

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 Compliance Notice CN 2021-02 issued by the Office of the Privacy Commissioner (OPC) about Police photographing and fingerprinting practices, and the additional requirement issued as a variation to the Compliance Notice [15 requirements].

Key updates since May 2024

- Police advised that requirement 46a(i) would not be met. Limitations of Police legacy systems, in particular lack of metadata (labelling), creates challenges with identifying relevant photographs.
- In recognition of these constraints, OPC varied CN 2021-02 by requiring Police not to access or use non-compliant photographs or records (as further detailed below). OPC further required that Police specify in detail how it will meet requirement 46(a)(i) by no later than 30 June 2025, and proposing a reasonable timeframe for doing so.
- A targeted review of Police-issued mobile devices (iPhones) across 12 Districts plus Police National Headquarters (PNHQ), the Royal New Zealand Police College (RNZPC) and Service Centres has been completed. A detailed report prepared after the review made 16 recommendations which Police has accepted, and will be now be managed as part of a wider programme of work that will continue to raise awareness, educate, and engage frontline officers and other staff to drive further improvements in policy and legislative compliance. The aspiration is to support, stabilise and embed the positive changes in operational practice which have occurred since OPC issued its Compliance Notice.

Note

- Fiscal constraints have resulted in Police deferring a digital evidence management system required to appropriately store photographs and videos containing images of members of the public. Such a digital evidence system would manage the collection, use, storage and deletion of photographs, and associated auditing and monitoring, but would have required major new investment.

Key for report back

Work-in-progress	Completed	Will not meet at this time
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Report back on OPC Compliance Notice requirements as of July 2024 – 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"> Plan to remediate potentially non-compliant images within Polices shared drive's scoped and costed. Lack of metadata coupled with extremely large data holdings have meant that implementing a solution of this size and scale is not achievable without negatively impacting frontline operations and Police's core intelligence system. 	Will not meet at this time
Assurance requirement (NEW)			
47(a)(vii)	Police not to access or use non-compliant photographs or records	<ul style="list-style-type: none"> Exploratory work is underway with the Chief Information Officer and Information Management Team to develop a process to meet this requirement. 	Work-in-progress

Appendix - 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(i)	Identify and delete all sets of biometric prints (and duplicates of prints) in Police's systems that have been collected in a non-compliant manner (NEW)	Completed (24-03-16 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)
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	Completed (Fifth OPC quarterly update re CN_2021_02)
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	Completed (Fifth OPC quarterly update re CN_2021_02)
Take preventive procedures		
46e	Police must develop and implement agency-wide practices and procedures to prevent ongoing Privacy Act non-compliant practices	Completed (Fifth OPC quarterly update re CN_2021_02)
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	Completed (Fifth OPC quarterly update re CN_2021_02)
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	Completed (Fifth OPC quarterly update re CN_2021_02)
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.	Completed (Fifth OPC quarterly update re CN_2021_02)