



— State Comptroller of Israel Special Report —

# Use of Technological Tools for Enforcement Purposes

## Wiretapping and Communications Data



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Jerusalem

## Foreword

Over the past decade, the Israel Police has markedly enhanced its technological capabilities for information collection to effectively execute its mission and responsibilities. During this period, there has been a notable escalation in the utilization of various technological instruments by the police for wiretapping and the generation of data in regard to communications. The array of tools available to the police for this purpose includes, but is not limited to, audio listening devices, tools for recording data transmitted between computers, and systems for acquiring communication data. Some of these instruments are embedded in end-user devices, thereby facilitating access to both stored information and real-time data transmitted via computer communications, often while the subjects being monitored are unaware.

At the basis of the operation of such technological tools by law enforcement agencies is the intricate and sensitive issue of striking a balance between the imperative to safeguard public safety and enforce the law, and the obligation to uphold individual rights, particularly the right to privacy. In contemporary society, where sophisticated technological tools offer novel avenues for information gathering and investigation, there is a pressing need for regulation, as well as heightened oversight and control. The inappropriate application of these tools may undermine public confidence in governmental institutions, whereas deficiencies in regulatory frameworks that restrict the use of such tools could compromise citizens' personal security and hinder the state's capacity to combat crime effectively.

**This report** provides a comprehensive examination of the utilization of technological tools, focusing on the activities of key law enforcement agencies: the Israel Police, the Attorney General's Office, and the State Attorney's Office within the Ministry of Justice, as well as the interactions among these entities. The audit was also conducted under the authority of the State Comptroller to undertake systematic audits of state representatives operating within the judicial system.

The audit report encompasses a thorough and systematic analysis of the processes involved in the use of the technological tools, including the processes involved in: legislating the legal and regulatory frameworks; submitting requests; deploying such tools and putting them in place; acquiring and using communications data; and overseeing and controlling the deployment of these tools within the Israel Police, the Attorney General's Office, and the State Attorney's Office.

Throughout the audit, various technological tools employed by the police were scrutinized, pertinent police databases were analyzed, and thousands of documents from the police and the Ministry of Justice were reviewed. Furthermore, a practical assessment of the operational methodologies concerning the technological tools and their corresponding documentation procedures was conducted.

**The findings arising from the audit** conducted by the Office of the State Comptroller have revealed significant deficiencies and weaknesses pertaining to the utilization of technological tools by the Israel Police, as well as regarding its interface with the Attorney General's Office and the State Attorney's Office on these matters. The findings suggest systemic inadequacies that necessitate rectification to ensure compliance with fundamental principles concerning the manner in which law enforcement agencies exert their powers and authorities. The primary systemic deficiencies identified are as follows:

**Absence of Adequate Legal Regulation** – The application of technological tools and the performance of operations related to wiretapping and the use of communications data lack appropriate legislative and legal grounding necessary for these activities. The absence of regulatory frameworks has resulted in two principal outcomes: first, the employment of tools that severely infringe upon privacy without the authority for their use being delineated in primary legislation; second, this absence has curtailed the police's ability to utilize

these tools effectively in enforcement operations aimed at combating crime.

**Problematic Work Practices within the Police –** The adoption of methodologies that circumvent established processes, coupled with the implementation of work practices that are not grounded in standardized procedures, has led to the execution of prohibited actions during the exercise of police powers, throughout the stages from submission of the request to the utilization of communications data or outputs of covert wiretapping. In the absence of regulation, it has been determined that actions contrary to established legal protocols were undertaken, resulting in the collection and utilization of prohibited information and outputs.

**Challenges in Operational Interfaces between the Israel Police and the Ministry of Justice –** Certain findings within the report pertain to the police's exercise of its powers, while others relate to the legal support afforded by the Attorney General's Office staff within the Ministry of Justice, as well as the operations of the State Attorney's Office. These findings are interconnected, evidenced by a vulnerability manifested in the insufficient transfer of pertinent information from the police to the Ministry of Justice, alongside the Ministry's lack of proactive engagement to acquire knowledge regarding the full capabilities of the technological tools available.

**Professional Deficiencies in the Fields of Technology and Law –** At the root of a considerable portion of the report's findings is a professional deficiency connected to the lack of personnel within the Attorney General's Office, the State Attorney's Office, and the legal counsel to the Police, who have acquired the requisite technological expertise necessary to address the core areas highlighted in the report.

**As we look to the future,** it is important to recognize that in recent years, the police and the Ministry of Justice have initiated measures

to address existing deficiencies. However, these corrective actions must be fully implemented, which necessitates, among other requirements, coordinated governmental efforts involving the police, the State Attorney's Office, and the Attorney General's Office at the Ministry of Justice. It is imperative that necessary legislative amendments be promoted, enhanced control mechanisms be developed, procedures and operational processes be clarified, and greater inter-organizational transparency and accountability within law enforcement agencies be established, particularly concerning their use of sensitive technological tools.

It should be emphasized that the report is not designed to evaluate enforcement actions related to specific investigative cases but rather to conduct a systemic examination of the police's utilization of technological tools for enforcement purposes and to identify patterns requiring correction or improvement. The audit findings reveal systemic deficiencies and highlight the necessity for comprehensive and fundamental improvements in the operations of law enforcement agencies; thus, the report does not contain findings pertaining to specific figures. Consequently, the report aims to facilitate systemic reform rather than serve as a vehicle for the critique of specific officials. It was deemed important to clarify these aspects, particularly in light of the public discourse that has been ongoing in recent years regarding the law enforcement system in Israel.

In the current context, where the country is confronting complex challenges related to crime and security threats, and in consideration of the public debate surrounding legal and enforcement matters, the importance of striking a balance between the imperative to safeguard public safety and law enforcement and the obligation to uphold individual rights, especially the right to privacy, has become increasingly pronounced.

**The significance of state audit and its operational framework** stems from the Basic

Law: State Comptroller, which accords it autonomy and complete independence from the executive branch. This autonomy is fundamental to ensuring that audits are conducted free from intimidation and external influence, thereby ensuring that the State Comptroller remains accountable to both the Knesset and the public. It is noteworthy that the Office of the State Comptroller executed the audit on this matter concurrently with the work of an internal audit committee within the Ministry of Justice, as well as alongside the activities of a government audit committee that has yet to finalize its work. The operations of each of these entities possess independent and distinct value.

State audit encompasses a comprehensive examination of the interrelationships and coordination among the audited entities, addressing issues the government manages at a broad, state level, and engages with processes that have evolved within the government over time. In this respect, state audit, particularly in relation to systemic audits, is distinct from an internal audit. These operational characteristics were similarly reflected in this audit report, the findings of which have been disseminated to the public. Additionally, the audit extensively investigates decision-making processes within the audited entities, a focus that is maintained in this report. It is important to emphasize that, in accordance with the established methodology traditionally employed in state audit, this audit did not evaluate the substance of policy, nor did it seek to supplant the discretion of the executive authority; rather, it scrutinized whether the policy-making process was conducted in compliance with legal standards and in alignment with principles of administrative propriety.

I express my gratitude to the employees of the Office of the State Comptroller for their professional and meticulous efforts in the preparation of this report, which was undertaken under complex conditions while upholding the highest professional standards.

Throughout the report's preparation, the state continued to confront numerous challenges across various sectors. I sincerely hope that the findings and recommendations contained within the report will aid in fortifying state institutions and enhancing public trust in them. I cannot conclude these introductory remarks without expressing my hope and prayer for the safe return of the last hostage, Master Sergeant Ran Gvili of the Yasam police counter-terror unit, for the success of our soldiers in their diverse missions, for the recovery of the wounded, and for peaceful and quiet days for all residents of the State of Israel.

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