailing of a sudden condition or state of affairs affecting the people at large calling for immediate action. The expression "public safety" means the state or condition of freedom from danger or risk for the people at large. When either of these two conditions are not in existence, the Central Government or a State Government or the authorised officer cannot resort to telephone tapping even though there is satisfaction that it is necessary or expedient so to do in the interests of sovereignty and integrity of India etc. In other words, even if the Central Government is satisfied that it is necessary or expedient so to do in the interest of the sovereignty and integrity of India or the