

Progress update on aspects of Police photographing and fingerprinting practices

Summary

Overview

This paper reports on progress New Zealand Police (Police) has made in response to the December 2021 Compliance Notice issued by the Office of the Privacy Commissioner (OPC) about Police photographing and fingerprinting practices [14 requirements].

Key updates this quarter in relation to Compliance Notice issued by OPC

- Extensive discovery and analysis of Police systems has identified improvement opportunities for capturing and storing photographs and videos. Engagement activity has been undertaken to inform the planning for this work. Process and system enhancements will better manage the capture of photographs and videos in the future.
- The training module for frontline staff is being built, with implementation planned for the last quarter of 2023. The content for the training module for non-frontline Police staff is in development. A set of thought-provoking videos will support education and awareness, with the first two planned for release in the last quarter of 2023. Regular engagement continues with Police District Youth teams, and District Leads who will support the implementation of Police instructions and training.
- A remediation plan is being developed to meet the intent of the requirement to delete casual photographs of rangatahi in public. Extensive work on ascertaining how best to remediate has been undertaken, however, limitations of legacy systems, in particular lack of metadata creates some challenges. Continued work needs to occur with OPC to best agree the way to tackle this requirement.

Key updates this quarter on completed items as outlined in Appendix 2

- Assurance activity is underway and will enable regular monitoring, baselining and measurement of improvements to ensure Police is operating within its legislative and regulatory environment.

Key for report back and milestone report

Will not meet required timeframe	In progress	Completed
----------------------------------	-------------	-----------

Report back on OPC Compliance Notice requirements as of September 2023 – open requirements

Compliance Notice Requirement		Progress update	Status
Delete casual photos of rangatahi in public			
46a(i)	Identify and delete all photographs (and duplicates of photographs) in Police's systems that have been taken in a non-compliant manner	<ul style="list-style-type: none"> Police has identified challenges in identifying all the photographs required to be deleted, due to the limitations of legacy systems. The key challenge is a lack of metadata (contextual information) along with the volume of information Police collect and store in the same systems as the rangatahi photographs daily as part of operational policing. A remediation plan is being developed to meet the intent of the requirement to delete casual photographs of rangatahi in public. Extensive work on ascertaining how best to remediate has been undertaken, however, limitations of legacy systems, in particular lack of metadata creates some challenges. Continued work needs to occur with OPC to best agree the way to tackle this requirement. Police is also developing a plan to improve processes and enhance systems to enable better management of photographs and videos moving forward. 	Will not meet required timeframe
Cease collecting biometric prints from rangatahi in custody on a voluntary basis			
46b(i)	Identify and delete all sets of biometric prints (and duplicates of prints) in Police's systems that have been collected in a noncompliant manner	<ul style="list-style-type: none"> Work is underway to hire personnel dedicated to supporting Districts to destroy paper prints over the next three months. 	In progress Completion due by December 2023
Cease smartphone photography of adults in custody			
46d(i)	Identify and delete photographs (and duplicates of photographs) of adults in Police custody in Police's systems that have been taken in a noncompliant manner	<ul style="list-style-type: none"> Most custody photographs are taken using a custody suite camera and uploaded to system of record. None of these systems are directly connected to NIA. 	In progress Completion due by December 2023
46d(ii)	Until Police meets its wider compliance obligations, ensure police officers stop using devices which are not connected to Police's National Intelligence Application [NIA] (including Police-issued smartphones) to take photographs of adults in police custody in a noncompliant manner	<ul style="list-style-type: none"> Assurance activity will assess compliance against instructions that have been issued. 	In progress Completion due by December 2023
Take preventive procedures			
46e	Police must develop and implement agency-wide practices and procedures to prevent ongoing Privacy Act non-compliant practices	<ul style="list-style-type: none"> New overarching Police Instructions (policy) drafted covering the management of photographs and videos of members of the public (currently in a review process). On track to publish the new Police Instruction with the initial training, in the next quarter. 62 related Police Instructions have been reviewed, and 33 have been identified as requiring some amendment. Engagement on the changes required is underway with business owners, with engagement and amendments prioritised based on the level of impact. These policies/practices will be updated once the overarching Police Instruction is finalised. 	In progress Completion due by December 2023
Take deletion procedures			
46f	Police must develop and implement agency-wide practices and procedures for the routine and systematic deletion of all identifying particulars, including photographs and Biometric Prints, to ensure it does not keep identifying particulars for longer than is required for a lawful purpose	<ul style="list-style-type: none"> Updates to the Police Information Management Policy covering retention/disposal of digital information (including photographs, videos and fingerprints), along with updated roles and responsibilities for Information Management. Digital Disposal policy/standard is in development, clarifying processes for Police to legally dispose of digital information. Indicative timeframe for completion is October 2023. Workshops held with Police's Information and Communications Technology Service Centre (ICTSC) and relevant system owners on enhancements required to systems to ensure compliance with relevant retention and disposal rules. 	In progress Completion due by December 2023
Undertake training			
46g	Police must develop and deliver agency-wide training to its staff and relevant contractors on practices and procedures highlighted by this Compliance Notice	<ul style="list-style-type: none"> Success Factors (online) training approach approved by Police Training Approvals and Quality Board. Frontline staff Success Factors training module content development planning complete. In design and build phase. Implementation planned for last quarter of 2023. Awareness activities will support the release of the training. 	In progress Completion due by December 2023

		<ul style="list-style-type: none"> • A supplementary tool to the Checkpoint App has been developed to support decision making with regards to photographs and videos and will inform training and communications to all frontline officers. • Non-frontline Success Factors training content in development, with implementation planned for the last quarter of 2023. • Thought provoking video packages scripts developed, with the first three about to start production. The first video package on Data Sovereignty – Part 1 (historical/cultural lens) is planned for release in the last quarter of 2023. • Awareness and Understanding: regular engagement with Police Youth Aid Supervisors to provide overview and understanding of key elements of the new Police Instruction. Police District Change Leads in place to support implementation and help cement learning. 	In progress Completion due by December 2023
Take all other necessary steps			
46i	Police must identify and take all other necessary steps to ensure that noncompliant practices highlighted in this Compliance Notice do not continue.	<ul style="list-style-type: none"> • Opportunities to improve practices are continuing to be identified as part of a range of ongoing engagement and ongoing work against requirements. • Remediation planning underway to remediate any non-compliant practices progressively 	In progress Due as soon as reasonably practicable

Appendix 1 - Milestone Report as of September 2023 for remaining OPC compliance notice requirements

Workstream	CN reference	Milestone	2022/23								2023/24								2024/25								Status			
			Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep		Oct	Nov	Dec
Reporting	N/A	Quarterly Report December 2022																												Dec 2022
		Quarterly Report March 2023																												Mar 2023
		Quarterly Report June 2023																												Jun 2023
		Quarterly Report September 2023																												Sep 2023
		Quarterly Report December 2023																												Dec 2023
Practice and procedures (approx. 50)		Review of current state practice and procedures																												June 2023
		Review of regulatory framework/legislative environment for managing photographs, videos, and fingerprints																												June 2023
	46(e), 46(f), 46(g), and 46(i)	Overarching practice and procedure – photographs, videos, and fingerprints																												Oct 2023
		Amendments to existing practice and procedures - photographs, videos, and fingerprints																												Dec 2023
	46(f)	New practice and procedures relating to retention and disposal																												Oct 2023
		Further updates to practice and procedures - system changes (timing TBC))																												TBC
Assurance	46(h)	Assurance System																												Dec 2022
		Phase 1 Assurance activity (incl procurement where required)																												Oct 2023
		Phase 2 Assurance activity (incl procurement where required)																												Nov 2023
		Phase 3 Assurance activity (incl procurement where required)																												Feb 2024
		Phase 4 Assurance activity (incl procurement where required)																												Apr 2024
		Phase 5 Assurance activity (incl procurement where required)																												Jun 2024
		Handover to BAU																												Nov 2024
Remediation (approx. 27)	46(a)(i), 46(c)(i) and 46(d)(i)	Scoping and document current state																												June 2023
		Remediation plan and roadmap																												July 2023
		Undertake remediation activity																												Dec 2023
Systems Enhancement (approx. 27)	46(e), 46(f) and 46(g)	Scoping and document current state																												June 2023
		Enhancement plan and roadmap																												July 2023
		Undertake enhancement activity																												Dec 2023
Change Management – Training and Education		Training Plan																												Apr 2023
	46(e), 46(f), 46(g), and 46(i)	Success Factors Training - Frontline																												Aug/Sept 2023
		Mindset/behaviour collateral																												Dec 2023
		Checkpoint app updates																												Jul 2023/Sep 2023
		Update existing training																												Dec 2023
		Assurance BPM Coaching framework																												Nov 2023
		Success Factors Training - others																												Dec 2023
		Updated Training Plan – system changes (timing TBC)																												TBC
		Updated BPM Coaching framework – system changes (timing TBC)																												TBC
	Updated training material – system changes (timing TBC)																												TBC	

Appendix 2 - Completed requirements

Compliance Notice Requirement (Completed)		Status
Delete casual photos of rangatahi in public		
46a(ii)	Ensure police officers stop taking casual photographs of rangatahi in public in a noncompliant manner	Completed (22-03-18 First OPC bimonthly update re CN_2021_02)
46a(iii)	Develop and implement a decision-making framework based on objective and lawful criteria which a police officer must follow when deciding whether it is permissible to photograph rangatahi in public, to ensure the Agency does not retain those photographs for longer than is required to meet a lawful purpose	Completed (22-12-20 2nd OPC Quarterly update re CN_2021_02)
46b(ii)	Ensure police officers stop collecting biometric prints from rangatahi in custody in a noncompliant manner	Completed (22-03-18 First OPC bimonthly update re CN_2021_02)
Cease taking photographs of rangatahi in custody on a voluntary basis		
46c(i)	Identify and delete all photographs (and duplicates of photographs) in Police's systems that have been taken in a non-compliant manner	Completed (22-03-18 First OPC bimonthly update re CN_2021_02)
46c(ii)	Ensure police officers stop taking photographs of rangatahi in custody in a non-compliant manner	Completed (22-03-18 First OPC bimonthly update re CN_2021_02)
46h	Police must develop and implement a system to regularly audit its compliance with its obligation to delete all identifying particulars, including photographs and Biometric Prints, to ensure it does not keep identifying particulars for longer than is required for a lawful purpose	Completed (First OPC quarterly update re CN_2021_02)