

For information

Legislative Council Panel on Security

**Computer Assisted Palmprint and Fingerprint Identification System –
Supplementary Information**

Purpose

This paper provides supplementary information requested by Members when discussing the item on “Computer Assisted Palmprint and Fingerprint Identification System (CAPFIS)” at the meeting on 15 April 2005. The Administration was requested to advise –

- (a) how records in the Computer Assisted Fingerprint Identification System (CAFIS) would be removed before the system was disposed of;
- (b) the views of the Government Chief Information Officer on the replacement of CAFIS by CAPFIS;
- (c) the storage and destruction of records in CAPFIS for arrested persons, sentenced persons and young people cautioned under the Police Superintendent’s Discretion Scheme; and
- (d) the legal basis on which the Police exchanged fingerprint and palmprint information with their counterparts in other jurisdictions in the investigation of crime, the Administration’s internal guidelines, if any, on such exchange of information, and the views of the Privacy Commissioner for Personal Data, if any, on the consistency between such exchange of information and the Personal Data (Privacy) Ordinance (Cap. 486).

Disposal of records and hardware of CAFIS

2. The Police will erase data from the storage media of the CAFIS system prior to disposal by means of degaussing. A degausser will erase a media by exposing it to a strong direct current magnetic field. This will drive the media into saturation and effectively erase all information, including the servo and maintenance information of the hard drives. In other words, data erased this way will be unrecoverable and any drive erased using this method will not function afterwards. According to the guidelines of the Office of the Government Chief Information Officer (OGCIO), degaussing is considered to be one of the best and most effective ways for the destruction of classified

information stored on magnetic media.

3. The degausser used by the Police is capable of erasing magnetic media with coercivity up to 4000 Oersteds (Oe). This is sufficient for degaussing the CAFIS's storage media, which has only a coercivity of below 2000 Oe. Coercivity (measured in Oe) is the amount of magnetic field in the opposite direction of the material's magnetization necessary to reduce the magnetization from saturation to zero.

4. The Police plan to arrange computer hardware recovery and recycling services to dispose of the old CAFIS equipment in an environmentally responsible manner, and will consult the Environmental Protection Department (EPD) where necessary. For example, the EPD has launched a computer recovery programme, namely the Recovery Programme for Waste Computers and Waste Electrical and Electronic Equipment (WEEE). In WEEE, repaired computers will be donated to the needy. If there is no suitable recipient, the repaired goods will be put on charitable sale. The hardware that is beyond repair will be dismantled while the useable components and materials recovered and degaussed will be reused and recycled. There are also computer hardware return and recycling programmes run by the private sector to dispose of used computing equipment in an environmentally responsible manner. The Police will contact these recovery and recycling programmes for proper disposal of the computing equipment in due course.

Views of the Office of Government Chief Information Officer

5. In formulating the proposal we have consulted all relevant parties in the Government, including the Office of Government Chief Information Officer (OGCIO). Views and comments including any from the OGCIO have been reflected in the financial proposal put to the Panel on 15 April 2005, and in FCR (2005-06)10.

Storage and destruction of records

6. The Police are empowered under Section 59 of the Police Force Ordinance (Cap. 232) to retain the identifying particulars, including the fingerprints and palmprints, of the following persons -

- (a) persons arrested or convicted of any offence;
- (b) juveniles cautioned under the Police Superintendent's Discretion Scheme; and
- (c) persons who are subject of removal orders under the Immigration Ordinance (Cap. 115).

7. The fingerprint data stored in CAFIS correspond to criminal records kept. Given that criminal records are maintained mainly to assist the Police and other law enforcement agencies in the prevention and detection of crime, in practice records are not maintained of each and every offence and not forever. The guiding principles in determining whether a record should be kept of a conviction include the gravity and prevalence of the crime, the sentence provided in law for the offence, and whether the offence is merely regulatory in nature.

8. Criminal records, and hence fingerprint data retained in CAFIS, are subject to weeding under the following circumstances -

(a) Acquittal or no prosecution

Upon notification of a finding of “not guilty”, “acquittal” or “unconditional release” in the courts, or where the subject is released without charge, all data relating to the subject will be deleted immediately.

(b) Convicted persons over the age of 70 years or under the age of 16 years

All records and identifying particulars of persons who –

- (i) have attained the age of 70 years and not come to police attention for 10 years, or were convicted when under the age of 16 years and have not come to police attention for 20 years; and
- (ii) have not previously been convicted of triad offences or sentenced to more than three months’ imprisonment or a fine of more than \$10,000

will be weeded. Condition (ii) is modelled on the criteria for classifying a conviction as ‘spent’ under the Rehabilitation of Offenders Ordinance (Cap. 297). These records will be identified for weeding on a regular basis.

(c) Police Superintendent’s Discretion Scheme

In accordance with Section 59(4) of the Police Force Ordinance (Cap. 232), all records and identifying particulars will be weeded when the subject cautioned under the scheme attains the age of 18 years or after two years have elapsed since the administering of the caution,

whichever is the later.

(d) Voluntary binding over orders and court orders under Section 15 of the Juvenile Offenders Ordinance (Cap. 226)

Records of these court orders will be retained until expiry of the orders so that any breach of the orders may be brought to the attention of the court. However, since such court orders cannot be construed as criminal convictions, any records on them will be deleted upon expiry.

(e) Upon death

The Immigration Department notifies the Police of the issue of death certificates on a regular basis. Criminal records of any subjects who are confirmed to be deceased will be weeded.

9. The existing practices on storage and destruction of fingerprint records in CAFIS will be adopted for both fingerprint and palmprint data when the new CAPFIS system comes into place.

Information exchange with overseas authorities

10. Fingerprints and palmprints are personal data under the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486). Section 58 of the PDPO provides exemptions for personal data held for the purposes of prevention or detection of crime. In addition, under the common law the Police may exchange information with their counterparts in other jurisdictions. The judgment of Huggins J.A. in *Attorney General v. Ocean Timber Transportation Ltd.* [1979] H.K.L.R. 298, 300 elucidates this point -

" Here I would interpose that nothing I am about to say should be construed as discouraging the police from extending to their counterparts in other states, directly or through Interpol, every assistance they can, provided only that they do not thereby put themselves outside the law of Hong Kong.The Royal Hong Kong Police, if they think fit, may share any documents which belong to them with other police forces, provided always that there is no statutory limitation on the use which may be made of any particular class of documents. As criminals seek to take more and more advantage of international boundaries so the need for international cooperation in fighting crime increases...."

11. The Police have guidelines governing the release of information and personal data to foreign and Mainland authorities, which are applicable to the

release of fingerprint and palmprint data. The guidelines stipulate that generally information may be released to accredited agencies of Interpol member jurisdictions or competent agencies within the Interpol network.

**Security Bureau
Hong Kong Police Force
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