DEVELOPING A PRIVACY IMPACT ASSESSMENT FOR FORENSIC DNA PHENOTYPING AT THE AUSTRALIAN FEDERAL POLICE

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A privacy impact assessment can be used to consider new technology from a privacy perspective, and to design a new process or system to ensure that incorporates strong privacy protections at all levels. Both the Australian Privacy Act and the European Union's General Data Protection Regulation generally require an assessment, in Australia for 'high privacy risk projects', including new technology, delivered by government agencies[1]. In Europe, a data protection impact assessment is required where there is 'high risk to the rights and freedoms of natural persons'[2].

Developing a privacy impact assessment requires a high degree of consultation, with forensic practitioners, legal advisors and privacy regulators. It is possible to draw on privacy standards in related areas such as health records management, and to develop innovative ways to deliver operational outcomes while ensuring genetic data is appropriately protected. This includes balancing a privacy-by-design approach with court disclosure requirements to guard – as far as possible – against the release of third parties' genetic data to defense counsel.

This presentation will use the development of a privacy impact assessment for forensic DNA phenotyping at the Australian Federal Policy Biology Laboratory in Canberra as an example of the use of privacy or data protection impact assessments as a tool to engage with new genetic technology. Consideration will be given to some of the practical implications for forensic labs, and how an impact assessment can aid in transparency and accountability around implementing forensic DNA phenotyping or other processes requiring processing and storage of genetic data.

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[1] Privacy (Australian Government Agencies — Governance) APP Code 2017, cl. 12.
[2] General Data Protection Regulation (EU) 2016/679, art. 35