



IR-01-23-12667

6 June 2023

Mason

[fyi-request-22567-3cebacc0@requests.fyi.org.nz](mailto:fyi-request-22567-3cebacc0@requests.fyi.org.nz)

Dear Mason

### **REQUEST FOR INFORMATION**

Thank you for your Official Information Act 1982 (OIA) request of 26 April 2023.

In your request, reference IR-01-23-12667, you stated:

*Passive GPS tracking devices are tracking devices which store the location of a device and only convey that data once connected to an external source or upon command. I am presuming, for the Police at least, that these devices have now been superseded by conventional GPS tracking devices compatible with real time transmission.*

My response to each of your questions can be found below.

*Please advise whether the Police are using / have previously used other forms of surveillance where a device records a location but it is not conveyed in real time.*

No other forms of surveillance used or previously used by Police where a device records a location but is not conveyed in real time, have been identified. This part of your request is therefore refused pursuant to Section 18(e) of the Official Information Act 1982 on the basis that the information requested does not exist.

*The model numbers of previous devices used by the Police to conduct these forms of surveillance.*

This information is withheld under section 6(c) of the OIA as the release of this information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial.

*The police manuals and guidance material which detailed these forms of surveillance.*

The Police Manual chapter 'Tracking Devices' is provided as requested however some information has been withheld under to section 6(c) of the OIA.

*Please advise of the first use of these forms of surveillance.*

No records are held of when GPS tracking devices were first used, however from staff recollection, it was in the mid-1990s. This part of your request is therefore refused pursuant to section 18(e) of the OIA on the basis that the information requested does not exist.

*If there was a period in time where Passive GPS tracking devices were the only devices in service (based on their introduction date and phase out) please provide the number of warrants issued for tracking devices during that period.*

As per above, no other forms of surveillance used or previously used by Police where a device records a location but is not conveyed in real time, have been identified. Records of any such passive GPS tracking devices do not exist, and therefore the number of warrants issued for tracking devices during this period cannot be identified. This part of your request is therefore refused pursuant to section 18(e) of the OIA on the basis that the information requested does not exist.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'GJago'.

Detective Inspector Geoff Jago  
National Criminal Investigation Group  
New Zealand Police

## **Tracking Devices**

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## Overview

### Background to tracking devices

The Technical Operations Group (TOG) is able to provide [REDACTED] tracking devices for tracking [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Despite the legal authority provided to install tracking devices [REDACTED]

[REDACTED]

[REDACTED]

Early contact with TOG will assist in achieving the timely delivery of tracking capability.

## **Legal authority to install tracking devices**

### **Search & Surveillance Act 2012**

The legal authority to install tracking devices is contained in the Search and Surveillance Act 2012 (refer sections 45 to 64 of this Act). In summary, the provisions of the sections and how they impact in practical terms are outlined in this table.

<p><b>Warrant application</b></p>	<p>An application for a tracking device warrant can be made under section <a href="#">49</a> to a High Court Judge or a District Court Judge (section <a href="#">52</a>).</p> <p><b>Note:</b> The use of tracking devices and interception devices can be made on the one application for a surveillance device warrant.</p> <p>See the <a href="#">2012 Practice note: Procedures for processing surveillance device warrant applications</a> for further guidance.</p>
<p><b>Warrant considerations</b></p>	<p>The warrant can be for any suspected offence punishable by imprisonment that has been, is being, will be committed or meets a combination of these options. In addition the Judge must be satisfied that there are reasonable grounds to believe that the proposed use of the tracking device will obtain information that is evidential material in respect of the offence (<a href="#">s51</a>).</p>
<p><b>Warrant duration</b></p>	<p>The warrant can be issued for up to 60 days. Will specify the offence for which it is issued and the place, vehicle or other thing that authority is given to enter, break open or temporarily remove (section <a href="#">55</a>).</p> <p><b>Example:</b> If the application is for a tracking device to be installed on a motor vehicle while it is parked at an address, the details and registration number of the vehicle and the address must be specified in the warrant. If access to a building is required in order to gain access to the vehicle this must also be specified.</p>
<p><b>Warrant scope</b></p>	<p>The warrant in effect gives the required trespass authority to install, maintain, or remove the tracking device. It does not give the authority to enter any property or premises that is not specified in the warrant. It does however allow authority to place / install a tracking device on a specified vehicle if it is parked in any public place.</p>
<p><b>Authority to remove items</b></p>	<p>Authority is also provided (section <a href="#">55(3)(h)</a>) to remove ‘any thing’ from any place in order to install a tracking device and then replace it.</p> <p><b>Note:</b> This can be of special benefit if the ‘any thing’ relates to a motor vehicle in which it is also required to place an audio device as under the intercept provision of the Search and Surveillance Act 2012 no such authority exists.</p>
<p><b>Further warrants</b></p>	<p>New warrants can be applied for, (section <a href="#">49</a> and <a href="#">55</a>) if the 60 days have, or are to be exceeded.</p>
<p><b>Using a tracking device without warrant under emergency or urgency</b></p>	<p>A tracking device may be installed without warrant in some situations of emergency or urgency if obtaining a surveillance device warrant within the time it is proposed to undertake the tracking is impracticable in the circumstances. (<a href="#">s48</a>)</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>- The use of this warrantless power is limited to a period not exceeding 48 hours from the time the tracking device is first used.</li> <li>- Preparing and making application for a surveillance device warrant must not be left until the end of the 48 hour expiry period, but instead commenced at the earliest opportunity from the time the tracking device is being used.</li> </ul>
<p><b>Disclosure of warrant applications</b></p>	<p>There is nothing in the Act relating to the non-disclosure of a tracking Surveillance Device Warrant. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Disclosure of applications and warrants should be considered with reference to the Criminal Disclosure Act 2008 and any ability to withhold under section <a href="#">16</a>.</p>



# Installation

## Procedure

Follow these procedures to obtain installation approval:

[REDACTED]  
[REDACTED]

- Obtain the required approval/s - [REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

## Controlled deliveries

The tracking of things other than motor vehicles is usually limited [REDACTED] controlled deliveries. [REDACTED]

[REDACTED]  
[REDACTED]

Early notification to the TOG through their regional operations manager for their services is essential to:

- discuss operational requirements and develop a plan

[REDACTED]  
[REDACTED]

Investigators must obtain a surveillance device warrant authorising the use of an tracking device if time permits and it is believed that the tracking device cannot be retrieved within 48 hours.

[REDACTED]  
[REDACTED]  
[REDACTED]

If the installation of [REDACTED] be aware of the following matters:

- A surveillance device warrant authorising the use of an interception device is required and all aspects pertaining to these which is outlined elsewhere in this chapter need to be complied with.

- By law, the installation of the [REDACTED] device can only be done by Police and the role will be designated to the Police TOG.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## Related information

See:

- ['Part 7 - Controlled deliveries'](#) [REDACTED]
- ['Police and Customs powers relating to delivery of drugs'](#) in 'Part 3 - Warrantless powers to search places, vehicles and things' of the 'Search' chapter for Police powers when, during a controlled delivery, a Customs Officer has exercised their powers under section 12 of the Misuse of Drugs Amendment Act 1978.

## Tracking of motor vehicles, aircraft and complainant's smartphones etc.

### GPS tracking of vehicles

[REDACTED]

[REDACTED]

The investigative requirements will need to be discussed with a TOG Operations Manager as these requirements will determine:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

The tracking device provides information on the location of the vehicle or thing not who is driving or in the vehicle, [REDACTED]

[REDACTED] TOG will provide an Operations Manager [REDACTED]  
[REDACTED] This officer will also be involved in operational planning [REDACTED]

[REDACTED] The device must be retrieved prior to the expiration of the surveillance device warrant. [REDACTED]

Care must be taken to comply with the surveillance legislative requirements contained within sections [45](#) to [64](#) of the Search & Surveillance Act.

Surveillance device warrant reports and warrantless surveillance device power reports for a Judge must be submitted in accordance with sections [59](#) and [60](#) of the Act. The O/C Investigation must prepare and submit these reports.

### Tracking of aircraft

The Search & Surveillance Act 2012 provides the legal authority to place / install tracking devices on any vehicle such as helicopters and fixed wing aircraft. [REDACTED] rule 91.7 and 91.11 of the Civil Aviation Rules. These rules restrict portable electronic devices that can be used on Instrument Flight Rules (IFR) capable aircraft and prohibit the interference, lawful or otherwise, of aircraft without the authority of the owner / operator or pilot. If considering tracking an aircraft then make early contact with your regional TOG Operations Manager.

[REDACTED]

The CAA will also be able to provide:

- all required details of the target aircraft including the fact that it is IFR capable or otherwise

Depending on the tracking equipment used, and its proposed installation it may be a requirement of the CAA that the installation is supervised by a qualified aircraft engineer. [REDACTED]

## Tracking - Disclosure

The Criminal Disclosure Act 2008 requires disclosure of all information that is **relevant** to either the defence or prosecution.

Where possible the investigation should utilise an 'evidential' officer to observe the vehicle and occupants of the vehicle at appropriate locations [REDACTED]

Where tracking devices are utilised, disclosure may be declined under section 16(1)(a) - "disclosure of the information is likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences"; particularly if it is not relevant to either party.

Where disclosure has to be made, data will be provided by the TOG Operations Manager at the conclusion of the tracking phase. [REDACTED]

## Documentation

## GPS and WiFi tracking using complainants' devices

Smartphones and other devices that use GPS, WiFi and other technology to provide location services are great tools for Police when investigating crimes involving these devices, i.e. when a smartphone is stolen and the complainant has a 'find my device' type application.

## Related information

See:

- 'Part 3 - Warrantless powers to search places, vehicles and things' in the 'Search' chapter relating to [tracking stolen property](#) for further information about:
  - acting on tracking information
  - powers under the Search and Surveillance Act, determining whether tracking stolen property is surveillance or search and what may be more appropriate, warrant or warrantless power
  - determining time and delay for tracking stolen property
- [GPS tracking and the Search and Surveillance Act, WIFI tracking powers and WIFI tracking process and appreciation](#)

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