

POLICING AMENDMENT BILL

Submissions on behalf of The Law Association of New Zealand
by the Criminal Law Committee
and
Technology & Law Committee

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CONTENTS

INTRODUCTION	3
EXECUTIVE SUMMARY	3
CONTEXT & LEGAL FRAMEWORK	4
Background	4
The Bill	5
SUBMISSIONS	6
Scope of Collection of Powers	6
Section 45A	6
Recording Powers	7
Sections 45B and 45C	7
Section 45D	9
Effect on Existing Powers	10
Section 45E	10
Other Considerations and Concerns	11
Authorising Collection versus Downstream Retention and Use	11
Technological Implications	14
Balance between policing powers and privacy rights	15
Recommendations	16
CONCLUSION	17
ACKNOWLEDGMENTS	17

Kia ora koutou

INTRODUCTION

1. The Law Association of New Zealand (The Law Association) is an independent membership organisation representing more than 9,000 legal professionals across Aotearoa New Zealand. The Law Association maintains expert law committees that contribute to law reform and policy development across a wide range of legal and regulatory areas.
2. This submission is made jointly by the Technology and Law Committee and the Criminal Law Committee of The Law Association. The Technology and Law Committee comprises practitioners with expertise in privacy law, public law, and the regulation of emerging technologies, including legal frameworks governing Police powers of surveillance, information collection, and data management. The Criminal Law Committee comprises practitioners who specialise in criminal law and appear regularly before the District Court, High Court, and appellate courts. Members act for both the Crown and defendants and are therefore well placed to comment on the practical operation of Police powers and their evidential consequences.
3. Through their respective areas of expertise, the Committees engage regularly with key stakeholders, including Police, the courts, and regulatory bodies. This provides a strong understanding of both the legislative framework governing Police powers and the way those powers operate in practice.
4. The Law Association welcomes the opportunity to provide this submission to the Justice Committee on the Policing Amendment Bill (Bill). The Committees acknowledge the need to address the uncertainty arising from *Tamiefuna v R* [2025] NZSC 40 and are supportive of the objective of providing clarity regarding Police powers to collect and record information.

EXECUTIVE SUMMARY

5. The Bill seeks to clarify and reaffirm the ability of Police to record images and sounds and to collect information for lawful policing purposes, including intelligence gathering.
6. While restoring certainty following *Tamiefuna v R* is understandable, the proposed provisions significantly broaden the statutory framework for information gathering. Given the institutional capacity of Police to systematically collect, retain and analyse such material, the legislation should ensure that the powers are exercised with appropriate safeguards consistent with the privacy protections reflected in the New Zealand Bill of Rights Act 1990.
7. The Committees consider that, when read as a whole, the Bill addresses the question of whether Police may collect information but does not adequately address the more consequential question of how that information may be used once collected. This creates a structural imbalance that gives rise to legal, operational, and technological risks.

8. So, while the objective of restoring legal certainty is appropriate, the Committees consider that the Bill adopts a broad and generalised approach to information collection that extends beyond what is necessary to address the issues identified in those processes. In particular, the Bill expands the scope of Police collection powers, adopts a low threshold for intelligence gathering, and does not establish a coherent statutory framework governing the retention, use, and oversight of collected information.
9. In particular, the Committees consider that:
 - (a) the scope of the collection powers is expressed at a high level of generality and may permit collection based on potential or speculative future use;
 - (b) the threshold for intelligence gathering is low and does not require a sufficiently clear or immediate connection to a policing activity or investigation; and
 - (c) the Bill does not establish a coherent statutory framework governing the use, retention, review, and oversight of collected information.
10. The Committees have not undertaken a clause-by-clause review. Instead, this submission identifies a number of discrete areas where targeted clarification, refinement, or additional safeguards would materially improve the operation of the Bill and ensure consistency with established legal principles.
11. The Committees' recommendations are intended to be constructive and practical. They are directed toward ensuring that the Bill achieves its objective of providing clarity and certainty, while maintaining appropriate limits, safeguards, and accountability mechanisms, particularly in light of the technological context in which Police information-gathering now occurs.

CONTEXT & LEGAL FRAMEWORK

Background

12. The Bill follows two recent and closely aligned developments concerning the way in which Police collect and use personal information.
13. First, in *Tamiefuna v R*¹, the Supreme Court considered the lawfulness of the retention and use of a photograph taken of the appellant taken at a routine traffic stop. The Supreme Court majority held that there was no statutory authority for taking and retaining the photograph in those circumstances, that the Privacy Act principles had been breached, and that the conduct amounted to an unlawful and unreasonable search. The Court's analysis did not turn solely on the act of photographing in a public place, rather, the combination of taking the

¹ *Tamiefuna v R* [2025] NZSC 40

image, identifying the subject, and retaining the image for intelligence use was central to the analysis.

14. Secondly, the 2022 Joint Inquiry conducted by the Independent Police Conduct Authority (IPCA) and the Office of the Privacy Commissioner (OPC) into Police conduct when photographing members of the public reached similar conclusions from a regulatory and privacy perspective. The Joint Inquiry confirmed that photographs are identifying personal information, often sensitive and biometric in nature, and may only be collected where necessary for a lawful policing purpose.
15. The Joint Inquiry further emphasised that the purpose of collection governs subsequent use and retention. In particular, it noted that under Information Privacy Principle (IPP) 10, personal information obtained for one purpose may generally only be used for that purpose, and that indefinite retention is inconsistent with IPP9. It recommended clearer and more robust controls relating to storage, review, deletion, and duplication of information across Police systems and devices.

The Bill

16. The Bill would make it lawful for Police to gather, obtain, receive or record information that may be used now or in the future for any lawful purpose, including intelligence, provided it supports a Police function and has a possible or potential future use for those functions. It also provides express recognition of Police authority to record images and sounds in public places and in private places where Police are lawfully present, with safeguards to be supplied through policy, governance, oversight, information-management work, and initially a proposed regulation-making power.
17. In summary, Part 1 inserts:
 - a. **Section 45A**, which states the purposes for which Police may collect information: supporting the safety of Police employees; the integrity of policing; intelligence purposes connected with Police functions or activities; and any other lawful purpose connected with Police functions or activities.
 - b. **Section 45B**, which authorises Police employees, for those purposes, to record by any means visual images and sounds in public places.
 - c. **Section 45C**, which extends that authority to private property where Police is lawfully present, so long as the employee records only what they can see or hear without using a surveillance device.
 - d. **Section 45D**, which then imposes two stated restrictions for intelligence collection: first, the employee must consider that the information will or may support Police functions or activities; secondly, continuous sound or video recording solely for an

intelligence purpose is permitted only where that is reasonable and the duration is no longer than reasonable in the circumstances.

- e. **Section 45E**, which preserves common law intelligence-gathering powers and collection powers conferred by other legislation or common law.

18. The 29 September 2025 Cabinet Paper references the minority comments of Kós J, which stated:

[326] Accordingly, I do not consider any common law police power enables retention of nominated photographs for general intelligence purposes unrelated to the circumstances in which the photographs were captured. **Any such system would require a clear framework for retention, use and destruction. The establishment of such a framework is pre-eminently a matter for Parliament, as ss 32–34A of the Policing Act demonstrate. It is preferable that the limits and broad framework for any such database now be determined by Parliament, by amendment of that Act.**

[Footnotes omitted]

SUBMISSIONS

19. The Committees consider that, while the Bill addresses questions of legal authority, it does so in a manner that materially broadens the scope of Police information-gathering powers without introducing corresponding statutory safeguards. The concerns arising from the Bill are not confined to individual provisions, but reflect broader issues of scope, structure, and practical effect.
20. These concerns can be grouped into three interrelated areas. First, the scope of the collection powers is expressed at a high level of generality, permitting collection in circumstances that are not sufficiently tied to a defined policing purpose. Secondly, the Bill does not establish a coherent framework governing the downstream use, retention, and oversight of collected information, despite those issues being central to both the Supreme Court’s reasoning and the findings of the Joint Inquiry. Thirdly, when considered in light of modern technological capabilities, the Bill has the practical effect of expanding the reach and impact of Police information systems without providing clear legislative controls.

Scope of Collection of Powers

Section 45A

21. Section 45A defines the purposes for which Police may collect information, including officer safety, the integrity of policing, intelligence purposes, and “any other lawful purpose connected with a function or activity of the Police.” The Committees consider that this formulation is overly broad. It authorises collection at a high level of generality and does not require a sufficiently specific or necessary connection to a defined policing purpose.

22. This approach goes beyond addressing the absence of statutory authority identified in *Tamiefuna v R* and does not reflect the concerns expressed by both the Supreme Court and the Joint Inquiry regarding collection for speculative or hypothetical future use. In particular, the Supreme Court rejected a free-ranging authority to collect information on the basis that it might be useful at some future point, while the Joint Inquiry emphasised that digital photography creates a risk of indiscriminate collection unless it is limited to what is necessary for a clearly defined and lawful policing purpose.
23. In particular:
- (a) the Supreme Court rejected a free-ranging authority to collect information on the basis that it might be useful at some future point; and
 - (b) the Joint Inquiry emphasised that digital photography presents a risk of indiscriminate collection unless constrained by a clearly defined and lawful purpose.
24. The inclusion of “any other lawful purpose connected with a function or activity of the Police” as a residual category further broadens the scope of the provision. As drafted, it may permit information gathering in a wide range of circumstances without clear statutory guidance as to the limits of the power or the degree of connection required to a policing function.
25. The Committees consider that, taken together, these features risk reintroducing a broad “future utility” rationale for collection that both the Supreme Court and the Joint Inquiry cautioned against. The absence of a requirement for necessity or proportionality increases the likelihood of collection occurring in circumstances where the justification is not sufficiently concrete or defined.

Therefore, the Committees considers that the provision would benefit from greater specificity and requests that the Select Committee may wish to consider clarifying that information collection must be reasonably necessary and proportionate to the policing function being performed. In particular, consideration should be given to clarifying that the collection of information must be reasonably necessary and proportionate to the policing function being performed and supported by a sufficiently clear and articulable operational purpose.

Recording Powers

Sections 45B and 45C

26. Sections 45B and 45C establish a broad authority for Police employees to record images and sounds “by any means” for the purposes set out in section 45A. Proposed section 45B authorises the recording of visual images and sounds of anything in, or observable from, a public place. While this reflects existing policing practice, the Criminal Law Committee emphasises that the breadth of this authority raises practical concerns in relation to routine interactions with members of the public, particularly where no offending is suspected and no

clear investigative purpose is apparent. In that context, consideration could be given to providing clearer statutory guidance as to the circumstances in which recording is appropriate.

27. The Technology and Law Committee places greater emphasis on the structural implications of the provision. Although technologically neutral drafting is appropriate, the provisions do not distinguish between discrete recording undertaken in a particular operational context and the creation of structured, searchable, and enduring records of identified individuals. This distinction is significant, as photographs and video recordings are identifying information and, in many cases, biometric in nature, capable of being analysed, indexed, and linked across systems.
28. Both Committees consider that the absence of any statutory framework governing the use, retention, deletion, and auditability of recorded material is a material omission. The breadth of the authority conferred by section 45B, when coupled with modern technological capabilities, creates uncertainty as to the practical limits of the power and increases the risk of information being collected and retained beyond what is necessary for a specific and defined policing purpose.
29. Section 45C extends these concerns by providing that Police employees who are lawfully on private property may record anything they can see or hear without the use of a surveillance device.
30. The Criminal Law Committee notes that, while this reflects aspects of practical policing activity, the provision may permit extensive recording within private premises and would benefit from clarification that such recording should remain connected to the purpose for which Police are lawfully present.
31. The Technology and Law Committee considers that the implications of section 45C are more fundamental. In its view, the provision elevates lawful presence into a general authority to record, thereby removing the necessary connection between the purpose justifying Police presence and the scope of information that may be recorded. The Joint Inquiry adopted a materially narrower approach, emphasising that even where Police are lawfully present on private property, any collection of information must remain strictly tethered to that purpose. That discipline is not reflected in section 45C.
32. The Bill also does not adequately address the position where Police initiate or structure an interaction in the exercise of their powers, thereby controlling the circumstances in which an individual becomes exposed to observation and so recording would become permitted. In such cases, exposure cannot, without more, provide a sufficient basis for the recording of identifying personal information. To allow otherwise would permit the State to rely on conditions of exposure created by Police themselves to justify further information capture, collapsing the distinction between incidental observation and deliberate collection.

33. The Committees consider that, as drafted, section 45C risks converting lawful entry for a defined purpose into a generalised authority to record and retain information for unrelated intelligence purposes or for intelligence purposes not tied to a specific and defined policing purpose. This enables secondary collection at the point of entry without any requirement for a separate lawful basis or a sufficiently proximate operational purpose.
34. Further, both Committees consider that this approach is inconsistent with the principles articulated in *Tamiefuna v R* and the Joint Inquiry, both of which emphasise the importance of purpose limitation and the need to avoid speculative or opportunistic information gathering. While the Criminal Law Committee's concern is directed toward practical overreach in individual interactions, the Technology and Law Committee's concern is directed toward the broader system-level consequences. Both perspectives support the need for clearer statutory limits to ensure that recording powers remain proportionate and appropriately constrained.

Section 45D

35. Section 45D provides that Police must not collect information for an intelligence purpose unless the employee considers that the information "will or may support" Police functions or activities. That threshold is low. It permits collection because the information may prove useful, rather than because there is a sufficiently concrete policing basis for collecting it.

On its face, the Bill requires almost no specificity before sensitive personal information may be collected for intelligence purposes. The Joint Inquiry expressly accepted that intelligence gathering forms part of policing but stressed that photographs cannot simply be treated like ordinary "intel notings" and must be limited to what is necessary for the relevant purpose.

36. *Tamiefuna v R* likewise treated the future-use rationale with caution. On the present drafting, "will or may support" does not require a sufficient connection to any operational purpose or inquiry. It authorises collection at a point where the justification may still be speculative.
37. The Technology and Law Committee considers that a broad or low-threshold rationale of this kind requires strong statutory safeguards if it is to be rights-consistent. In its view, the provision effectively enables collection in advance of justification, with purpose to be established retrospectively, and therefore materially expands the scope of intelligence-gathering powers.
38. The Criminal Law Committee similarly considers that the threshold that information "may support" a policing function is relatively low and relies largely on the individual officer's assessment. It emphasises the practical implications of this formulation, including the potential for inconsistent application and the absence of clear statutory guidance as to the level of connection required between the collection and a policing function. The Criminal Law Committee also notes that the Bill does not address how long such information may be retained.

39. Further, in relation to Section 45D(b), it permits continuous sound or video recording solely for an intelligence purpose, provided the threshold in section 45D(a) is met and the recording and its duration are “reasonable”.
40. The Criminal Law Committee notes that this represents a departure from the Minister’s comments in the 29 September 2025 Cabinet Paper², which stated that continuous recording for intelligence purposes alone was not intended to be authorised. No reason appears to be given for that change, and the Bill does not include the regulation-making power that had been anticipated.
41. The Criminal Law Committee considers that, if Parliament is to authorise continuous recording for intelligence purposes alone, the statute itself should identify stricter preconditions, duration limits, review requirements, and record-keeping obligations, rather than leaving those matters to internal policy.
42. Both Committees consider that the safeguards in section 45D would benefit from strengthening. While the Technology and Law Committee’s concern is directed toward the broader expansion of intelligence-gathering powers and the absence of corresponding statutory constraints, the Criminal Law Committee’s concern is directed toward the practical operation of the provision and the adequacy of guidance available to officers. These perspectives converge on the need to clarify the threshold for intelligence collection and to address the retention and use of information collected under these powers.
43. Overall, the statutory framework should require that the justification for collection be identifiable at the time of collection, and that this purpose governs subsequent retention and use. A threshold that permits collection on the basis that information “may” support Police functions risks allowing information to be gathered in advance of any clearly defined purpose, with justification effectively supplied retrospectively. This is particularly significant given that the Bill does not otherwise constrain how long such information may be retained or how it may later be used. Requiring that an officer be able to articulate a specific and defined policing purpose at the time of collection, and that retention and use be limited to that purpose, would ensure that information-gathering powers are exercised on a principled and proportionate basis.

Effect on Existing Powers

Section 45E

44. Section 45E provides that Part 1 does not limit or affect any other lawful basis on which Police may collect or record information and expressly preserves common law intelligence-gathering functions.

² At para 18

45. The Committees acknowledge that the intention of this provision is to ensure that the new statutory framework does not inadvertently narrow existing lawful authorities. However, when read alongside the broad powers introduced by sections 45A to 45D, section 45E contributes to an overall framework that is expansive in scope but limited in terms of clear statutory boundaries.
46. In particular, the preservation of common law intelligence-gathering powers creates a risk of uncertainty as to the extent to which those powers continue to operate independently of, or in parallel with, the statutory regime. This risks undermining the objective of the Bill to provide clarity and certainty following *Tamiefuna v R*.
47. The Committees consider that, where Parliament is seeking to define and regularise the scope of Police information-gathering powers, the legislation should do so comprehensively. The retention of broadly framed common law powers, without clear articulation of their interaction with the statutory scheme, risks perpetuating ambiguity rather than resolving it.
48. Further, the combination of:
- (a) broad statutory collection powers; and
 - (b) an express preservation of undefined common law authorities,
- may result in a cumulative expansion of Police powers without corresponding safeguards.
49. In the Technology and Law Committee's view, if the Bill is intended to establish a coherent legislative framework for the collection and use of personal information, consideration should be given to clarifying the relationship between the statutory regime and any residual common law powers, including whether those powers should be codified, limited, or expressly displaced.

Other Considerations and Concerns

Authorising Collection versus Downstream Retention and Use

50. A major concern of the Technology and Law Committee is that the Bill focuses on authorising the collection of personal information but does not establish a corresponding statutory framework governing how that information may be retained, used, or managed once collected. This creates a fundamental imbalance in the proposed legislative scheme, whereby the authority to collect information is clearly articulated, but the controls that govern how that information is handled in practice are left largely unaddressed.

51. Where Parliament legislates broad collection authority for inherently identifying and often biometric information, including images and audio, it is essential that the statute also addresses the full lifecycle of that information. This includes:
- (a) retention and deletion;
 - (b) limits on secondary use;
 - (c) access controls; and
 - (d) auditability and oversight.
52. The Bill currently does not do that. The Privacy Commissioner has stressed that indefinite retention is incompatible with the Privacy Act, and that access limits, defined retention periods, secure destruction processes, and audit trails are essential safeguards. These are not matters that can appropriately be left to internal policy where broad statutory powers are being conferred.
53. The need for such controls is reinforced by the findings of the Joint Inquiry, which identified systemic problems in Police practice, including:
- (a) limited officer understanding of Privacy Act and New Zealand Bill of Rights Act constraints;
 - (b) repeated failures, particularly in the youth context, to identify a lawful purpose or recognise heightened fairness obligations owed to young people; and
 - (c) a broader tendency to treat intelligence collection as justified by potential future usefulness, rather than by a properly defined and lawful policing purpose.
54. The Joint Inquiry's overall position was that intelligence collection must be tied to a properly lawful and concrete policing justification, not a vague expectation that material may prove useful later. The Regulatory Impact Statement records that this was understood as limiting lawful public-place photography for intelligence purposes to situations where there is a reasonable link to a particular or likely criminal investigation. This reflects a principled approach grounded in necessity and purpose limitation, which is not clearly reflected in the current drafting of the Bill.
55. The Technology and Law Committee notes that comparable statutory controls already exist where images are recorded of a person detained, including sections 32 to 34A of the Policing Act 2008 and the discussion at [80] onwards in *Tamiefuna v R*. Those provisions provide a structured framework governing:
- (a) the taking of identifying photographs;
 - (b) the purposes for which those photographs may be used; and

(c) the conditions under which they must be retained or destroyed.

56. The absence of equivalent statutory protections in the present Bill is notable, particularly given that the information contemplated by this Bill may be equally sensitive and, in some cases, more broadly collected.

57. The Committee also notes that the Cabinet Paper initially contemplated the inclusion of a regulation-making power to provide detail relating to the conditions, procedures, and authorities for the recording of images and sounds. That mechanism would have enabled:

(a) Cabinet-level scrutiny;

(b) public consultation; and

(c) the development of detailed and adaptable safeguards.

58. The absence of that regulation-making power in the Bill as introduced is therefore significant, as it removes an anticipated layer of accountability and oversight.

59. As drafted, the Bill expands legal authority at the point of collection while deferring the development of practical safeguards to internal organisational policy. In the Committee's view, this approach is reversed. Where powers engage sensitive personal information and fundamental rights, the appropriate safeguards should be established at the point of legislation, rather than left to be developed later through operational guidance.

60. The Committee further notes that there are no additional statutory protections legislated for children and young people, with reliance instead placed on existing law and future internal guidance. The Joint Inquiry emphasised that youth-specific protections must inform Police interactions involving photography and identified disproportionate impacts on Māori and young people.

61. Once collection powers are broadened and increasingly digitised, the effects of disproportionate collection are likely to compound over time. This includes:

(a) who is more frequently photographed;

(b) how long that material is retained; and

(c) how often it is surfaced or relied upon in intelligence systems.

These cumulative effects are not addressed in the Bill, despite being a foreseeable consequence of the framework it establishes.

62. In the absence of clear statutory safeguards addressing retention, use, and lifecycle management, the Bill risks entrenching and amplifying the very concerns identified by the

Joint Inquiry. The Committee considers that addressing these issues at the legislative level is essential to ensuring that the expanded collection powers operate in a manner that is purpose-limited, proportionate, transparent, and consistent with fundamental rights.

Retention of collected information

63. The Bill does not appear to address the retention period for images, sounds, or other information collected under the proposed provisions.
64. Given the potential scale of information collection, consideration could be given to providing clearer legislative or policy guidance regarding retention and disposal practices.

Technological Implications

65. Another concern of the Technology and Law Committee is that the Bill is drafted around collection authority, while the real technological implications lie in downstream analysis, correlation, and inference. The Bill broadens the volume of personal information which may be lawfully collected at a time when Police technology, both in New Zealand and globally, is enabling greater use of mass data i.e. cross-database search, video analytics, biometrics, and AI-assisted retrieval.
66. Modern policing technologies enable collected information to be:
- (a) searched and cross-referenced across multiple databases;
 - (b) analysed using video analytics and pattern-recognition tools;
 - (c) subjected to biometric identification processes; and
 - (d) retrieved and interrogated using automated or AI-assisted systems.
67. The practical effect of the Bill is therefore not limited to clarifying when information may be collected. It is to expand the volume of data that may enter these systems, thereby increasing the reach, utility, and impact of existing and emerging technologies, without introducing corresponding statutory controls.
68. This can be illustrated by two current and foreseeable use cases. First, while the Bill does not seek to authorise live facial recognition, Police currently have image-matching capability (ABIS2³, Photomanager, Briefcam).⁴ This Bill would increase the pool of images and video available for retrospective biometric matching while at the same time adding no statutory rules on retention or use.

³ Phil Pennington "NZ Police used facial recognition technology 89 times since 2022" (15 September 2024) Radio New Zealand <https://www.rnz.co.nz/news/national/527980/nz-police-used-facial-recognition-technology-89-times-since-2022>

⁴ New Zealand Police *NZ Police Technology Capabilities List* (October 2025) at 32–33 <https://www.police.govt.nz/sites/default/files/publications/technology-capabilities-list-oct-2025.pdf>

69. Secondly, the Bill creates a permissive foundation for the expansion of recording technologies, including the potential rollout of body-worn cameras. However, it does so without establishing a dedicated legislative framework governing the collection, retention, access, or use of such recordings.
70. In both cases, the effect of the Bill is to enhance the capability and reach of these technologies indirectly, by increasing the volume of lawfully collected data available for analysis.
71. The Technology and Law Committee considers that broadening lawful collection for intelligence and future-use purposes, in this technological context, materially alters the balance between operational effectiveness and individual rights. It enables more powerful forms of data-driven policing without clearly defined statutory constraints.
72. As noted in *Tamiefuna v R*, there is a risk that advances in technology may transform the practical effect of otherwise familiar police practices. The Committees consider that this risk is directly engaged by the present Bill.
73. In the absence of clear statutory limits on the downstream use of collected information, the Bill risks facilitating the expansion of data-driven policing capabilities in a manner that is not fully transparent, is not subject to clear legislative oversight, and may not adequately protect privacy and rights interests.
74. The Technology and Law Committee note statements in the background materials that the Bill does not enable any mechanism for mass surveillance. While the Bill does not expressly authorise any single surveillance system, its practical effect is to broaden the volume of personal information that may be lawfully collected, without corresponding statutory constraints on retention, use, or analysis. In a technological environment where Police systems enable large-scale aggregation, cross-referencing, and biometric analysis of data, this expanded pool of lawfully collected information may, in effect, support forms of surveillance that are cumulative, persistent, and systematised. The absence of clear statutory limits on downstream use and retention is significant in assessing the real-world impact of the Bill's proposed powers.

Balance between policing powers and privacy rights

75. The Criminal Law Committee emphasises that the exercise of Police powers must remain consistent with established protections against unlawful or unreasonable search and seizure and must properly recognise individuals' reasonable expectations of privacy.
76. In particular, the Supreme Court decision in *Tamiefuna v R* underscores the importance of ensuring that the expansion of Police powers is accompanied by sufficiently clear safeguards. The Criminal Law Committee considers that this is necessary to maintain an appropriate balance between effective policing and the protection of individual rights in practice.

Recommendations

77. To address the concerns outlined above, the Committees recommend that the Bill be amended to incorporate clearer limits and safeguards on the exercise of the proposed powers.
78. The Committees recommend refining the threshold for intelligence collection in section 45D. The current “will or may support” formulation is insufficiently specific and permits collection on a speculative basis. Consideration should be given to requiring that an officer be able to articulate a reasonable basis for believing that the collection is necessary and proportionate to a defined policing purpose. This would better reflect the concerns identified in *Tamiefuna v R* and the Joint Inquiry regarding the risks of collection for hypothetical future use.
79. The Committees further recommend that the Bill include express statutory controls governing the retention, review, destruction, and secondary use of collected information. This is particularly important for material collected for intelligence purposes rather than in the context of a live investigation. As currently drafted, the Bill expands collection powers without translating the identified system and control weaknesses into clear legislative obligations.
80. The Committees recommend the introduction of transparency and auditability mechanisms within the statutory framework. This could include requirements for internal authorisation processes, the maintenance of audit logs, periodic public reporting, and a mandatory post-implementation review by an independent oversight body. Such measures would assist in ensuring that the exercise of these powers remains accountable and subject to appropriate scrutiny.
81. The Committees also recommend that the Bill incorporate express safeguards for children and young people, and that it reflects a Māori data governance perspective. The Regulatory Impact Statement acknowledges that these groups may be disproportionately affected by the exercise of these powers, yet the Bill does not include additional statutory protections and instead relies on future operational guidance. The Committees consider that these matters should be addressed directly in the legislation.
82. The Committees recommend that the Bill clarify the extent to which it authorises biometric identification, automated matching, or other forms of analytical use of collected information. While the Bill does not expressly address these tools, the combination of broad recording powers and the future- or intelligence-based framework may otherwise be interpreted as facilitating their use without explicit legislative scrutiny.
83. The Committees consider that incorporating these amendments would better align the Bill with established legal principles, improve operational clarity, and ensure that the expanded powers are exercised within a framework that is transparent, proportionate, and consistent with privacy and rights protections.

CONCLUSION

84. In summary, the Committees support the legislative recognition of a framework for Police information collection following *Tamiefuna v R* and the Joint Inquiry. However, the Committee has significant concerns about the low threshold for intelligence collection, the absence of proportionality requirements, and the compressed consultation process. The Committee's specific recommendations are set out above.
85. The Committees look forward to the opportunity to engage further with the select committee on this important Bill.

ACKNOWLEDGMENTS

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