ANDREW MARR:
Now then there’s nobody in politics facing a tougher week than my next guest, Theresa May. The Home Secretary’s about to publish a new bill to give wide powers to the security services and the police. They’ve asked to be able to trawl through everybody’s online activity – mobile phone calls, internet use, texts, the lot – and there is going to be an almighty row, I would imagine, about oversight and safeguards. And Theresa May joins me now. Welcome Home Secretary, thanks for coming in. Can I ask, first of all, how this new measure differs from the so-called Snooper’s Charter that was shot down in 2012?

THERESA MAY:
Well it is quite different from the Draft Communications Data Bill in a number of ways. It doesn’t have some of the more contentious powers that were in that bill. So, for example, we won’t be requiring commu… communication service providers from the UK to store third party data, we won’t be making the same requirements in relation to data retention on overseas CSPs. And crucially, Andrew – and this is where I take a little bit of contention with what you’ve just said – we will not be giving powers to go through people’s browsing history. That is not what the investigatory powers bill is about.
ANDREW MARR:
I mentioned it because the police had asked for it and I assumed you were going to give them that. So this is the data of who has … So what kind of thing … Who has spoken to who, who has been on what sort of website rather than what they’ve been looking at on the website, is that right?

THERESA MAY:
Yes. And if I can perhaps give an example, a sort of real life example. If you imagine that the police are dealing with the case of a missing person. They would want (currently) to look to see who was in touch with that individual before they went missing, so they’d look at their telephone records. They’d be able to see just you know who had been telephoned in terms of the telephone numbers. Of course as people move into the digital age, they no longer always communicate on the telephone; they communicate over the internet. So what we’re talking about is just knowing that first step – that who has been contacted.

ANDREW MARR:
Has Andrew Marr been talking to David Gilmour? That kind of thing, yeah.

THERESA MAY:
Well it’s the sort of you know … Or did this particular device access WhatsApp perhaps at ten past one and Facebook at five minutes past two? It doesn’t go beyond that.

ANDREW MARR:
Let me give you another example because it might be very useful to know what they’ve been doing online. Suppose somebody’s on a porn site and he’s suspected of paedophile involvement or grooming. Wouldn’t it be useful to know if he’d been searching for young girls or young boys or whatever?

THERESA MAY:
Well it’s precisely … This area of catching paedophiles and dealing with child abuse is precisely one of the reasons why we want this ability to look at these internet connection records that I’ve just described to you. That it’s …
ANDREW MARR:
(over) But don’t you need to know more is my point?

THERESA MAY:
Well if there are more intrusive requirements, then of course warrants are required for those, and part of the bill is about making sure that we’ve got oversight arrangements in place for all of these powers – strong oversight arrangements. It’s about bringing the ability of our law enforcement and security services to deal with the issues they’re dealing with – with the criminals and with the terrorists – bringing that forward into the digital age. As the criminals move into the digital age, so do those who are searching out those criminals and ensuring that we can stop them and disrupt them.

ANDREW MARR:
(over) Sure. So you’ve talked a lot about oversight. One of the big issues has to be whether that will be held by politicians – in this case yourself – or whether independent judges will have a role in this?

THERESA MAY:
Yes this is talking about the most intrusive powers …

ANDREW MARR:
(over) Yes indeed.

THERESA MAY:
… some of the most intrusive powers that government have to intercept people’s communications. And we had three reviews. And one of the things that the bill is doing is responding to three separate reviews that took place looking at these powers. They all said that those powers were necessary. The independent reviewer of terrorism legislation …

ANDREW MARR:
(over) David Anderson, yes.
THERESA MAY:
… the Parliamentary Committee and the Royal United Services Institute. They all said that these powers are necessary, but they all came out with a different answer in relation to the authorisation of warrants. What I’m clear about is - I will be explaining what the government’s position is to parliament this week - what I’m clear about is that there will be in this bill strong oversight and authorisation arrangements.

ANDREW MARR:
Because David Anderson, the government’s adviser on this, was very clear. He said there had to be independent judges separate from politicians involved in the process. Is he going to be happy with what comes out?

THERESA MAY:
Well David Anderson said that judges should be doing the authorisation.

ANDREW MARR:
Yes he did, he did.

THERESA MAY:
The Parliamentary Committee said the executive – i.e. secretaries of state – should be doing the authorisation; and the Royal United Services Institute, RUSI, said that some warrants should be done by judges and some should be done by the Secretary of State. We’ve listened … We’ve looked very carefully at those arguments, we’ve listened to people. I’ve met communication service providers, I’ve met civil liberties groups, and crucially I’ve also met the charities and groups, organisations representing victims who know what it’s like when people suffer from child sexual abuse, child sexual exploitation and rape, for example. So I’m very clear at the need for these powers, but I will be setting out to parliament …

ANDREW MARR:
(over) … for proper regulation as well, oversight?

THERESA MAY:
With proper regulation, proper oversight. And I think what the bill do on Wednesday
is it sets a modern legal framework, but crucially it has very strong oversight arrangements within it. I think it will be world leading oversight arrangements within the bill and it will be clearer and more comprehensive and comprehensible than the previous legislation has been.

ANDREW MARR:
Because when it comes to the more intrusive warrants, I think you see about 1400 of those a year roughly speaking, something like that?

THERESA MAY:
It’s more than that.

ANDREW MARR:
It’s more than that. Can I ask how long you actually spend on each one?

THERESA MAY:
I spend as long as is necessary to give proper consideration to each one. It’s a very important part of my job. I take … I take this job very seriously.

ANDREW MARR:
(over) But does that mean sort of several hours poring over the detail of the paperwork and so forth and thinking about it?

THERESA MAY:
(over) Yes there is time set aside. Every day that I’m in the Home Office there is time set aside for me to look through those warrants and to decide … And it is … The decisions about interception are based on necessity and proportionality.

ANDREW MARR:
Some people watching will think this is a slightly old-fashioned, odd system – the Secretary of State with so many other responsibilities has to set aside time every day to go through the details of these things. I mean the case for you not doing it is quite high, isn’t it?
THERESA MAY:
Well, as I say, the three reviews came up with three different options on this.

ANDREW MARR:
(over) Yes sure.

THERESA MAY:
David Anderson was clear that he thought - partly in relation to future proofing on future legislation … future legal challenges perhaps - judicial authorisation was the right way. The Parliamentary Committee – the intelligence and security committee of parliament – said that there should be executive authorisation: i.e. Secretary of State should still do it because of the accountability argument.

ANDREW MARR:
I see.

THERESA MAY:
We’ve looked at all of those arguments, we’ve listened to what people have said, and we’ll be bringing forward you know the government’s position on Wednesday. But, as I say, very clear that what we will bring forward has very strong oversight arrangements.

ANDREW MARR:
Okay. After the Charlie Hebdo massacre, the prime minister said that in effect we had to have encryption removed to protect ourselves; we could not have encrypted conversations between bad guys going on and stay safe. Is he right about that?

THERESA MAY:
Well we’re not banning encryption. And encryption is an important issue for people to keep themsel…

ANDREW MARR:
(over) Why not? Sorry.
THERESA MAY:
Well encryption is important for people to be able to keep themselves safe when they’re dealing with these modern communications in the digital age. But what we’ll be doing is setting out the current position, which does enable the authorities with proper authorisation to issue warrants.

ANDREW MARR:
I think I’ve got … What he said was: “In extremis it’s been possible in the past to read somebody’s letter, to listen to somebody’s call in mobile communication … to mobile communications. Therefore”, he said, “the question remains are we going to allow a means of communications where it is simply not possible to do that? My answer to that question is no, no we must not. The first duty of any government is to keep our country and our people safe.”

THERESA MAY:
Well the first duty of any government is to keep our country and our people safe, which is precisely why we are bringing forward the investigatory powers bill.

ANDREW MARR:
Yeah.

THERESA MAY:
It is precisely why we are setting out a very clear legal framework, clearer than previously.

ANDREW MARR:
(over) But encryption can stay?

THERESA MAY:
Encryption will not be banned within the bill. But the existing arrangements whereby obviously the authorities are able to exercise a warrant to require interception takes place … when they require interception to take place will continue.

ANDREW MARR:
Can I ask about the other end of this whole process? We’ve got lots of new powers therefore – the police and the security services – and that’s clearly very important, there’s a kind of consensus around that. But at the other end there’s the story of what’s happening on the streets. Peter Clarke, a former head of terrorism, said there was a golden thread between the two things. And, given the number of police officers now being taken off the streets because of the cuts is that golden thread now not being broken? I think there’s another 20,000 to come off the streets soon, for instance?

THERESA MAY:
Well no, there’s been a lot of speculation about what might happen to police numbers. The Comprehensive Spending Review hasn’t been announced yet, so police don’t yet know what their funding for the future will be. But if I can just take you back five years. In 2010 people made a lot of comments about what the changes to police budgets then would mean in relation to cops on the streets and deploying the cops, but actually …

ANDREW MARR:
(over) And in relation to cops on the streets, that was scaremongering at the time.

THERESA MAY:
(over) … and actually what HMIC said was that the frontline had been protected. But what we need to make sure the police are able to do is to police in today’s world of crime because crime is changing. So we are seeing crime - for example more cyber crime being committed – so it’s important that we ensure the police have got the skills necessarily and that how they police, how they deploy police needs to address today’s crimes.

ANDREW MARR:
Okay. One final, final question about the issue of the week, the data communications issue. Information nonetheless from British people is going to be held for 12 months by the big companies. A lot of people think hold on a second, so that’s a lot of detailed information about me being held by these companies available to the police or the security services if they need it. However, as we’ve seen from TalkTalk, that is not necessarily secure; people can hack into this information. Are you as Home
Secretary doing anything to make sure that once this happens that information will not suddenly emerge onto the dark net or the internet or the newspapers or wherever?

THERESA MAY:
Well I think what we’ve seen from TalkTalk is the fact that people are now going on … What we see overall is that criminals now move into that cyber realm …

ANDREW MARR:
(over) Yes exactly and snaffle the stuff.

THERESA MAY:
… and that’s why it’s so important that we make sure that our police and our agencies have the powers for them to be able to deal in the digital age. And, as you yourself have said …

ANDREW MARR:
(over) I’m sorry, my question was slightly different, which is what is the security that you can offer people that once this information is stored for 12 months it won’t simply leak out again?

THERESA MAY:
Well what I was going to say, Andrew, if I may, and then come onto that point is, as you yourself have said this morning, looking at these issues is about a balance and that’s why it’s so important that we ensure that there is proper oversight but that the police and the security services are able to operate in this new digital age. But of course companies have to look at how they are protecting the material that they hold for people, but this government has and over the last five …

ANDREW MARR:
(over) And so far not very well is the answer to that.

THERESA MAY:
(over) Well over the last five years we have put … When we came into government in 2010 we put a significant sum of money aside in relation to cyber security and cyber crime. We have been looking at this whole issue for some time now. On the cyber
crime front, we have set up within the National Crime Agency the first ever national cyber crime unit here in the United Kingdom, so we are ensuring that there are the powers, that there is the facility there to be able to deal with these issues when they occur.

ANDREW MARR:
Still a bit of a worry, I would have thought. Moving on, however. You gave an absolutely blistering speech at the Tory Party conference which was deliriously received there – I was there and I saw so for myself – during which you said that the current level of migration into this country is not sustainable if we want a balanced society and there was an effect of social cohesion if immigration continued as this sort of level. What do you mean by that?

THERESA MAY:
Well what I said about social cohesion was that if immigration is too high and too fast, then social cohesion is impossible. But what is important, therefore, is that we control immigration and that’s what we’re trying to … are doing.

ANDREW MARR
(over) I just want you to spell out what that phrase “social cohesion is impossible” actually means in real terms.

THERESA MAY:
Well if you think about it, if you look at people in communities, if you have too many people coming in at too fast a pace then it is very difficult to ensure that people are able to integrate and participate fully in society. That’s why it’s important for us to control immigration, that’s why we have been bringing in controls on immigration. There is still more for us to do and you’re probably about to talk to me about EU migration …

ANDREW MARR:
Well I was going to say so far, with respect, with total failure in terms of controlling the numbers. The last few years have seen huge immigration. This year 330,000 people, I think, have come in. You may have heard Nigel Farage saying it is not
possible to control that while we’re still inside the EU.

**THERESA MAY:**
Well if you look at what’s happened over the last five years, in fact the numbers did start coming down to … significantly, and then we have seen – you’re right – we have seen that increase in numbers. And one of the reasons we’ve seen that increase in numbers is migration from the European Union. That’s why we were very clear as a party in our election manifesto and we were elected on a mandate of taking measures to deal with this issue looking at the questions of benefit and free movement in relation to abuse and criminality.

**ANDREW MARR:**
Can you, do you think, get anything from the EU in this negotiation on free movement of people?

**THERESA MAY:**
Well we’ve set out very clearly in our manifesto that we want to look at the areas of benefit, the benefits that are available to people, and also look at abuse and criminality. And these are not issues that are suddenly being discussed inside the European Union. I’ve been talking to interior ministers inside Europe now for a while about some of these questions about abuse and criminality and I think there is a recognition that these are areas that we do collectively need to look at.

**ANDREW MARR:**
Is this for you a bottom line?

**THERESA MAY:**
Well this is renegotiation that we’re taking place … that’s taking place, Andrew. We’re …

**ANDREW MARR:**
*(over)* Yes, sorry, but if what you say about the level of migration is accurate and true then you absolutely have to stop it in your view and the only way of stopping it is getting a new agreement which either limits in some way the free movement of people
across the EU or severely limits all benefits, in-work benefits coming to people to work here. If you don’t get either of those things, that must represent failure?

**THERESA MAY:**
The government is negotiating at the moment within the European Union on these issues and indeed on other issues, as you’re aware - the competitiveness of the European Union, for example. We will conduct that negotiation and then put that package - the revised relationship that we have with Europe, the reforms that we’ve negotiated - to the British people for them to decide.

**ANDREW MARR:**
But it …

**THERESA MAY:**
We’re still at the point where those negotiations are continuing …

**ANDREW MARR:**
Of course.

**THERESA MAY:**
… and therefore obviously we need to wait and see what comes out of those.

**ANDREW MARR:**
I do understand that, but in terms of sort of straight talking and so forth. If you were not able to limit the number of people coming in, you couldn’t accept that could you?

**THERESA MAY:**
I am confident that we have see… from what I’ve seen from interior ministers that they are concerned about issues that we have raised and that’s why we are going into this renegotiation, we are looking to negotiate a package that will be a different relationship between the United Kingdom and the European Union.

**ANDREW MARR:**
I always like to be helpful on this programme, as you know, and so I’m pleased to say
that I’ve got Andrew Pierce’s piece from The Daily Mail yesterday: “Theresa, the public’s choice to lead the EU Out campaign.” Out there they think that you are the politician who can bring over Conservatives and people who vote UKIP and non-decided people for Britain leaving Out. Is there any prospect of you doing that at all? It’s a big choice you have to make.

**THERESA MAY:**
The government was elected on a mandate to actually renegotiate within Europe and that’s what I’m doing. And you know there are some people who say you should be in at all costs, there are people who say you should be out at all costs. Actually I say let’s do this renegotiation. Let’s see what reform we can bring about as a result of that renegotiation and then put it to the British people. And that’s what we promised people. We promised the public a referendum. The referendum bill’s going through parliament and they will have that referendum.

**ANDREW MARR:**
Is there any kind of plausible, prosperous future for us outside the EU, do you think?

**THERESA MAY:**
Well what we’re doing is negotiating. The question for us is what is our relationship with the European Union and that’s what we're looking at in this renegotiation. We’re negotiating and some of it is about reform. Some of these issues of competitiveness in Europe of course are issues for all countries within the European Union, not just an issue for the United Kingdom. So we have that renegotiation. It’s what we were elected to do. We will do that and then the British people will have that choice.

**ANDREW MARR:**
(*over*) And then everything is going to change on the result of that. I mean there’s going to be a massive moment when that renegotiation is finished.

**THERESA MAY:**
And people will have their choice. And that’s the important point: it will then be for the British public to decide when they vote in the referendum.
ANDREW MARR:
I’m really just asking you know what do you feel in your waters because it’s perfectly clear from the prime minister’s speech in Iceland this week that in his waters he wants to stay in. That’s fairly clear. In your waters, what’s your view?

THERESA MAY:
Well the prime minister has made clear that we are going through this negotiation and hope to see and are working to see a reformed package that would enable the United Kingdom to stay in the European Union. That negotiation is continuing, but the decision isn’t going to be my decision individually or the prime minister’s decision individually. It will be for the British public and that’s the important thing. And, as I say, you know there are some people who are voices that say whatever else stay in …

ANDREW MARR:
Right, okay.

THERESA MAY:
… and some say whatever else come out. Actually let’s renegotiate. Let’s look to the relationship with Europe for the future and then let the British people decide.

ANDREW MARR:
I have an instinct which tells me that I’m not going to get a headline tomorrow saying ‘Theresa May: I’m leading us out of Europe’, so for now thank you very much indeed Home Secretary, that was very interesting.

INTERVIEW ENDS