



MP for Napier

Minister of Police

Minister of Fisheries

Minister of Revenue

Minister for Small Business

30 OCT 2020

Min OIA 20-167

Andrew Chen

fyi-request-13897-5b2ce11b@requests.fyi.org.nz

Dear Andrew

Thank you for your request of 1 October 2020 in which you requested, under the Official Information Act 1982, the following information:

- *Copies of all correspondence with government agencies or other Ministers about the use of facial recognition technologies, including but not limited to Clearview AI, NEC's NeoFace, and HP's facial recognition/fingerprinting technology, since 19 October 2017.*

I have received one briefing from Police that is within the scope of your request. The briefing is entitled "Police use of Clearview AI Software", dated 14 May 2020. Some parts of the briefing are withheld under the following sections of the Official Information Act:

- section 6(c) as the making available of the information is likely to prejudice the maintenance of the law including the prevention, investigation and detection of offences and the right to a fair trial
- section 9(2)(a) to protect the privacy of natural persons
- section 9(2)(h) to maintain legal professional privilege.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with my response to your request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stuart Nash'.


Hon Stuart Nash
Minister of Police

INFORMATION REQUEST	
Police use of Clearview AI software	
Deadline: 14 May 2020	Date of Response: 14 May 2020

Purpose

1. This briefing provides you with further information about Police's use of Clearview AI software, which utilises facial recognition algorithms.

Important points to note

- Police utilised a trial license of Clearview AI software in February and March 2020 while assessing its capability and potential investigative value.
- A total of five Police staff used the tool, and a small number of Police operations were used to test the capability. The capability assessment ended in March 2020 and Police will not be utilising this product.
- Legal, privacy and technical experts met on 14 February s9(2)(h)

- The Commissioner has directed that Police develop guidelines for the assessment of new and emerging technologies.

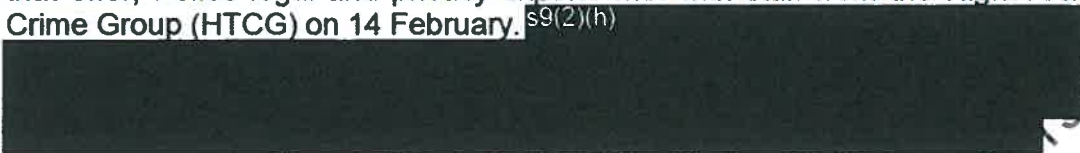
Clearview AI provides advanced open source searching of images of faces

2. The Clearview AI product uses facial recognition algorithms to match faces against a database of images that they have collected from the open source internet, including from social media sites.
3. Clearview AI does not match target faces to streaming or other live video.
4. The basic use case for Clearview AI is for law enforcement to upload an image of an unidentified person – for example, a still image from CCTV footage of a suspect. The tool would compare the person's face to the Clearview AI image database and return matches. Any matches found would include a link to the source, and this might enable the person to be identified through social media networks.

Police assessed Clearview AI capability during February and March 2020

5. Clearview AI has become popular internationally with law enforcement. This application of the software was the subject of international media coverage in late 2019 and early 2020. Following that coverage, Police received an Official Information Act request about Clearview AI, asking if Police used the product. As

a result of the national and international interest in Clearview AI, Police began to investigate what the product was and what capability it offered.

6. In early 2020, Clearview AI offered Police a free trial license for their product.
7. In order to ensure the legality and appropriateness of the tool before accepting that offer, Police legal and privacy experts met with staff from the High Tech Crime Group (HTCG) on 14 February. ^{s9(2)(h)}

8. Following that meeting, the HTCG proceeded to obtain the trial license from Clearview AI.
9. The trial concluded in March 2020, and Police's evaluation was that Clearview AI did not provide sufficient benefit to consider purchasing the product at this time.

Limited scope trial undertaken by a small team

10. The primary purpose of Police using the trial license for Clearview was for research and development staff within the HTCG to assess the capability of the tool for any potential investigative value it might provide.
11. This included technical experts reviewing how the product worked to satisfy the group that the algorithm and database worked as expected, including that the images came from open source sites.
12. The HTCG staff largely used images of consenting Police staff for any test searches they conducted. They also undertook searches of small number of wanted persons.
13. To assess the operational value of the tool in a New Zealand context, the HTCG arranged for a senior investigator in Wellington District to utilise the trial license. That staff member undertook further searches by consent, and the use of the product for one operational investigation – a robbery where Police had CCTV images of a suspect. Several still images were uploaded, with negative results. Covert operatives also undertook some searches against targets of serious and organised crime investigations, again with no matches.
14. A total of five Police staff used the Clearview AI trial license.

Police protocol for undertaking assessments of new and emerging technologies

15. Police have a suite of policy that requires consideration in the uptake of business processes or tools that collect personal information. Risk assessments must be completed for technical and privacy risks and from a financial perspective benefits and costs must be demonstrated. Our policy expects that we will comply with the collection and use provisions of the Privacy

Act and that we will carry out, where appropriate, Privacy Impact Assessments and Security Risk Assessments.

16. Legal, privacy and technical experts met on 14 February to consider the potential use of Clearview AI by New Zealand Police. s9(2)(h)

[REDACTED]

17. Following this event, the Commissioner of Police has commissioned a targeted assurance review to better understand the landscape s6(c)

[REDACTED]

18. The review work will commence by 15 May 2020, led by senior staff in PNHQ's Assurance Group. While the bulk of the work will be conducted in-house, it may be appropriate for some aspects to be peer reviewed by specialist external advisers (contracted to Police).

19. The review is expected to be completed by 30 June 2020.

Reviewed by	National Manager: Criminal Investigations, Detective Superintendent Tom Fitzgerald	s9(2)(a)
Approved by	Assistant Commissioner: Serious & Organised Crime, Richard Chambers	s9(2)(a)

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982