

Australian police reveal they broke new metadata laws

April 28 2017, by Rod Mcguirk

Australian police revealed on Friday that an officer broke the country's contentious new metadata laws by illegally accessing a journalist's phone records to identify an anonymous source.

Australian Federal Police Commissioner Andrew Colvin revealed the first known [breach](#) of the laws, which were passed by Parliament in March 2015 despite widespread privacy concerns.

The laws force Australian communication companies and internet providers to store customers' personal metadata, such as phone numbers called and websites accessed, for at least two years as a counterterrorism measure for the convenience of [law enforcement agencies](#).

A police officer investigating a police leak failed to get a warrant earlier this year before accessing the phone records of a journalist who reported the leak, Colvin said.

The journalist involved was not told of the breach because the investigation was ongoing, Colvin said.

Police destroyed all the evidence gathered as a result of the breach and advised the Commonwealth Ombudsman, a watchdog that investigates complaints from the public of unreasonable treatment by government agencies, Colvin said. The ombudsman will launch an investigation of the breach next week.

Colvin said the investigator had not been aware that before accessing a journalist's [phone](#) records to identify a source, police must get a federal judge to issue a Journalist Information Warrant. Such warrants are an added safeguard in the legislation in recognition of [journalists'](#) obligation to protect sources.

"Clearly they can't un-see it," Colvin said of the illegally obtained [phone records](#). "They'll need to consider in terms of next steps of the investigation what weight they put on what they saw."

Colvin would not say whether [police](#) would now seek a warrant. But he said Australian Federal Police have never applied for such a warrant since the new laws came into force.

"Put simply, this was human error. It should not have occurred," Colvin said. "I don't think that gives cause to say that the public should have their confidence shattered in the system."

The minor Greens party, which voted against the legislation, said the breach illustrated numerous flaws in the "mass-surveillance laws."

"A scheme that was forced on to the public as a counterterror tool was instead used in exactly the way we've long feared—in pursuit of a journalist and their source," Greens Sen. Scott Ludlam said in a statement.

The Australian Security Intelligence Organization, the country's main spy agency, does not have to apply to a court for a Journalist Information Warrant. They can apply for one through a secret process from the attorney general.

The organization's director-general, Duncan Lewis, told a Senate committee in March that "a small number" of the warrants had been

issued under the new laws.

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