

香港特別行政區政府
保安局



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The Government of the
Hong Kong Special Administrative Region
Security Bureau

香港添馬添美道 2 號

2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref.: SBCR 14/2/3231/94 Pt.18

來函檔號 Your Ref.:

電話號碼 TEL. NO.: 2810 2632

傳真號碼 FAX. NO.: 2877 0636

28 May 2015

Miss Betty MA
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss MA,

Members of the Bills Committee on Interception of Communications and Surveillance (Amendment) Bill 2015 raised their views and enquired about the number of requests for subscribers' information from Internet service providers and the number of applications for court warrants by law enforcement agencies at the meeting on 11 May 2015. Government's response is at Annex.

Yours sincerely,

(Mrs Millie Ng)
for Secretary for Security

Encl (3 pages)

c.c.

Department of Justice

(Attn: Mr Godfrey KAN, Senior Assistant Solicitor General
Ms Monica LAW, Senior Assistant Law Draftsman)

Request for Subscribers' Information from Internet Service Providers and Application for Court Warrants by Law Enforcement Agencies

When investigating crime, law enforcement agencies (LEAs) may, depending on the nature of the cases and for the purpose of crime prevention and detection, request necessary information related to crime detection from the individuals or organisations concerned, including subscribers' information (such as account name and Internet Protocol (IP) address) and log records from local or overseas Internet service providers (ISPs), for locating witnesses, evidence or suspects. Such tasks fall outside the scope of the Interception of Communications and Surveillance Ordinance (the ICSO). LEAs' enquiries also do not involve any request for records of the content of any non-public communications. LEAs are required to strictly abide by the provisions of the Personal Data (Privacy) Ordinance (Cap. 486) when requesting personal data for the purpose of crime prevention and detection.

2. Generally, LEAs will, for the purpose of combating technology crimes and offences committed through the Internet, request information relating to the case under investigation from ISPs when necessary. Types of such cases include dissemination of child pornography, naked chat blackmail, online business fraud, email or social media scams, distributed denial-of-service attacks, unauthorized access to a computer system, access to a computer with a criminal or dishonest intent, using or distributing infringing copies of copyright works or counterfeit goods, and offences relating to corrupt transactions.

3. Figures of request for information by LEAs to local and overseas ISPs in the past two years are at the Appendix.

4. On the other hand, for the purpose of crime investigation, LEAs may apply to the court in accordance with relevant laws for a court warrant authorizing the search of any premises or place.

5. LEAs have to observe stringent requirements when applying for search warrants from magistrates. Apart from completing an "Information for Search Warrant" form and a "Search Warrant" form, LEAs are required to swear an oath before the magistrate to show that there are reasons to suspect that items of value to an investigation are being kept in a building or a place. In addition, LEAs have to clearly set out the justifications for applying for a search warrant as well as the scope of the search warrant being sought when making their application, which shall include the offences involved in the case,

locations of the premises and so on, and, at the same time, answer any questions raised by the magistrates. Once issued, the search warrant shall be sealed by the Court and the relevant particulars will be put on record. LEAs will then have to act in strict compliance with the search warrant, including any conditions imposed by the magistrate.

6. The arrangements for LEAs applying for court warrants to obtain documents or information from ISPs are substantially the same as those for applying court warrants to obtain documents or information from other organisations and individuals. LEAs do not maintain statistical figures on obtaining documents or information from any organisations, individuals or specific industries through application for court warrants.

7. Obtaining documents or information from any organisations and individuals through application for court warrants is part of LEAs' routine law enforcement efforts and does not fall within the scope of the ICSO.

Security Bureau
May 2015

Appendix

Figures of request for information by LEAs to local and overseas ISPs in 2013 and 2014

Statistical figures of request for information by the Hong Kong Police Force (“HKPF”), the Hong Kong Customs and Excise Department (“C&ED”) and the Independent Commission Against Corruption (“ICAC”) to local and overseas ISPs are as follows:

	HKPF	C&ED	ICAC
2013	4 389	881	532
2014	4 000	498	180

Remarks: Information requested from ISPs was metadata in nature, including IP addresses, subscribers’ information and/or log records.