



26 November 2021

File number: IR-01-21-29735

Carol Rene
fyi-request-17032-dec9dfed@requests.fyi.org.nz

Dear Carol

Request for Information

Thank you for your email request dated 4 October 2021 in which you requested information about the Police use of passive monitoring in relation to information held by Internet Service Providers (ISPs).

I apologise for the delay in responding. Police Ministerial Services contacted you to clarify the context of your request, however you declined. Accordingly, I have interpreted your request to provide a response.

Question One: *Do New Zealand Police, or any governmental or non-governmental organization that provides information or instructions to police, passively obtain information on internet use of any individuals in New Zealand? That is, can any part of the history of an individual's internet use (some of which is available to Internet Service Providers, such as web addresses visited) become available to Police without Police having a specific intent to investigate that person, for any purpose including to notify Police of potential persons of interest?*

I infer from your question that you are seeking an assurance that New Zealand Police do not have a stream of data from New Zealand ISPs cataloguing everybody's use of the internet. I can confirm Police does not hold this information, nor does Police receive this information from other agencies.

Police would only obtain internet use data during an investigation into potential criminal offending and only when it was necessary, relevant and in accordance with legislation.

Question Two: *If so, I request copies of internal Police policy that demonstrates this, and which shows in as much detail as possible the extent of and methods behind this surveillance. If, however, Police do not gather information in this way, I request an explanation of the barriers that prevent Police from doing so.*

Police is unable to passively obtain information on the history of an individual's internet use within New Zealand outside of what individuals choose to publicly post, therefore there is no internal Police policy on passive monitoring of ISP

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usage. Accordingly, this part of your request is refused under section 18(e) of the OIA as the document alleged to contain the information requested does not exist.

With regards to barriers, any actions taken by Police should be lawful, reasonable and proportionate. The Search and Surveillance Act 2012 and Privacy Act 2020 do not allow Police to obtain details of an individual's internet usage unless certain criteria are met. In addition, there are expectations from the public that Police are not undertaking sweeping activities that breach the Bill of Rights Act and specifically section 21; that everyone has the right to be secure against unreasonable search or seizure, whether of the person, property, or correspondence or otherwise.

The main legislation (available to view at www.legislation.govt.nz) that informs Police accessing an individual's internet, as described in your OIA request is:

Legislation

1. Privacy Act 2020
2. Human Rights Act 1993
3. New Zealand Bill of Rights Act 1990
4. Search and Surveillance Act 2012.

Internal Controls

Police staff are guided by and need to adhere to:

- the Police Code of Conduct,
- Police 'Our Values'

Both of these documents are available on the Police website:
<https://www.police.govt.nz/about-us>.

I trust this information satisfies your request. If you are not satisfied, you have the right to ask the Ombudsman under section 28(3) of the OIA to seek an investigation and review of my decisions.

Yours sincerely



Stuart Mills
Manager Intercept and Technology Operations
New Zealand Police