



Te Mahitahi o Ngā Pirihimana me Te Mana Arai o Aotearoa (Mahi-Tahi)

The Collaborative Work of NZ Police and Customs

Information Disclosure Agreement (Section 316, Customs and Excise Act 2018)

Between

New Zealand Customs Service

And

New Zealand Police

PART 1: INTRODUCTION

1 Parties

1.1. The parties to this Information Disclosure Agreement (**Agreement**) are:

- 1.1.1 The Minister of the New Zealand Customs Service (**Customs**); and
- 1.1.2 The Minister of New Zealand Police (**Police**).

2 Purpose of the Agreement

- 2.1. Customs and Police each have an enforcement mandate for the border and domestic environment respectively. Both agencies share a common purpose of prevention, detection, investigation and prosecution of offences, particularly in relation to controlled drugs and illegal firearms (including firearm parts and ammunition). Transnational Organised Crime (TNOC) is a driver behind criminal offending at the border and in New Zealand. The disruption of TNOC is a shared enforcement priority for Customs and Police.
- 2.2. Each agency has their own distinct datasets reflecting existing statutory mandates. Customs and Police enter this agreement to share intelligence and data to support activity designed to ensure TNOC disruption utilising multiagency capabilities.
- 2.3. This Agreement captures protocols relating to the regular disclosure of information about border seizures of controlled drugs and illegal firearms from Customs to Police.
- 2.4. The disclosures under this Agreement will enable Police to consider and make a separate formal Request for Information (RFI) to Customs. Customs will consider that request against the Privacy Act 2020 and may disclose further information associated to specific interceptions.
- 2.5. Section 316 of the Customs and Excise Act 2018 (the Act) facilitates the disclosure of information by the chief executive of the New Zealand Customs Service to the chief executive of another government agency for certain purposes. This Agreement will facilitate the regular disclosure of Customs' information to Police in order to continue assisting Police in carrying out its functions under the Policing Act 2008, in particular with respect to combating TNOC.
- 2.6. The functions of Police, relevant to this agreement, are set out in section 9 of the Policing Act 2008 and include keeping the peace, maintaining public safety, law enforcement, crime prevention and community support and reassurance.
- 2.7. The objectives of this Agreement are to set out in detail the information sharing processes and protocols regarding:
 - 2.7.1 the particular type or class of information to be disclosed; and
 - 2.7.2 the particular purpose or purposes for which the information is accessed; and
 - 2.7.3 the particular function being, or to be, carried out by the government agency for which the information is required; and

- 2.7.4 how the information is to be used by the government agency to assist with the carrying out of those functions; and
- 2.7.5 the form in which the information is to be disclosed; and
- 2.7.6 the positions or designations of the persons in the government agency to whom the information may be disclosed; and
- 2.7.7 the safeguards that are applied for protecting personal information, or commercially sensitive information, that is disclosed; and
- 2.7.8 the requirements relating to storage and disposal of the disclosed information; and
- 2.7.9 the circumstances (if any) in which the information may be disclosed by the recipient agency to another agency, and how that disclosure may be made; and
- 2.7.10 the requirements for reviewing this Agreement.

2.8. This Agreement contains the following Annexes, which provide further operational detail.

The Annexes do not form part of the Agreement:

- 2.8.1 Annex 1 contains the details of departmental representatives in relation to this Agreement.
- 2.8.2 Annex 2 contains the technical standard report (TSR) in relation to the information disclosed to Police, including details about the information being disclosed, the form and methods of disclosure, security protocols, retention and who are the authorised persons for the purposes of this Agreement.

3 Definitions

3.1. Unless the context otherwise requires, the following terms have been defined as follows:

Term	Definition
Act	Customs and Excise Act 2018
Agreement	This agreement
Illegal firearms	Firearms that have been seized by Customs as they were imported by mail or freight in breach of s.16 and/or s.55E of the Arms Act 1983. This may include parts and ammunition that relate to these firearms.
Information	Drug Information and Firearms Information, as specified in clause 4 of this Agreement
SOP	Standard Operating Procedures

3.2. All terms in this agreement have the meaning defined in the Customs and Excise Act 2018 unless otherwise noted.

4 Particular type or class of information that may be disclosed

4.1. The New Zealand Customs Service may disclose to Police any information relating to:

- 4.1.1 New Zealand border mail or freight consignments containing controlled drugs as defined in s.2(1) of the Misuse of Drugs Act 1975, seized at New Zealand borders (**Drug Information**)
- 4.1.2 Firearms by mail or freight that have been seized as they were imported in breach of section 16 and/or section 55E of the Arms Act 1983. This may include firearms parts and ammunition that relate to these firearms. (**Firearms Information**),

4.2. The Information referred to above is Category 1 and 2 information as defined in section 304 of the Act.

- 4.2.1 Category 1 information in this instance is information relating to goods. (At Annex 2 this is called Consignee Details and Consignor Details).
- 4.2.2 Category 2 in this instance relates to the relevant Customs intelligence information that is linked to the seizure (at Annex 2 this is called Interception Details and Further Customs Information).

5 Particular purpose(s) for which information is disclosed

5.1. This Information is disclosed under section 316 of the Act, for the purpose of assisting Police to carry out its functions related to, or involving, the prevention, detection, investigation and prosecution of offences in relation to the possession, supply, and distribution of controlled drugs and illegal firearms, their parts and ammunition within New Zealand.

5.2. The Information, which includes personal information, is disclosed to Police to enable a joint agency approach to preventing, detecting and investigating criminal activity in relation to controlled drugs and illegal firearms. This includes enhancing joint intelligence holdings about criminal networks operating across borders and within New Zealand.

5.3. Police will, in acting on Customs drug information, agree to communicate their interest to Customs. This is to ensure that agency responsibility for an enforcement response is established and opportunities for joint agency cooperation are fully explored.

6 Particular function being carried out for which information is required

6.1. The Information will be disclosed to Police to develop a more integrated border and domestic intelligence picture related to the information and TNOC, generate investigative leads, conduct enforcement activities jointly with or separately from Customs and prosecute under the Misuse of Drugs Act 1975, Arms Act 1983 and the Crimes Act 1961. Police will use the information to investigate and prosecute criminal offenders, to hold them to account and make our communities safer.

7 How the information will assist in the carrying out of the particular function

- 7.1. The Information will assist Police in carrying out the following functions: *the prevention, detection, investigation or prosecution of offences.*
- 7.2. Specifically, the provision of Drug Information to Police will enable Police to assess the information, prioritise the urgency of action, carry out criminal investigations, prevent drugs from entering the community and prosecute offenders. Police will dismantle criminal networks including TNOC groups, and consequently reduce harm.
- 7.3. The provision of Firearms Information to Police will assist Police to identify the source of imported illegal firearms and prevent them from getting into the possession of criminals including gangs and organised crime members.

8 The form in which the information will be disclosed

- 8.1. Customs will provide Police the Drug Information by providing a 'Notice of Intercept' to Police by secure encrypted email (SeeMail) within 24 hours of a Customs officer seizing controlled drugs. This disclosure time period may extend during times of high operational demand or at which a drug seizure is made outside of business hours (being Monday – Friday 0800-1700) and where the input of other Customs work groups is required. The details to be contained in the Notice of Intercept are set out in Annex 2.
- 8.2. Customs will provide the Firearms Information to Police weekly in an Excel file summary report of illegal firearms seized at the New Zealand border, with each summary report covering the previous 7 days of firearm information or by further mutual agreement. The summary report will be sent by SeeMail and password protected. Customs will advise the Police recipient the password for access by other means (two factor authentication).

9 Positions or designations of persons to whom information may be disclosed

- 9.1. The disclosure of Information will be limited to persons working directly on or supporting the functions specified in clause 6 of this Agreement, where access is required to carry out that function. This will include District Managers of Intelligence, Field Crime Managers, National Organised Crime Group staff and district based investigators working directly on cases. Distribution of information to investigators will only be in relation to the case they are working on. The information will be stored in NIA (National Intelligence Application) or IMT (Investigation Management Tool). Staff access to NIA and IMT is limited to business related reasons only.
- 9.2. Drug and Firearms Information will be disclosed to the following Police work groups/individuals by group or individual email for a response within the geographic area the information relates to:
 - 9.2.1 the relevant Police District Intelligence Team
 - 9.2.2 the National Organised Crime Group (NOCG)
 - 9.2.3 the Customs Police Liaison Officer (PLO)

10 Safeguards to be applied for protecting particular information

Security

- 10.1. Both parties will take reasonable steps to maintain the security of information disclosed under this schedule, by protecting it against risks such as unauthorised access, loss, collection, use, disclosure, disposal and any other misuse.
- 10.2. Customs and Police will at all times adhere to the Protective Security Requirements (**PSR**) and New Zealand Information Security Manual (**NZISM**). Further Security information is set out in the Technical Standards Report (**TSR**) attached as Annex 2 to this Agreement.
- 10.3. The information will be disclosed to Police via secure encrypted email (SeeMail) to dedicated inboxes designated for the purpose of this Agreement. SeeMail provides government-approved encryption for RESTRICTED information, plus agency-to-agency authentication and integrity validation for each message. Password protection will be applied to excel report attachments. The password will be advised to Police via alternative means (two factor authentication).
- 10.4. Information disclosed to Police will be transferred into, stored and managed in NIA and IMT.
- 10.5. An electronic audit trail will be maintained by both parties for the purposes of audit and review formalities.

Privacy

- 10.6. Each party will be responsible for ensuring that it complies with the Privacy Act 2020. Police agrees to manage the information disclosed to it in accordance with the principles in the Privacy Act 2020.
- 10.7. Each party will immediately notify the other party of:
 - 10.7.1 any circumstances, incidents or events that have jeopardised (or may in future jeopardise) the security of any computer system in its custody that is used to store information disclosed under this Agreement;
 - 10.7.2 any security or privacy complaint made by a person to that party in relation to the information disclosed under this Agreement; and
 - 10.7.3 any privacy request made by a person in relation to the information disclosed under this Agreement in order to ensure any response to that request is sufficiently considered by both parties under Part 4 of the Privacy Act. This reflects the nature of the information being disclosed and the investigatory activities being undertaken.
- 10.8. Police must immediately notify Customs if:
 - 10.8.1 Police knows or suspects that it has breached the Privacy Act 2020 or breached the privacy of individuals in relation to information disclosed under this Agreement; or
 - 10.8.2 Police knows of or suspects any loss, unauthorised use, disclosure or misuse of the Information; or

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- 10.8.3 Police becomes aware that a disclosure (except under clause 12) may be required by law in relation to the Information; or
 - 10.8.4 any legislation prevents or may prevent Police from performing its obligations under this Agreement.
- 10.9. If either party reasonably believes that the privacy of individual's subject to this schedule has been or may be breached, then that party, after appropriate discussions with the other party, may suspend the process where necessary to give the party the opportunity to remedy the breach or possible breach.
- 10.10. Any privacy incident is to be subject to appropriate action by the party responsible for the breach (the **Responsible Party**) in accordance with that party's policies, processes and code of conduct. The other party will provide the Responsible Party with reasonable assistance if required, and the Responsible Party will keep the other party informed.
- 10.11. Where an internal investigation confirms a privacy breach, and it is considered necessary or required by law, the Office of the Privacy Commissioner will be notified as soon as possible by the Responsible Party.
- 10.12. Police agrees, unless specifically authorised in writing by Customs or required or authorised by law, not to:
- 10.12.1 modify the information;
 - 10.12.2 transfer or store the information outside of New Zealand.

Audit

- 10.13. Police will undertake an audit annually and communicate the results to Customs confirming:
- 10.13.1 disclosed information is used for the purposes outlined in this Agreement by Police.
 - 10.13.2 Police storage, retention and disposal of information corresponds with established government security requirements.
 - 10.13.3 any Privacy or security incidents were identified and reported as per 10.11.

11 Requirements relating to the storage and disposal of disclosed information

- 11.1. All Information disclosed pursuant to this Agreement will be handled and stored strictly in accordance with any security endorsement or caveat including any Government Security Classification, and the requirements set out in the PSR and NZISM.
- 11.2. Any information that is copied pursuant to this Agreement will be retained by Police for as long as required for the purposes it was obtained pursuant to this Agreement.

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- 11.3. The information entered into NIA will be linked to this Agreement, the Agreement's particular purpose (clause 6.1) and any caveats attached to the information by Customs.
- 11.4. Otherwise, it will be destroyed in accordance with the Police retention and disposal schedule (<https://www.police.govt.nz/about-us/publication/retention-and-disposal-police-records-police-manual-chapter>) (DA648), the Public Records Act 2005 and any applicable disposal authorities under that Act.

12 Disclosure by Police to any other agency

- 12.1. Information provided to Police under this Agreement may only be disclosed by Police to another agency in accordance with the Official Information Act 1982, Privacy Act 2020, or other applicable laws. If required to be disclosed, it will only be disclosed in accordance with and attaching all caveats that have been placed on the Information by Customs.
- 12.2. Any Information disclosed under this Agreement to Police that is then provided by Police to another agency for processing or storage will be deemed to be held by Police as their agent and Police will remain responsible for any actions of their agent.
- 12.3. Information in accordance with this Agreement may only be disclosed by Police to an overseas authority where prior consultation with Customs has occurred.

13 Commencement, review and termination

- 13.1. This Agreement shall come into effect on the date that it is signed by both signatories. It remains in effect unless terminated in accordance with this clause.
- 13.2. The parties shall review this Agreement:
- 13.2.1 after the first year (12 months from Agreement commencement); and then a formal review every 2 years confirming:
 - 13.2.1.1 the Agreement and associated SOPs are functioning as intended.
 - 13.2.1.2 a report will be completed for review by the Chief Executives of Customs and Police or their delegated representatives.
 - 13.2.2 upon a privacy breach or security breach caused under or related to this Agreement; and
 - 13.2.3 consistently with the existing review schedule for the overarching Memorandum of Understanding (MOU) between the New Zealand Customs Service and New Zealand Police (every two years).
- 13.3. The parties shall co-operate with each other in any review and will use their reasonable endeavours to make available the necessary resources, facilities and information to facilitate each joint review.

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- 13.4. Additionally, each party has the right to initiate a review of this Agreement at any time on providing 30 days' notice in writing.
 - 13.5. All notices of review shall be in writing and sent to the Departmental Representatives detailed in Annex 1 of this Agreement.
 - 13.6. This Agreement may be terminated by the Minister of Customs or the Minister of Police at any time, by either party providing formal notice in writing to the other party. The termination will take effect immediately; Customs will cease disclosing information to Police under this Agreement.

14 Confidentiality

- 14.1. This Agreement will be published on Customs' website in accordance with section 321 of the Act.
- 14.2. The parties agree that subject to both parties' obligations under the Privacy Act 2020 and/or Official Information Act 1982:
 - 14.2.1 neither party will release any information arising from this Agreement to the media or any member of the public without first obtaining an agreement to do so from the other party;
 - 14.2.2 if there is a matter of concern neither party will discuss the matter publicly without first engaging in a full discussion between the parties.

15 Signatories

- 15.1. This Agreement shall be signed by the Minister of Customs and the Minister of Police.

16 Departmental Representatives

- 16.1. The Parties will each appoint a Departmental Representative to oversee the operation of the information disclosure process, and will ensure that the person is familiar with the requirements of this Agreement, and the Privacy Act 2020. The contact details for the Departmental Representatives are contained in Annex 1 to this Agreement.
- 16.2. In the first instance, any issues arising out of this Agreement should be referred to the Departmental Representative for clarification and resolution.
- 16.3. All notices and communication between the Parties and under this schedule shall be sent to the Departmental Representatives at the addresses set out in Annex 1.

17 Variations

- 17.1. Any variation to this Agreement must be made in writing and must be executed by the Minister of Customs and the Minister of Police. Any variation must be in accordance with section 316 of the Act, which includes consultation with the Privacy Commissioner.

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- 17.2. The Annexes to this Agreement do not form part of the Agreement. Any variation to an annex to this Agreement must be in writing and must be executed by the chief executives or their designated representatives.

The Parties have executed this Agreement



Hon Ginny Andersen
Minister of Police



Hon Jo Luxton
Minister of Customs

Date: 20/07/2023

Date: 16/7/23.

ANNEXES

Schedule of annexes to this Agreement

Annex 1	Departmental Representatives to act as contact persons
Annex 2	Technical Standards Report (TSR)

Annex 1 – Departmental representatives and contact details

New Zealand Customs Service

Manager Operations, Customs Investigations Unit	Contact Details
Matthew Green	Matthew.Green@customs.govt.nz [REDACTED]

NZ Police

Manager Strategy and Liaison	Contact Details
Wayne Gray	Wayne.Gray2@police.govt.nz [REDACTED]

Annex 2: Technical Standards Report (TSR)

Introduction

1. This annex to the Agreement specifies the technical standards of the Information to be provided by Customs to Police for the purposes set out in clauses 5 and 6 of the Agreement.

The Information

Type of information

2. Customs will disclose any of the following information to Police in accordance with this Agreement:
 - 2.1 Information about imports of controlled drugs as defined in s.2(1) of the Misuse of Drugs Act 1975, seized as mail or freight at New Zealand borders (**Drug Information**);

and
 - 2.2 Information about imports of firearms that have been seized by mail or freight as they were imported in breach of section 16 and/or section 55E of the Arms Act 1983. This may include parts and ammunition that relate to these firearms. (**Firearms Information**),

Frequency of Information Disclosure

3. Drug Information will be disclosed within 24 hours of a border seizure. Firearms Information will be disclosed in a summary format weekly or at a period subject to both party agreement. Both forms of information disclosure utilise standard Customs templates and reporting formats.

Possible details to be disclosed as Drug Information or Firearms Information:

Field	Description / Notes
Interception Details:	
Intercept date/seizure date	Calendar date
Location	Specific Customs facility
IR Number	Customs' Information Report
Commodity	A description of the Controlled Drug or Illegal Firearm
Amount/Unit/Type	Numerical quantity/measurement
Form/Status	A description of the commodity's physical state
Concealment	Details of the location within a package
Declaration	Goods declared as
Consignee Details	
Name	Consignee noted on package
Address	Delivery address noted on package

Phone/ Email	Consignee phone or email detail noted on the package
Consignor Details	
Country	Country of export
Name	Consignor name/ business
Address	Sender address noted on the package
Phone/Email	Consignor phone or email detail noted on the package/consignment
Further Customs Information	
Information from CusMod – Customs' database	Summary of Customs Intelligence holdings regarding consignee or consignor details <u>relevant</u> to the specific seizure only, e.g. their illicit import history.
Information from NEXUS – Customs database search tool	Information concerning previous illegal drug/ firearms importations by linked criteria. For example, by consignor or consignee address
ITOC Comments	Additional relevant comments relating to the interception as made by the processing officer within the Integrated Targeting Operations Centre (ITOC).

Transmission Method:

4. The Information will be sent by Customs in an electronic file via secure electronic means that comply with NZISM and PSR;
 - 4.1 Customs will send the Drug Information to Police using secure encrypted email (SeeMail); contained within the body text on a standardised template. This template is pre-populated through an electronic referral using a Customs SharePoint tool available only to members of the Integrated Targeting and Operations Centre team.
 - 4.2 Customs will send the Firearms Information: Excel format attachment by secure encrypted email (SeeMail) and password protected. The password will be advised to Police through another means (two factor authentication)
 - 4.3 Police will receive the emails and transfer the data into NIA. NIA is only able to be accessed by staff for business related reasons.

Security Protocols

5. The following security protocols will be used for the transmission of data (Customs):
 - 5.1 full compliance with the Protective Security Requirements (PSR) and New Zealand Information Security Manual (NZISM).
 - 5.2 the application of applicable security caveats, for example IN CONFIDENCE.
 - 5.3 the use of [SeeMail] in all instances.
 - 5.4 imbedded instructions for unauthorised receipt.
 - 5.5 excel file format attachment for Firearms Information will be password protected (to PSR and NZISM appropriate password standards). The password will be provided to

the File recipient through another means of communication (two factor authentication).

6. The following security protocols will be used for the acceptance and storage of data (Police):
 - 6.1 full compliance with the Protective Security Requirements (PSR) and New Zealand Information Security Manual (NZISM)
 - 6.2 disclosed Information will be entered, stored and managed within the National Intelligence Application (NIA and the Investigation Management Tool (IMT) only.
 - 6.3 both NIA and IMT are accredited up to RESTRICTED Information.

Positions or designations of persons to whom information may be disclosed

7. Drug and Firearms Information will be disclosed to the following Police work groups/individuals by group or individual email for a response under clause 6 within the geographic area the information relates to.
 - 7.1 the relevant Police District Intelligence Team
 - 7.3 the National Organised Crime Group (NOCG)
 - 7.4 the Customs Police Liaison Officer

Checklist: requirements under Section 316

Purpose of agreement – confirm this is to:	
<ul style="list-style-type: none"> Facilitate the disclosure of information by the chief executive of Customs to the chief executive of a government agency where that disclosure— 	
<ul style="list-style-type: none"> is to be on a regular basis; and 	
<ul style="list-style-type: none"> is not facilitated by— <ul style="list-style-type: none"> an information matching agreement under sections 306 to 310; or a direct access agreement under sections 312 to 315. 	
Confirm that the Ministers are satisfied of the following:	
<ul style="list-style-type: none"> disclosure of the information is reasonable and practical; and <ul style="list-style-type: none"> there are adequate safeguards to protect the privacy of individuals, including that the proposed compliance and audit requirements for the use, disclosure, and retention of the information are sufficient; and the agreement will include appropriate procedures for the disclosure, and retention of the information. 	
Consultation with Privacy Commissioner	
<ul style="list-style-type: none"> Confirm that the Privacy Commissioner has been consulted 	
<ul style="list-style-type: none"> Confirm that regard has been had to any comments received from the Privacy Commissioner (i.e. they have been taken into account) 	
Specific requirements – the following must be specified in the agreement	
<ul style="list-style-type: none"> The particular type or class of information to be disclosed; and 	
<ul style="list-style-type: none"> The particular purpose or purposes for which the information is accessed; and 	
<ul style="list-style-type: none"> The particular function being, or to be, carried out by the government agency for which the information is required; and 	
<ul style="list-style-type: none"> How the information is to be used by the government agency to assist with the carrying out of those functions; and 	
<ul style="list-style-type: none"> The form in which the information is to be disclosed; and 	
<ul style="list-style-type: none"> The positions or designations of the persons in the government agency to whom the information may be disclosed; and 	
<ul style="list-style-type: none"> The safeguards that are to be applied for protecting personal information, or commercially sensitive information, that is disclosed; and 	
<ul style="list-style-type: none"> The requirements relating to storage and disposal of the disclosed information; and 	
<ul style="list-style-type: none"> The circumstances (if any) in which the information may be disclosed by the agency to another agency, and how that disclosure may be made; and 	
<ul style="list-style-type: none"> The requirements for reviewing the agreement (i.e. the date for renewal, positions who must be included in the process etc) 	