In accordance with the FOI Act 2014, I wish to request:

- The number of occasions, since the enactment of the 1993 Interception of Postal Packets and Telecommunications Messages (Regulation) Act, upon which the Minister for Communications has received a request from An Garda Síochána and/or the Defence Forces to authorise the interception of telephone and/or electronic communications.
- The number of occasions, in the same period, upon which the Minister for Communications has granted such requests.
- The number of occasions, in the same period, upon which the Minister for Communications has rejected such requests.
- A breakdown of such figures according to: the requesting party (whether AGS or the Defence Forces); the outcome of the request (whether granted or rejected); and the purpose of the request (whether for prevention/investigation of a serious crime, preventing death/serious harm, or preventing/investigating a possible risk to the security of the State); the year of the requests and decisions; the name of the Minister receiving and deciding on the requests.

The information requested here pertains only to the number, outcome and very general purpose of interception requests, the requesting body, and the deciding Minister - taken as categories, and not in relation to each individual request.

It does not relate to the content of the interception requests, the outcome of criminal investigations using information acquired from interceptions, nor any details (names, geographic locations, Garda stations, email/IP addresses or phone numbers) which could conceivably compromise the privacy or security of any individual.

For the same reasons, granting this request could not conceivably be regarded as jeopardising the operational integrity of the Act, completed, active or future investigations, or specific Garda methods, nor the current (or any future) Minister's ability to perform their duties.

Conversely, this request constitutes a compelling opportunity for the Minister to honour the remit of the 2014 FOI Act by making public carefully limited and prescribed information in a manner "consistent with the public interest and the right to privacy."

Details of Applicant
29 April 2015

Reference: FOI request FOI/2015/31

I refer to your request dated 6 April 2015, made under the Freedom of Information (FOI) Act 2014, for information regarding records held by the Minister/Department of Communications, Energy and Natural Resources regarding actions by or submission to a Minister pursuant to the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993.

A final decision was made on your request by me today. I have not located records of the type referred to in your application, as explained in some more detail below. I must therefore refuse your request as provided for in Section 15(1)(a) of the Act which states:

"15. (1) A head to whom an FOI request is made may refuse to grant the request where—

(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken‚…………………..."

I may be contacted by return email to answer any questions you may have and to assist you to the extent possible in this matter.

In pursuing your request for information regarding records held by this Department I reviewed the relevant legislation, in the first instance. I noted the Minister, as defined in that Act, is the Minister for Justice. I contacted the Department of Justice and Equality, having regard to section 12 of the FOI Act 2014, regarding records more likely to be held by that Department as another FOI body. I learned that you had submitted a similar request to that Department. Transferring your request to that Department, as provided for in section 12 of the FOI Act, in this circumstance, would serve no additional purpose for you. I then pursued your request as a request for information regarding such records, if any, which may have been copied to this Department. Having conducted enquiries I have concluded the Department does not hold such records.

29-31 Adelaide Road, Dublin 2
29-31 Bóthar Adelaide
Baile Átha Cliath 2

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Decision
As provided for in section 15(1)(a) of the FOI Act I am satisfied that all reasonable steps have been taken to identify and locate records of the types referred to in your request and regarding which you have sought information. I have concluded such records are not held by this Department. Therefore, the matter of providing information regarding such records, as requested in your application, does not arise.

I must therefore refuse your request.

Rights of Review
In the event that you are not happy with this decision you may seek a review of this decision. A request for a review of this decision, together with a fee of €30.00 or a reduced fee of €10.00 for medical card holders, should be addressed to:

“FOI Unit,
Department of Communications, Energy & Natural Resources,
Elm House,
Earlsvale Road,
Co Cavan”,
within four weeks of this notification. You can contact foi@deenr.gov.ie for any additional clarifications on this point.

Yours sincerely,

[Signature]

Eugene Dillon
Telecommunications Policy and Regulation Division