



**Kent
Police**



Mr Nick Wright
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Direct Line: 01622 652610
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Date: 7th February 2020
FOI Ref: 20/01/0167

Dear Mr Wright,

Freedom of Information Request 20/01/0167

I write in response to your request for information under the Freedom of Information Act 2000 received on 28th January 2020.

I am aware that companies are selling technologies to law enforcement that allow them to take vast quantities of personal data from cloud-based apps and accounts. You can read more [<https://privacyinternational.org/lng-read/3300/cloud-extraction-technology-secret-tech-lets-government-agencies-collect-masses-data>].

I make the following request for documents/information under the Freedom of Information Act:

- 1. Do you use mobile phone extraction technology that includes cloud analytics / cloud extraction capabilities e.g. Cellebrite UFED Cloud Analyser, Magnet Axion Cloud or Oxygen Forensics Cloud Extractor*
- 2. Do you have other technologies that allow you to access cloud-based accounts and extract this data.*
- 3. Please provide a copy of the relevant Data Protection Impact Assessment.*
- 4. Please provide a copy of the relevant local and/or national guidance/standard operating procedure/policy.*
- 5. Please confirm the legal basis you rely on to conduct cloud analytics/extraction.*

For Question 3 A Data Protection Impact Assessment was not undertaken as the mobile phone extraction software was purchased before the introduction of the Data Protection Act 2018 (DPA), as such there is no information held in regard to this question.

In regard to Question 5 a legal basis would only be required where forces have not gained consent and this legal basis would fall under Regulation of Investigatory Powers Act 2000 (RIPA).

In response to the remaining questions, the methods which Kent Police may use to extract data from mobile phones and cloud-based accounts would be considered exempt from release by virtue of the exemption at Section 31(1)(a)(b) of the FOIA, which related to law enforcement.

Evidence of Harm

Modern day policing is intelligence led and law enforcement depends upon the development of intelligence and the gathering and security of evidence in order to disrupt criminal behaviour and bring offenders to justice. As criminals adapt and exploit new technology, the police need to respond by overcoming hi-tech barriers in order to meet their responsibilities. In this case the information relates to the extraction of data from individuals' mobile devices, albeit victim or offender. By revealing specific tactical information such as requested within this request, would

undermine the process of preventing or detecting crime and the apprehension of prosecution of offenders.

Public Interest Considerations for S31(1)(a)(b) Law Enforcement

Factors favouring Disclosure

Disclosure of the information would raise the general public's awareness that the police are effectively and appropriately extracting information from mobile phones as part of Kent Police's responsibility to deliver effective operational law enforcement.

Factors favouring Non-Disclosure

When the current or future law enforcement role of the force may be compromised by the release of information, the effectiveness of the force will be reduced. In this case, for the reasons outlined in the evidenced harm, the effectiveness of current and future strategies when carrying out investigations and gathering evidence may be compromised.

The personal safety of individuals is of paramount importance to the Police Service and must be considered in response of every release. A disclosure under Freedom of Information is a release to the world and, in this case, disclosing tactical information relating to the extraction of data from individuals' mobile phones, would undermine the evidence gathering process of any investigative inquiry relating to offences, some of which may be serious cases such as murder or rape.

Balancing Test

As always the Freedom of Information Act has a presumption of disclosure, unless when balancing the competing public interest factors the prejudice to the community outweighs the benefits. In this case, there is an argument for disclosure, inasmuch as the public have a right to know that every effort is made to gather all relevant evidence, including extracting data from mobile phones, but this must be balanced against the negative impact these disclosures can make.

Law Enforcement is reliant on community engagement, intelligence and evidence gathering and when it is appropriate, information is given to the public. What has been established in this case is the fact that disclosure of information relating to technologies used when extracting data would have an adverse effect on the investigative process and on the public prevention or detection of crime and the apprehension or prosecution of offenders. This places the victims of such offending at a greater risk towards their health and wellbeing and is not an action the Police Service would be willing to take. These negatives outweigh any tangible community benefit and therefore the balance does not favour disclosure at this time.

Thank you for your interest in Kent Police. If you have any queries about your request or the application of the Freedom of Information Act generally, please contact this office quoting the reference number above.

Yours sincerely,

Lakeisha Dowsey-Magog

Public Disclosure Officer

Your right to appeal

We take our responsibilities under the Freedom of Information Act seriously but if you feel your request has not been properly handled or you are otherwise dissatisfied with the outcome of your request, you have 40 working days from the date the response is issued to request that Kent Police carry out an internal review.

If your request for a review concerns the decision to apply an exemption, it would assist if you would outline why you believe the exemption does not apply.

Kent Police will acknowledge receipt of any request for a review and aim to respond as soon as practicable, in most cases within 20 working days of receipt. If the review will not be completed in this timescale, you will be informed.

You may lodge your request for a review in writing:

Our email address is: freedomofinformation@kent.police.uk

Our postal address is:

Freedom of Information
Coldharbour,
London Road,
Aylesford,
Kent,
ME20 7SL

If you are still dissatisfied following our internal review, you have the right under section 50 of the Act to appeal directly to the Information Commissioner who would normally expect you to have exhausted the internal review procedure provided by Kent Police.

For information on how to appeal to the Information Commissioner please visit the website at www.ico.org.uk. Alternatively, phone or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113