



NEW ZEALAND
CUSTOMS SERVICE
TE MANA ĀRAI O AOTEAROA

AUCKLAND

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PROTECTING NEW ZEALAND'S BORDER

7 October 2013

Ref: IPC OIA 13-155

Ms Alex Harris

By email: fyi-request-1119-b53fe189@requests.fyi.org.nz

Dear Ms Harris

Request for information under the Official Information Act 1982

Thank you for your email of 10 September 2013 to the New Zealand Customs Service (Customs), in which you requested the following information under the Official Information Act 1982 (the OIA):

1. How many times in the last 12 months has Customs searched the laptop computer, portable hard drive, USB stick, cellphone, or other digital device of someone entering New Zealand?
2. On how many occasions does such a search result in finding something prohibited from entering NZ, or in a prosecution?
3. What is the reason for such searches, and what is the statutory authority for them?
4. What paperwork (if any) is filed, and to whom, about such searches (e.g. do searching customs officers have to fill out a report, or give a receipt if seized? If there is a standard form, I would like a blank copy)

In response to your request, please note the following information:

1. Information in relation to the number of searches conducted by Customs on laptop computers, portable hard drives, USB sticks, cellphones, or other digital devices (digital devices) of people entering New Zealand is not specifically recorded.

Where Customs has undertaken a baggage search of a passenger, and that search included the search of a digital device, a report would have been created in Customs' database recording that search. However, the only way Customs would be able to determine how many searches of a digital device had been undertaken in the previous 12 months would be to open every

report in the Customs database for that time period and check the narrative for a mention of a digital device being searched. To do so would take a significant amount of time and resources. Access to this information is therefore refused because it cannot be made available without substantial collation or research (section 18(f) of the OIA).

2. There have been 234 interceptions of prohibited material found in digital devices in the period of 1 September 2012 to 1 August 2013. 116 searches carried out by Customs found objectionable material in a digital device, and 118 searches found materials breaching intellectual property rights. Please note that this information relates only to searches in which objectionable material or a breach of intellectual property rights was found on the device searched. It does not include data where the digital device looked at contained evidence of another type of offence (such as fraud). That information is not readily available and cannot be made available without substantial collation or research (section 18(f) of the OIA). The data relating to the finding of objectionable material and breaching intellectual property rights was obtained from the Customs database. While the information is considered correct at the date it was extracted (September 2013), it may be amended or reviewed at any time.

Similar to our response to question one, the only way that Customs could determine how many prosecutions were initiated as a result of a search of a digital device would be to search through all of the reports and records of each prosecution relating to the importation or exportation of prohibited goods in the relevant time period. Again, this task would take significant of time and resources. Access to this information is therefore refused because it cannot be made available without substantial collation or research (section 18(f) of the OIA).

3. Customs has several search, inspection, examination and production powers, the authorities for which are found in Part 12 of the Customs and Excise Act 1996 and in the Search and Surveillance Act 2012. That information is publicly available free of charge at www.legislation.govt.nz.

The reason for a search is likely to be directly related to whatever power is being exercised by Customs. If there is a specific power you are interested in particularly, please feel free to contact us again citing that power so that Customs may be able to provide a more meaningful answer.

4. The nature of the paperwork filed would depend on the nature of the search undertaken and whether goods are detained or not. Again, in order for Customs to respond to you in a meaningful way, you would need to specify what type of search, and/or what power interested you in particular.

As an example, when a search uncovers dutiable or prohibited (conditionally or absolutely) goods at the border, it is referred to as an 'interception'. From there Customs takes custody of goods, at which point they are 'detained'. When a device is detained by Customs for examination, Customs presents the passenger with a 'Receipt for Goods Detained for Examination' form (an

example is **enclosed**). Goods that are 'detained' can be either released back to the importer (usually when conditions/requirements have been met, e.g. duty and GST paid, permit produced etc) or formally 'seized'. Seizure is a specific legal action that can result from prohibited goods entering New Zealand and becoming forfeit to the Crown. If goods are seized, the passenger is served a notice of seizure. **Enclosed** is a copy of the 'Notice of Seizure' form presented to passengers whose goods are seized for offences relating to the importation or exportation of prohibited goods.

An electronic report and an electronic tracking bar code are also created in the Customs database for all goods detained or seized. There are no standard forms for these reports.

Please be advised that you have a right, by way of complaint to the Office of the Ombudsman under section 28(3) of the OIA, to seek an investigation and review of this partial refusal.

If you have any further questions please feel free to contact Customs again.

Yours sincerely



Chris Howley
Group Manager
Intelligence, Investigations and Enforcement