

POLICE ENGAGEMENT OF EXTERNAL SECURITY CONSULTANTS INVESTIGATION REPORT

5 December 2018



NEW ZEALAND
POLICE
Ngā Pirihimana o Aotearoa

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EXECUTIVE SUMMARY

1. This report summarises findings of the internal investigation conducted by the New Zealand Police into Police's use of external security consultants between 2003 and 2018.
2. The Commissioner of Police requested that an internal Police investigation be conducted, in light of public concerns that the State Services Commission inquiry into the use of private investigators from Thompson and Clark Investigations Limited (Thompson and Clark) and other external security consultants did not include New Zealand Police because of its statutory independence. The Commissioner sought an assurance that any Police engagements with external security consultants met ethical standards consistent with Police's values and the Police Code of Conduct.
3. In particular, the Commissioner wished to give assurance to the New Zealand public that Police has not been, and is not currently engaging security consultants to conduct surveillance of members of the public, for instance, those involved in lawful protest activities.
4. The Terms of Reference for the investigation required the investigating team to review Police engagement of any kind with any external security consultants, including but not limited to Thompson and Clark. The reasons for and nature of any such engagement, including Police actions arising from them, were to be examined. While a particular focus was to be on surveillance activities, any action of Police in the engagement that was inconsistent with Police's values and that might amount to a breach of Police's Code of Conduct was to be reported.
5. A rigorous and meticulous internal investigation was undertaken of interactions with external security consultants, including Thompson and Clark, between 2003 and October 2018, under the direction of a senior Detective.

Findings

6. Police interacts with external security consultants on a regular and almost daily basis. These interactions include engaging contractors for Police station alarm monitoring, security CCTV installations, crime scene security, or receiving files compiled by private investigators on behalf of victims.
7. On occasion, Police receives information, from security consultants who represent companies targeted by issue motivated/protest groups (IMGs)¹ that may assist Police to prevent or detect criminal offending. Thompson and Clark appears to be the only company operating in New Zealand's private sector that specialises in this kind of work.

¹ In the Police context, the term 'issue motivated/protest group' (and referred to in the Police Instructions) is used to refer to any group of people who are exercising their democratic rights under the New Zealand Bill of Rights Act 1990, on any issue or issues of importance to them. Their activities are only of interest to Police to the extent that they may be unlawful and/or may be a threat to the safety of other individuals or their property or the general public.

8. The vast majority of Police's interactions with external security consultants (including Thompson and Clark) over the relevant period can be considered 'business as usual' and consistent with Police guidelines, procedures and values. This interaction includes investigating suspected unlawful activities of IMGs, investigation of criminal offending, provision of security services and membership of relevant working groups.
9. The investigation found no evidence that Police engaged, tasked or directed any external security consultants to undertake surveillance activities (whether lawful or unlawful) on behalf of Police.
10. No evidence of criminal or corrupt behaviour by any employee of Police has been found.
11. The investigation found evidence of sixteen individuals who had demonstrated behaviour that might be found, on further investigation, to have breached the Police Code of Conduct. All of these instances relate to interactions with Thompson and Clark, involving disclosure of information to Thompson and Clark that may have been inappropriate. Seven of the information disclosure cases relate to information released to Thompson and Clark to assist with their graffiti investigation work on behalf of the Auckland City Council.
12. These sixteen cases have been referred to Police Professional Conduct for categorisation and further action, if required, in accordance with normal Police employment processes.
13. The investigation also identified four isolated instances of Police officers undertaking unauthorised secondary employment with private security companies. Three of these instances were dealt with at the time they were discovered in accordance with standard Police employment procedures. The fourth Police employee identified in the course of the investigation (who was also implicated in the information disclosure cases mentioned above) has been referred to Police Professional Conduct for further consideration.
14. The conclusion of this investigation is that no inappropriate use by Police of external security consultants for surveillance has occurred. Furthermore, Police's overall engagement with external security consultants, with relatively few isolated exceptions, has been consistent with Police values and the Police Code of Conduct.
15. This investigation involved a thorough review of every aspect of Police's policies, procedures and activities that relate to the use of external security consultants. It has been a valuable exercise for Police as a "health check" on systems and processes. Recommendations in the areas of policy, training and information sharing have been made to the Police Executive in this report for consideration, to strengthen existing systems and minimise risks when Police employees interact with external security consultants in the future.

BACKGROUND

16. In March 2018, the State Services Commissioner ordered an inquiry (the SSC Inquiry) into the use of external security consultants by Southern Response Earthquake Services Limited (SRES) and the Ministry of Business, Innovation and Employment (MBIE). The SSC engaged Martin Jenkins Limited to undertake the SSC Inquiry.
17. In June 2018 the SSC Inquiry was widened to include engagement between state services agency employees and external security consultants, and further widened in October 2018 to include engagement with external security consultants by Crown Entities.
18. Police is not within the terms of reference for the SSC Inquiry because of Police's statutory independence. However in light of public concerns regarding the engagement of external security consultants, and given the SSC Inquiry process, Police decided it should scrutinise its engagement with external security consultants to provide transparency and accountability to the public we serve.
19. Accordingly, on 28 September 2018, the Deputy Commissioner, National Operations directed the Assistant Commissioner, Serious and Organised Crime to undertake an investigation based on the Terms of Reference set out below.²
20. On 28 September 2018, the Commissioner of Police issued a public statement announcing that Police was conducting an internal investigation into Police's use of external security consultants, along similar lines to that followed in the SSC Inquiry.³
21. The Deputy Commissioner originally requested a report on the investigation by 24 October 2018. Due to the amount of material to be gathered and analysed and time it took for the ICT business unit to extract historical email transactions, the due date for the report was extended to 30 November 2018.

Parameters of the Investigation

22. A senior Detective was appointed to lead the investigation. Between 1 October and 28 November 2018, a team of eight staff comprising a Detective Senior Sergeant, Detectives and analysts gathered evidence, reviewed relevant Police policies, procedures and legislation, conducted interviews, and compiled and analysed the information gathered.
23. The Terms of Reference for the investigation set by the Deputy Commissioner were as follows:

"The Investigation will identify and report on:

Whether Police has engaged with any external security consultants, including but not limited to Thompson & Clark Investigations Limited (TCIL), the circumstances of and

² The copy of the letter commissioning the internal Police investigation is attached at Appendix A. A copy of the Terms of Reference is also attached at Appendix B.

³ A copy of the public statement made by the Commissioner of Police is attached at Appendix C.

reasons for any such engagement and the nature and outcomes of the engagement with external security consultants by Police.

Without limiting its scope, the Investigation will specifically report on:

- i) *Whether or not surveillance activities were undertaken by any external security consultants on behalf of Police, and, if so:*
- ii) *The nature of any such surveillance, either generally or relating to specific individuals;*
- iii) *The extent to which Police requested that surveillance, and/or received information relating to that surveillance;*

Any actions undertaken as a result of information received;

Any internal or external advice to Police relating to or produced as a result of engaging with external security consultants and/or any monitoring undertaken, including but not limited to advice relating to potential disclosure of the existence, nature or circumstances of any surveillance undertaken;

Governance and reporting mechanisms (or lack thereof) relating to engagement with security consultants; and

Whether or not, and the extent to which, any matters identified by the Investigation may have amounted to a breach of the New Zealand Police Code of Conduct.”

24. Terms of reference for the investigation were wide, to examine Police’s dealings with all external security consultants, including the robustness of governance and reporting policies and procedures.

INVESTIGATION METHODOLOGY

25. Guided by the Terms of Reference, and in light of what was known about the SSC Inquiry and the major points of public concern, the initial scope of the investigation set out first to identify:
- 25.1. all Police’s interactions with Thompson and Clark, including any subsidiary or affiliated companies⁴ from 2003 to October 2018; and
 - 25.2. Police’s interactions with any other external security companies or individuals working in the private security industry, from 2003 to October 2018.
26. While Thompson and Clark was the predominant company of interest for the SSC Inquiry, it was not the only one to be considered in respect of the Police investigation. The investigation also sought to uncover any evidence that other companies Police contracts to provide security services outside the scope of the

⁴ A list of companies affiliated to Thompson and Clark is attached at Appendix D. An A3 visual depiction of companies and person affiliated with Thompson and Clark, prepared by a member of the investigating team, is attached at Appendix E.

SSC Inquiry (e.g. security guards) might also be conducting surveillance activities for private clients that Police would consider to be inconsistent with Police's values.

27. The initial broad search canvassed the full range of interactions Police has had with private security firms and their employees from 2003 to the present. It provided an opportunity to undertake a "health check" of Police's wider systems and protocols governing aspects of engagement with external security consultants, including:
 - 27.1. identifying external security companies with which Police has had any dealings from 2003 to the present;
 - 27.2. the nature of the engagement: formal contract for services; information sharing; assistance with investigations; event security; provision of security equipment etc; and
 - 27.3. types of contractual arrangements, what they were for, when they occurred, and amounts paid for contracted services.

An initial information search was conducted across multiple Police systems⁵

28. The initial information gathering stage of the investigation was cast broadly to capture all possible data that might be relevant to the Terms of Reference. Additional data searches were added throughout the investigation as information pointing to further areas of enquiry came to light. It included searches of:
 - 28.1. historical file holdings of Police's interactions with any external security consultants, including national security databases;
 - 28.2. multiple Police computer applications for hits against a list of keywords, such as individuals, companies and domain names identified as being relevant;
 - 28.3. Police's email systems for the period 2003 – 2018. This search identified approximately 13,000 emails of potential relevance based on keywords, all of which were reviewed and assessed;
 - 28.4. financial records of contracts and payments made to external security consultants, including any available records from Police Districts;
 - 28.5. Police's gratuities register;
 - 28.6. media reports from 2003 to 2018 about the use of external security consultants for any protest activities in New Zealand, any concerns about surveillance by external security consultants, and any matter pertaining to the SSC Inquiry, in order to identify any individuals or avenues of interest that should come within the scope of the investigation;
 - 28.7. relevant requests for information and responses under the Official Information Act 1982 (OIA) and the Privacy Act 1993 (Privacy Act), from 2003 to 2018, including any documentation where readily available relating to any

⁵ A summary of all the Police record holdings searched is attached at Appendix F.

complaints to the Ombudsman about refusal of any requests for official information; and

28.8. external security consultant records held by the Ministry of Justice, in relation to applications for licensing approvals for private security personnel.

29. Enquiries were made with every Police National Manager and every Police District, to ensure that Police employees who had interacted with external security consultants had the opportunity to report these activities to the investigation, minimising the chance that relevant information would be missed.

Preliminary reviews identified all Police interactions with external security companies. The investigation then focussed on activities that were not considered “business as usual”, leading to a more detailed focus on Thompson and Clark and some of its subsidiary companies.

30. Following the preliminary investigation of all external security consultant interactions, it became apparent that Thompson and Clark was the only company undertaking the kinds of activities that might be of concern. The other ‘business as usual’ activities of Thompson and Clark and of other external security companies Police engaged with, such as CCTV monitoring, crime scene guards, and standard security activities did not require further scrutiny.

31. The initial review of available information identified a number of key areas for closer enquiry. The investigation then concentrated on the following matters:

31.1. any suggestion of surveillance activities;

31.2. joint operations;

31.3. release of personal information held by Police;

31.4. personal relationships that may influence Police behaviour;

31.5. any Police behaviour that indicated a conflict of interest; and

31.6. any other activities that may be inconsistent with Police values.

32. Detectives from the investigative team conducted interviews and took formal statements from 26 Police employees and two external security consultants.⁶ Other than Gavin Clark and Nicolas Thompson (from Thompson and Clark), no other person outside Police was interviewed. Apart from Gavin Clark, no former employees of Police were spoken to.

33. The completeness of the information available to the investigation was limited by the following:

⁶ A list of all the people who were formally interviewed for the investigation is attached at Appendix G. The interview schedule used is attached at Appendix H.

- 33.1. some information took considerable time to be extracted from Police's ICT systems. In particular, historical email records earlier than 2015 were only available to the investigation team near the end of the investigation period;
- 33.2. most financial records dating back over seven years, which do not legally have to be kept, were accordingly not available;
- 33.3. some contract documents for services provided by external security consultants could not be found;
- 33.4. limitations within police systems may have meant some documents were not identified.

Legislative and Procedural Context

Police's interactions with external security consultants and the recommendations in this report were considered with reference to the Police Code of Conduct, relevant legislation and procedural guidance provided in Police Instructions

- 34. The initial investigation stage included a review of all relevant Police policies and procedures, and the related legislation applicable to Police engagement with external security consultants such as surveillance activities, contracting and procurement processes, information sharing and privacy, surveillance and covert investigative protocols.

The New Zealand Police Code of Conduct provided the lens for considering the actions of both Police employees and external security contractors, insofar as they might act as agents of Police

- 35. The investigation was conducted with primary reference to New Zealand Police's Code of Conduct, which states: "*This Code applies to anyone who is employed or engaged by New Zealand Police, regardless of position or rank held. This includes employees who are permanent, temporary or casual, contractors or consultants, volunteers and any other groups or individual we have advised this Code applies to. This Code also applies to what we do outside of working hours where our actions may bring Police into disrepute or may damage trust and confidence Police as our employer has in us.*"

Relevant statutes and their implications were held in mind throughout the inquiry period and in consideration of what was found

Surveillance by Police and external security consultants

- 36. Police can lawfully conduct surveillance activities pursuant to the Search and Surveillance Act 2012, with and without warrant in certain circumstances.
- 37. Police can request assistance from any other person (including an external security consultant) to carry out surveillance activities authorised in a surveillance device warrant, under Police supervision⁷. It is difficult to imagine a situation where Police would either need or allow a security consultant to provide assistance in any

⁷ s56, Search and Surveillance Act 2012.

surveillance operation, as this capability is well within current Police skills and resources.

38. Surveillance activities conducted by external security consultants have been regulated since 1 April 2011.⁸ These regulations restrict surveillance activities in relation to individuals on private property, but not to the same extent that the provisions of the Search and Surveillance Act restrict Police officers' powers - for example, a licensed private investigator could lawfully observe and photograph an individual in the curtilage of private premises for an extended period (as could any member of the public), whereas a Police officer is permitted only to undertake this surveillance by means of a visual surveillance device for three hours in any 24 hour period, or a maximum of eight hours in total.
39. It would not be appropriate for a Police officer to either task or formally engage an external security consultant to undertake surveillance activities that Police employees could not lawfully conduct themselves. The consultant would be acting as an agent of Police and any such tasking would be a breach of the provisions of the Search and Surveillance Act 2012, and of the Police Code of Conduct.

Exchange of information between Police and external security consultants

40. Police relies on the community to provide information for the prevention, detection, and investigation of criminal offending. Police receives that information, often unsolicited, from a variety of sources, including on occasion from external security consultants. There is no impediment to Police receiving this type of information from any source.
41. Police officers actively investigating criminal offending are permitted to ask questions of any person. There is no issue with Police engaging with an external security consultant for the purpose of obtaining information about suspected criminal offending (or with the aim of preventing offending), if it is thought that useful information may be obtained.⁹
42. If a Police officer was to direct or request another person to seek information on Police's behalf, the individual obtaining the information could be seen to be acting as an agent of Police, and may be subject to the same legal requirements as a Police officer in the same situation.
43. If information provided to Police has been obtained from an external security consultant unlawfully (for example, through an unlawful interception of private communications), evidential issues may arise in any subsequent criminal prosecution. It is likely that Police would also investigate the circumstances in which the information was obtained, to assess the culpability of the party providing the information. Needless to say, it would not be lawful for a Police officer to task any other person to obtain information by unlawful means.
44. Police may properly provide non-personal information to external security consultants in the same way as they can to any other member of the public, pursuant

⁸ Private Security Personnel and Private Investigators (Code of Conduct - Surveillance of Individuals) Regulations 2011.

⁹ Chief Justice's Practice Note on police questioning, Point 1.

to the provisions of the OIA (for example in relation to crime statistics or Police policy).

45. However, Police is likely to provide *personal* information to external security consultants only in very limited situations. These situations include:
 - 45.1. where personal information is released with the consent of the individual that the information relates to;
 - 45.2. where the external security consultant represents the victim of a crime (for example a private investigator engaged by an insurance company), and personal information is requested under the provisions of the OIA and release is in the public interest;
 - 45.3. where the information can properly be released pursuant to the provisions of the Privacy Act 1993 (for example to prevent harm to an individual represented by an external security consultant)¹⁰;
 - 45.4. release of personal information under Principle 11(e)(i) of the Privacy Act (that is, to avoid prejudice to the maintenance of the law by a public sector agency).
46. Release of personal information to external security consultants under the Privacy Act or the OIA requires careful consideration. In appropriate circumstances, such as where a private investigator is investigating criminal offending with the intention of handing the resulting investigation file to Police for further action, Police may release personal information that would assist the private investigator to progress their investigation.
47. It would not be appropriate for Police to have a blanket agreement to provide personal information to an external security consultant to assist with their investigations, rather each request for information must be considered on a case-by-case basis. Factors that Police must consider before deciding whether it is appropriate to release personal information will include:
 - 47.1. the age/vulnerability of the individual that the personal information relates to;
 - 47.2. the public interest in releasing the information;
 - 47.3. the seriousness of the offending involved;
 - 47.4. the nature of the information requested;
 - 47.5. whether suppression orders or other statutory restrictions on disclosure of the information exist;
 - 47.6. whether the information is necessary for the external security consultant to conduct their investigation.
48. Particular care is needed by Police employees dealing with personal information relating to children or young people. The Oranga Tamariki Act 1989 youth justice

¹⁰ Principle 11(f)(ii) Privacy Act 1993.

principles emphasise the vulnerability of young people and that their well-being is paramount.

49. Protecting privacy is one way in which their well-being is protected. In particular, the Act provides that 'the vulnerability of children and young person's entitles them to special protection during any investigation relating to the commission or possible commission of an offence'.¹¹
50. Disclosure of a child or young person's personal information or information relating to their alleged offending should be guided by the Oranga Tamariki Act. These information requests must be considered with the increased necessity for privacy in mind along with an understanding that any information relating to offending that could ultimately be dealt with by the Youth Court may be automatically suppressed. Information that identifies a child or young person as an offender or that details their offending should be released only where the requestor can show a genuine need to know the information, and the officer is satisfied that the information release is in the best interests of the child or young person.

The detail in the Police Instructions guided the drill-down into specific matters of potential concern

51. Police instructions reviewed for their relevance to the investigation included the chapters on:
 - 51.1. Departmental security: whether governance, management and implementation of the provisions of the New Zealand Information Security Manual and, in particular, the Protective Security Requirements were in place and followed;
 - 51.2. Information security and assurance: in particular, checking that all Police employees engaging with external security consultants were striking the right balance between making use of the best available information, while also protecting official and personal information from unauthorised and unnecessary disclosure;
 - 51.3. Intelligence: checking that intelligence collected by Police employees was collected lawfully, used appropriately and shared in a lawful manner;
 - 51.4. Surveillance: While not directly relevant, as Police would not task external security consultants to undertake any surveillance activities, it was important to provide assurance that Police employees have operated lawfully in this domain;
 - 51.5. Private Security Personnel and Private Investigators: which includes Police's role in the vetting of applications for licences and certificates of approval under the Private Security Personnel and Private Investigation Act 2010, and complaints against licence and certificate holders under the Act that Police may be required to investigate;

¹¹ s 208(h) Oranga Tamariki Act 1989

- 51.6. Private Investigators' Requests to Police for Assistance: which deals with the management of requests for assistance and referral of complaint files alleging criminal behaviour received from private investigators; and
 - 51.7. The New Zealand Security Association Letter of Agreement with Police: that sets out the relationship for cooperation between the parties (and by definition, their respective employees) to reduce crime and increase community safety;
 - 51.8. Office of the Ombudsman;
 - 51.9. Office of the Privacy Commissioner; and
 - 51.10. Privacy and Official Information.
52. The main Government document of relevance that was reviewed was the *New Zealand Information Security Manual*, in particular, the Protective Security Requirements sections.¹²
53. Police personnel in risk assurance and security roles were consulted on the implications of these policies for issues being considered in the investigation.

Key areas of enquiry/questions in mind during the review of various information holdings

54. The investigation was focussed throughout on a range of areas of concern, including, but not limited to, whether any Police employee:
- 54.1. engaged any external security consultant, for any reason;
 - 54.2. asked any external security consultant to conduct any activities on Police's behalf that would not be lawful for Police to conduct, and if so, what action was taken by Police as a result;
 - 54.3. received any information from any external security consultant that was or may have been obtained unlawfully, and if so, what action was taken by Police as a result;
 - 54.4. unlawfully or inappropriately disclosed information to any external security consultant.
55. In relation to financial matters, the investigation involved checking whether Police have paid any external security consultant for any services, excluding routine expenditure such as guarding crime scenes or installing/monitoring Police Station alarm systems.
56. Due to concerns raised about suspected surveillance of citizens engaged in legitimate protest activity, the investigation paid particular attention to any information about activities related to IMGs.

¹² A full list of Police Instructions reviewed in the context of this investigation is at Appendix I.

57. Senior managers involved in covert policing were consulted to ascertain whether Police engaged with external security consultants in any aspect of covert investigative activities.

FINDINGS

58. The Police investigation found that Police engagement with external security consultants across New Zealand Police was generally appropriate and lawful, with a few isolated exceptions. There is no evidence that Police has ever tasked Thompson and Clark or any other external security consultant to conduct, or assist with any Police surveillance activities. Likewise, there is no evidence that Police has ever used information provided by external security contractors inappropriately, or with the knowledge that the information was unlawfully obtained.
59. A number of instances were identified where the actions of individual Police employees may have been inappropriate. Most of these cases related to information disclosed to an external security consultant (Thompson and Clark) to assist with their investigative activities. Sixteen cases have been referred to Police Professional Conduct for further assessment and action as required.
60. The findings section summarises the significant areas of Police's engagement with external security contractors over the period 2003 – 2018, followed by discussion of areas of concern that were identified, and what action has been taken to address them to date.

Police engagement with external security consultants

61. Although Police have engaged with several external security consultants and companies over many years, most of this interaction has been for routine policing activities such as guarding crime scenes, providing security services at public events, responding to information requests from insurance investigators and monitoring Police station alarm systems. Police's interactions with external security consultants that fall outside these 'business as usual' activities were found to be almost exclusively confined to Thompson and Clark, or with companies owned by Thompson and Clark Director Gavin Clark and former Director Nicolas Thompson.

Investigating activities of issue motivated/protest groups

62. Police's engagement with Thompson and Clark started in 2003 when Gavin Clark and Nicolas Thompson formed the company, specialising in providing security risk management services for clients targeted by IMGs. Where Thompson and Clark learned of suspected unlawful activities, they gave this information to Police on behalf of their clients. This relationship involved a one-way flow of information that enabled Thompson and Clark to protect their clients' interests, and enabled Police to provide an appropriate and proportionate response.
63. Allegations that Police were collaborating with Thompson and Clark to monitor animal rights activists first surfaced in the media in the early 2000s, including a report that Police and Thompson and Clark shared a paid informant.¹³ The investigation

¹³ <https://www.stuff.co.nz/national/107025400/call-for-inquiry-into-problematic-police-use-of-private-investigators>

found no evidence that this had in fact occurred, or that Police has released information to Thompson and Clark about activists involved in animal rights issues.

64. In early 2014, the Taranaki Oil and Gas Security (TOGS) group was set up to manage threats to the oil and gas industry in the Taranaki region posed by IMGs. Participants included Police, senior industry representatives and their contracted security consultants. Most of the TOGS meetings were held in New Plymouth, although one meeting in September 2015 was held in Wellington. The meeting in Parliament's National Crisis Management Centre (also known as 'the bunker') was organised with the approval of the Department of the Prime Minister and Cabinet (DPMC), and participants were subject to standard security procedures. DPMC (as the managers of the facility) were in attendance.
65. Thompson and Clark is a member of the Petroleum Exploration and Production Association of New Zealand (PEPANZ), supplying security risk management services to the group, particularly around their annual conferences. In this role, Thompson and Clark has worked closely with Police district operational commanders to co-ordinate responses to any unlawful activities or threats to public safety.
66. The Mineral Exploration Joint Intelligence Group (MEJIG) was established in 2012 to co-ordinate across government the enforcement of the Crown Minerals Act 1991, including responding to disruption and threats to the oil exploration industry posed by IMGs. The MEJIG membership included Police, New Zealand Defence Force, MBIE, Maritime New Zealand, industry representatives and their contracted security consultants. TCIL represented a number of the oil exploration companies in this forum, and have been actively involved in the activities of the group. Their contribution to the MEJIG includes identifying security concerns and providing intelligence to the members about potential disruptions to mineral exploration by IMGs, gathered from various sources. It is intended that the MEJIG group continue but within a strengthened governance and operational model.

Investigation of criminal offending

67. From time to time, Thompson and Clark has reported offences to Police arising from investigations conducted on behalf of commercial clients. Interaction with Police employees in this regard has included providing initial information, facilitating further enquiries with their clients and liaising with Police officers-in-charge (OCs) to ensure their clients are kept up to date with case developments.
68. One typical example of this interaction was during Operation Concord. In 2014, a Police investigation commenced into an individual threatening to contaminate milk powder with 1080 poison. [REDACTED] s9(2)(b)
[REDACTED]
[REDACTED]. Police engaged with Thompson and Clark to investigate the handling of the threat letter and to identify potential suspects. The interaction between Police and Thompson and Clark was professional on both sides and in accordance with Police policies and procedures.
69. Another example of this type of engagement occurred in October 2017. Thompson and Clark approached Police regarding a \$400,000 theft of butter [REDACTED] s9(2)(b)
[REDACTED] with product being sold in dairies throughout the North Island. An

investigation had already been conducted by Thompson and Clark [REDACTED]

[REDACTED]
[REDACTED] Thompson and Clark provided their investigative information to Police, and Counties Manukau Criminal Investigation Branch (CIB) initiated a criminal investigation. The operation involved Detectives working closely with Thompson and Clark investigators and resulted in the arrest of four offenders for burglary and receiving offences.

s9(2)(b)
& s6(c)

70. Concern has been expressed in the media about Police's interaction with Thompson and Clark in relation to their contract with Southern Response Earthquake Services (SRES), the Crown-owned entity established to manage claims arising from the 2011 Christchurch earthquake. Thompson and Clark were engaged by SRES to provide security risk management services, particularly in relation to SRES's concerns about their exposure to threats and disruption to their activities. In 2013, Thompson and Clark Director, Gavin Clark, contacted Christchurch Police and advised them of correspondence a SRES Board member had received from a dissatisfied client. SRES and Thompson and Clark considered the communication threatening in nature, and requested Police assistance. A Police officer visited the individual concerned and assessed that he did not pose any threat to SRES personnel. The investigation found no evidence of any impropriety by any Police employee in relation to interaction with Thompson and Clark, SRES or any individual during that enquiry, and no evidence that Police was conducting surveillance on clients of SRES, or tasking Thompson and Clark to do so.
71. Thompson and Clark has had a significant level of interaction with Police through their role in investigating graffiti offending in the Auckland area. Since 2013, Thompson and Clark have been contracted to the Auckland City Council to investigate reports of graffiti across Auckland, analyse this information and report the most serious cases to Police for follow-up. This initiative involves Thompson and Clark investigators seeking to identify and interview graffiti offenders, and they have regularly sought information from Police to assist this process.

Provision of security services

72. Police commenced an investigation into the Pike River mine explosion on 19 November 2010. ProVision Security, a company owned by Thompson and Clark Director Gavin Clark and former Director Nicolas Thompson, was engaged by Pike River Coal Ltd (the mine's owners) to secure the mine after the incident. When Pike River Coal went into receivership a short time later, Police agreed to take over responsibility for securing the scene and meeting the costs of ProVision's operations over the following three month period. Police was subsequently reimbursed for those costs by Pike River Coal's insurers.
73. In 2015, a Counties Manukau crime prevention initiative named Operation Cylinder was launched, involving Police, Housing New Zealand, Cyclops Monitoring Ltd and Vodafone NZ. Cyclops Monitoring is a company providing security services and is owned by Thompson and Clark Director Gavin Clark and former Director Nicolas Thompson. Vodafone contracted Cyclops Monitoring to install cameras in 15 Housing New Zealand properties to address a growing burglary problem, with Police providing a response capability. The initiative resulted in the apprehension of a

number of offenders and is a good example of government agencies and private companies working together effectively to solve a crime problem.

Representation on working groups

74. Police established the Crime Prevention Partnership Forum in 2009, to identify crime prevention opportunities and improve investigation outcomes for both government and private organisations. Nicolas Thompson from Thompson and Clark became a member of this group, representing the New Zealand Institute of Professional Investigators until the Forum was disestablished in 2014. Thompson and Clark's involvement in this group contributed to establishing important prevention networks and to progress initiatives to detect and prevent criminal offending.

Areas of concern identified in the investigation:

Inappropriate release of personal information by Police employees¹⁴

Auckland City Council Graffiti project

An Auckland City Council Graffiti project was found to have led to multiple instances of information disclosure by Police employees to Thompson and Clark that may have been inappropriate and require further consideration by Police Professional Conduct

75. In 2013, Auckland City Council established a project to target graffiti offending. The (then) Auckland Mayor Len Brown wrote to the (then) Assistant Commissioner, Upper North requesting Police assistance to work with Council to target graffiti offenders and help to reduce crime.¹⁵ Auckland Council contracted Thompson and Clark to co-ordinate this project on their behalf. The contract required Thompson and Clark to investigate incidents of graffiti (intentional damage) and file complaints with Police in the most serious cases.
76. The (then) Auckland City District [REDACTED] was appointed to oversee s9(2)(a) Police involvement in the initiative. This Police employee provided a number of key communications to others that formed the basis of the working relationship between Police and Thompson and Clark:
- iv) an email dated 29 April 2014 sent to the three Auckland Districts Leadership Teams and requested Districts 'cooperate as fully and speedily as possible with Thompson and Clark...'¹⁶
 - v) a memo sent to the three Auckland File Management Centre Managers on 26 March 2015, requesting that they provide 'every assistance possible to support Thompson and Clark...';¹⁷
 - vi) a letter sent to Thompson and Clark director Gavin Clark on 21 January 2016 pledging Police support to the graffiti project. The letter stated that Police

¹⁴ A copy of report prepared by a member of the investigation team summarising details of sixteen individuals referred to Police Professional Conduct (most of which relate to the Auckland Graffiti Project) is attached at Appendix J.

¹⁵ Letter from Allan Boreham to the Auckland Mayor confirming Police's assistance is attached at Appendix K.

¹⁶ A copy of the email is attached at Appendix L.

¹⁷ A copy of the memo is attached at Appendix M.

could provide personal information to Thompson and Clark under the provisions of the Privacy Act.¹⁸

77. Thompson and Clark has used these documents to engage with various Police employees from CIB, Youth Services and intelligence units, citing these documents as approval to release information. Many Police employees have proceeded to release personal information, obtained from the Police National Intelligence system (NIA) and other sources, largely about suspects for graffiti offending. A number of the suspects were young people.
 78. The investigation identified six Police employees who have released personal information in relation to the graffiti project that may have been inappropriate.
 79. The actions of the six Police employees and the (then) Auckland City District [REDACTED] have been referred to Police Professional Conduct for consideration of further action, in accordance with normal Police employment processes. s9(2)(a)
 80. Auckland City Council has recently renewed the contract with Thompson and Clark to investigate graffiti offending. A single contact point in Auckland File Management Centres has now been appointed to manage requests for information from Thompson and Clark, with all information releases now required to be approved by a senior officer.
- The investigation identified a further nine Police employees who have disclosed information to Thompson and Clark in circumstances that may have been inappropriate*
81. In 2004, a [REDACTED] disclosed the result of a telephone trace to Gavin Clark of Thompson and Clark, after threats were made to a Thompson and Clark client. s9(2)(a)
 82. In 2011, a [REDACTED] released personal and vehicle registration information to Thompson and Clark, about an individual exhibiting suspicious behaviour near a Thompson and Clark client's premises. s9(2)(a)
 83. In 2014, a [REDACTED] emailed Thompson and Clark the personal details of a burglary victim and suggested that Thompson and Clark may be able to help provide security services to the victim. s9(2)(a)
 84. In 2014, a [REDACTED] released personal address and vehicle registration information to a Thompson and Clark employee about a suspect who had threatened the employee. s9(2)(a)
 85. In 2015, a [REDACTED] provided Thompson and Clark with personal information about a suspect who had threatened a Thompson and Clark client, including vehicle registration details sourced from NIA. s9(2)(a)
 86. In 2017, a [REDACTED] provided Thompson and Clark with vehicle registration information about a suspect for a burglary of a client's premises. s9(2)(a)

¹⁸ A copy of the letter is attached at Appendix N.

87. In 2013 and 2017, a [REDACTED] provided information to Thompson and Clark in the course of responding to threats posed by IMGs. This consisted of information [REDACTED] s9(2)(a)
[REDACTED] s6(c)
88. Between 2012 and 2018, a [REDACTED] shared information on a number of occasions with a Thompson and Clark staff employee, [REDACTED] s9(2)(a)
[REDACTED] s9(2)(a) The information disclosed included a non-sensitive presentation [REDACTED] and other presentations containing personal information about Asset Recovery Unit (ARU) targets. It appears that these presentations were [REDACTED] s9(2)(a)
[REDACTED] and not for use by Thompson and Clark. The employee resigned from Police in [REDACTED]. s9(2)(a)
89. The actions of the nine Police employees have also been referred to Police Professional Conduct for consideration of further action, in accordance with normal Police employment processes.

Unauthorised secondary employment of serving Police officers by private security companies

90. As part of the investigation, searches of Police Professional Conduct databases were conducted, and particular attention was paid to instances where serving Police employees had undertaken activities on behalf of external security consultants. Four incidents of concern were identified.
91. In 2011, an [REDACTED] was found to have undertaken surveillance duties for an external security consultant on a single occasion without Police's knowledge. s9(2)(a)
92. In 2012, a [REDACTED] was found to be the owner/shareholder of a commercial security alarm company. s9(2)(a)
93. In 2016, a [REDACTED] was found to be working in a security role at a public event. The officer had become involved in an incident with a member of the public, and was charged and convicted of assault. s9(2)(a)
94. Employment investigations were initiated at the time in relation to the above three Police employees, and all have now been dealt with in accordance with Police employment processes.
95. The investigation also identified a serving [REDACTED] with a close relationship with Thompson and Clark, who may have undertaken paid off-duty surveillance work for the company in 2007 and 2008. This employee also may have released sensitive Police information to Gavin Clark. Information about these matters has been referred to Police Professional Conduct for further consideration. s9(2)(a)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

101. [REDACTED]

[REDACTED]

Police employee behaviour in conflict with Police values

103. A pattern emerged during the investigation that illustrates the methods and strategies used by Thompson and Clark to obtain co-operation and information from Police employees.

104. Initial contact between Thompson and Clark and individual Police employees appeared professional and formal, but in some instances, the liaison developed into overly familiar relationships, characterised by:
- i) increasingly informal and casual language in business correspondence;
 - ii) provision by Thompson and Clark of refreshments and ‘morning teas’ for Police groups which assist their investigations;
 - iii) development of personal relationships between Thompson and Clark and particular Police employees;
 - iv) Thompson and Clark requests for meetings outside normal business hours, often on licensed premises;
 - v) ongoing requests to selected Police employees by Thompson and Clark for personal information, outside standard information request processes.¹⁹
105. Recommendations are made in this report to amend Police policy concerning interactions with external security consultants, to minimise risk of compromise to Police employees from future engagements with these companies.

RECOMMENDATIONS

106. Overall, the results of this investigation should give the Commissioner of Police a degree of confidence that robust governance, management, policy and operational protocols are in place and functioning well in respect of Police engagement with external security consultants. The extensive and detailed enquiries made across a very large amount of information from multiple sources, dating back to 2003, shows no evidence of any systemic wrongdoing. There is no evidence of any corruption or criminal offending by Police employees, nor is there any evidence of Police asking private investigators to conduct surveillance activities on Police’s behalf – one predominant concern that prompted the commissioning of the SSC Inquiry.
107. The isolated instances of potential inappropriate behaviour that have been found are concerning, as any such failing can impact on the public’s trust and confidence in Police as a whole. The investigation has highlighted a number of systems and processes that the Police Executive may wish to direct further work on that could help to reduce future risks. The recommendations in this report arise from the handful of instances where the actions of Police employees may have fallen short of the required standard, or where opportunities to improve Police policy and procedures have been identified.

More training and awareness is needed around personal information disclosure, maintaining professional distance and avoiding conflicts of interest when interacting with external security contractors

108. In general, Police engagement with external security consultants over the last 15 years has been professional and appropriate. However, a number of examples were identified that highlight risks to Police of these interactions, particularly around the

¹⁹ An extract of the intelligence phase report is attached at Appendix O – for reference.

issues of releasing information, engaging in unauthorised secondary employment and managing conflicts of interest.

109. The instances where serving Police officers have been at risk of compromise highlights a risk to the integrity of Police operations, and have the potential to undermine public confidence in Police. There is a need to remind Police members of the need to keep any relationship with external security contractors professional, to ensure that every request for personal information is considered on a case-by-case basis with the relevant policy and legal provisions in mind, and to seek advice where there is any doubt.
110. The investigation identified a significant number of occasions where Police employees have released information to private investigators to assist with their enquiries conducted on behalf of commercial clients. Information requests were often informal, not always directed to the Police employee best placed to make a decision about whether disclosure was appropriate, and often appeared to have been processed without seeking appropriate advice.
111. A number of Police employees have released information to external security consultants in situations that may have been inappropriate. In particular, information about alleged offending by children and young people was released without the necessary consideration of the increased level of privacy protection required in many of these cases.
112. Police policy and guidelines around managing requests for information of this nature are inconsistent and difficult for staff to locate and use. A new information request application introduced by Police in 2018 is not widely used for requests for personal information of the type identified in this investigation, increasing the risk that information will be released without the checks and approvals that this system would otherwise enforce.
113. **It is recommended that Police policy and training in the area of Information Management and Disclosure be reviewed and enhanced to highlight the risk of disclosing personal information to external parties, particularly where the information relates to children or young people.**
114. **It is recommended that all requests for personal information are managed using a consistent process or system, to ensure that appropriate approvals are obtained before information is released.**
115. **It is recommended that the Police Executive issue a reminder to all staff about the need to maintain professional distance in all relationships with external security consultants.**
116. **It is recommended that Police policy and training in the areas of managing conflicts of interest and maintaining professional distance be amended to highlight the particular risks of interacting with external security consultants.**

Procurement protocols and government requirements around tendering processes may need to be given greater attention, particularly in contracting undertaken by Police Districts

117. Decisions to contract external security consultants made at Police District level were scrutinised, to ensure rigour and thorough consideration of all forms of interaction. While the investigation found no instances of concern in contracting records, this report notes the concerns expressed by both the Finance and Risk and Assurance teams at Police National Headquarters about a potential lack of awareness of, or a lack of observance of Treasury guidelines for tendering of contracts above a certain value, particularly at District level. While the investigation did not uncover any such cases, the discussion points to a more generalised concern that tendering procedures in general (not just in relation to external security contractor engagement) are not well understood in Police as a whole, and particularly in Districts. There is an opportunity provided by this investigation to review management practices for procurement (especially at District level), training; centralised record-keeping of contract documents; oversight; and audit of procurement practices, particularly in relation to tenders of over \$100,000 value, but also those between \$10,000 - \$100,000.
118. **It is recommended that the general procurement issues raised in the course of inquiries made in this investigation be referred to the Risk and Assurance team for review.**

Participation of external security contractors in multi-agency forums needs to be subject to protocols that keep their involvement and influence within appropriate limits

119. The investigation noted the involvement of external security consultants in a number of multi-agency forums, including the MEJIG, TOGS, PEPANZ and the Crime Prevention Partnership Forum. These groups involved sharing of information and resources to achieve the goals of the members. It is entirely appropriate for external security consultants to actively participate in groups where private organisations and industry representatives partner with Police or other government agencies to address a problem of concern. In these cases, it is essential that the group establish Terms of Reference and agree on information-sharing parameters at the time the group is set up. Where, however, a government multi-agency group is formed to co-ordinate the government's response to an issue, membership of the group should be restricted to government agencies. Contributions from outside groups or private companies to the group's activities should be managed carefully, to avoid conflict of interest situations from arising.
120. **It is recommended that where multi-agency groups or forums are formed involving Police and external non-government parties, clear Terms of Reference and information sharing agreements are established. Where set up to co-ordinate a government response to an issue, external non-government parties should be excluded from membership of the group.**

[REDACTED]

s6(c)

[REDACTED]

s6(c)

[REDACTED]

[REDACTED]
[REDACTED]

s6(c)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CONCLUSION/FURTHER ACTION NEEDED/DISSEMINATION OF REPORT

123. It is recommended that a public facing version of this report (with appropriate redactions) be disseminated by publication on the New Zealand Police website.
124. It is recommended that Police issue a public/media statement at the time of publication of the public version of the report.

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Appendix A: Letter Commissioning Police Internal Investigation



28 September 2018

Assistant Commissioner: Investigations
POLICE NATIONAL HEADQUARTERS

INVESTIGATION OF POLICE USE OF EXTERNAL SECURITY CONSULTANTS

In March 2018 the State Services Commissioner ordered an Inquiry into the use by Southern Response Earthquake Services Limited (SRES) and the Ministry of Business, Innovation, and Employment (MBIE) of external security consultants (the SSC Inquiry) including but not limited to Thompson & Clark Investigations Limited (TCIL).

In June 2018 the SSC Inquiry was extended to enable the Inquiry to examine and report on the nature and extent of engagement between State Services agency employees and representatives of TCIL. The SSC has engaged Mr Doug Martin of Martin Jenkins Limited to undertake the Inquiry.

Police are not within the terms of reference for the SSC Inquiry. However, in light of public concerns regarding engagement of external security consultants, and given the SSC Inquiry process, it is appropriate that Police actions regarding external security consultants is closely considered.

I therefore direct you to undertake an investigation based on the Terms of Reference **attached** to this memorandum.

While the Terms of Reference relates to formal and structured engagements with external providers, to have the Trust and Confidence of all, it is also relevant to consider whether the conduct of Police staff around these engagements meets ethical standards consistent with the New Zealand Police values and Code of Conduct.

For the purpose of providing such assistance to the Police investigation as may be required, you should liaise with Mr Doug Martin.

You are to report to me on this investigation by 24 October 2018.

Michael Clement
Deputy Commissioner

Police National Headquarters

180 Molesworth Street. PO Box 3017, Wellington 6140, New Zealand.
Telephone: 04 474 9499. Fax: 04 498 7400. www.police.govt.nz

Appendix B: Terms of Reference for Police Internal Investigation

AN INVESTIGATION OF POLICE ENGAGEMENT OF EXTERNAL SECURITY CONSULTANTS Terms of Reference

The investigation will identify and report on:

1. Whether Police has engaged with any external security consultants, including but not limited to Thompson & Clark Investigations Limited (TCIL), the circumstances of and reasons for any such engagement, and the nature and outcomes of the engagement with external security consultants by Police.

Without limiting its scope, the Investigation will specifically report on:

2. Whether or not surveillance activities were undertaken by any external security consultants on behalf of Police and, if so:
 - (a) The nature of any such surveillance, either generally or relating to specific individuals;
 - (b) The extent to which Police requested that surveillance, and/or received information relating to that surveillance;
3. Any actions undertaken as a result of information received;
4. Any internal or external advice to Police relating to or produced as a result of engaging with external security consultants and/or any monitoring undertaken, including but not limited to advice relating to potential disclosure of the existence, nature or circumstances of any surveillance undertaken;
5. Governance and reporting mechanisms (or lack thereof) relating to engagement with security consultants; and
6. Whether or not, and the extent to which, any matters identified by the Investigation may have amounted to a breach of the New Zealand Police Code of Conduct.

Michael Clement
28 September 2018

Appendix C: Public Statement from Commissioner of Police

MEDIA STATEMENT:

Police to investigate use of external security consultants.

Police has commenced an investigation into the use of external security consultants.

In June 2018 the State Services Commissioner announced the widening of the inquiry headed by Mr Doug Martin into the use of external security consultants to cover all of the State services.

Commissioner of Police Mike Bush says that while Police are not within the scope of this inquiry for legislative reasons, it's important our actions are open to investigation:

"We recognise public concerns about the use of such consultants by state sector agencies" says Mr Bush.

"Our vision is to have the trust and confidence of all and it is appropriate that Police actions in this regard are closely considered to ensure we meet the expectations of the public and our own ethical standards.

"We are committed to ensuring that our investigation is consistent with the intent and purpose of the State Services Commission inquiry" says Mr Bush.

Police will liaise closely with the SSC inquiry team and seek guidance as appropriate to ensure that its own investigation is robust, transparent and conducted with the same rigour as the SSC process.

A senior detective will lead the police investigation, which is due to be completed by the end of October.

Police are also today releasing its terms of reference for the investigation. No further comment will be made until the investigation is completed. **END**

APPENDIX 2: THOMPSON AND CLARK AND ASSOCIATED COMPANIES

THOMPSON & CLARK INVESTIGATIONS LIMITED (1287169)

EYELA LIMITED (5679387)

CYCLOPS MONITORING LIMITED (4458600)

BIKINI RED LIMITED (2354132)

CLARK & BOTICA HOLDINGS LIMITED (1211435)

CLARK CAPITAL LIMITED (6276850)

[REDACTED]

s9(2)(b)

THOMPSON CAPITAL LIMITED

THOMPSON TRUSTEE (2011) LIMITED (3430191)

Associated URLs

<http://www.tcil.co.nz/>

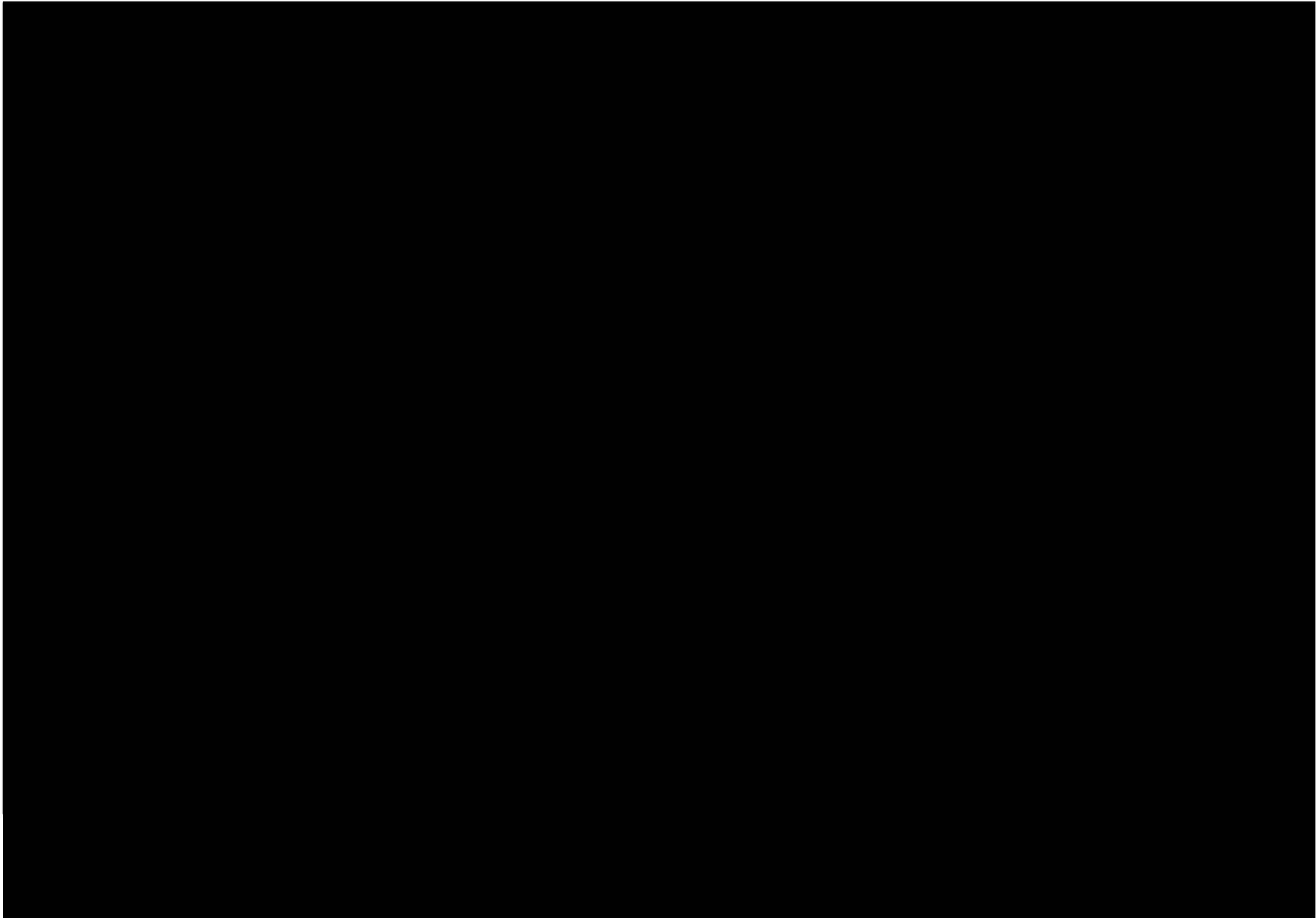
<http://www.cyclopsmonitoring.com/>

[REDACTED]

s9(2)(b)

[REDACTED]





Appendix F: Summary of Police Information Holdings Searched

Summary of what was checked, how and the outcomes.

The checking of the names of persons and organisations associated to Private Investigation and Security type companies that New Zealand Police have/had an interaction with followed the below criteria.

1. Known real names of organisations and the staff employees identified as working for those organisations.
2. Various combinations of names, common spellings and abbreviations of names (i.e. Timothy, Tim; Clark, Clarke; Sean, Shaun, Shawn). This was to ensure that we could pick up misspellings and duplicates of the same people or companies.
3. The main databases that were checked for both historic and current information were: Criminal Investigation Database (CID), Investigator, National Intelligence Application (NIA) and the Real Time Intelligence for Operational Deployment (RIOD). Also included were Crystal Drives, HR and PPC systems, Finance, Procurement, MEJIG mail box, Lotus Notes, Outlook Mail systems and POLNET.
4. The types of checks that were run were entity based (person, organisations), text based (key words) and Business Objects queries.

The below table provides a basic summary of the number of persons, organisations, documents and occurrences that were review from the four main data sets.

Type Of Query	Number of Searches Run	Documents Reviewed	Miscellaneous Counts
CID (Person – Entity/Text)	196	10761	
CID (Organisation – Entity/Text)	74	1790	
Investigator (Person – Entity/Text)	196	17691	
Investigator (Organisation – Entity/Text)	74	1812	
NIA (Person – Entity)	63	584	584 Occurrences reviewed
NIA (Organisation – Entity)	25	751	751 Occurrences reviewed
RIOD (Person –Text)	98	281	
RIOD (Organisation –Text)	37	1052	
Op Exploration - Hard Copies	1	1500	
Information Request System (OIA, Privacy)			4 current
IAPro	3	3	35000 Incidents
HR file system	3	3	documents numbering in the hundreds of thousands
Multiple Crystal Drives	Hundreds	documents	documents numbering in the millions
Procurement - companies	25	3	
Finance - companies	25	3	23000 companies and entities searched against
MEJIG Shared Mailbox	3	3170	
Lotus Notes & Outlook Mail	17	14054	
High Side System	35	749	Searched against 50000+ documents
Total		54207 (excl Crystal drives)	

Appendix G: List of People Who Were Formally Interviewed

List of Interviewees for the investigation

s9(2)(a)

[illegible]

Appendix H: Interview Schedule used to Guide Formal Interviews

Interview plan – Police interviews

Investigation into Police engagement with external security consultants

Interview method:

Personal interview on Police premises and signed written statement, using e-signed MS Word witness interview form (Police tablet required).

Interview objective:

Identify all information within knowledge of witness about any interaction between Police and external security consultants (including, but not limited to Thompson & Clark Investigations Ltd (TCIL)).

1. Witness coversheet

- Witness details – contact details, excluding home address
- Case details – case number 181002/0355
- Consent details – not required.

2. Background

- Rank, current role, length of Police service.
- Reason for interview.

3. Knowledge of Police interaction with external security consultants

- Time/date/place
- Role within Police at time
- Purpose and circumstances of interaction
- Companies and individuals involved
- Any contractual arrangement
- Role of external security consultant
 - duties
 - training provided
 - supervision and reporting arrangements
 - internal governance/approval framework
- Meetings held
- Records kept, including notebook entries
- Contact details of relevant companies and individuals, incl. email addresses
- Email communications
- Information received from relevant companies or individuals
- Information supplied to relevant companies or individuals
- Access to Police information systems
- Any requests or tasks directed by Police to relevant companies or individuals
- Payments made by any party, including purchase or gifting of goods or services
- Action taken as a result of information received
- Further interaction.

4. Other relevant matters

- Personal interaction with external security consultants
 - personal relationships
 - interaction outside work
 - social interaction
- Interaction since state services commission enquiry established
- Any other Police employee known to have involvement with relevant companies or individuals
- Any other information of relevance to investigation.

Appendix I: Police Instructions Reviewed in the Investigation

List of Police Instructions reviewed for the investigation

- [Code of Conduct](#) for Police
- [REDACTED] chapter s6(c)
- [Departmental security](#) chapter:
 - [Part – Managing security risks in policing](#) (implementation and management of effective protective security governance within Police)
 - [Part – Personnel security](#) safety of employees, service providers and people and security clearances
- [Part 15 – Government agency requests for assistance with search warrants and production orders](#) in the 'Search' chapter
- [Information security and assurance](#) chapter – [Part: Compliance requirements for information security](#) (specifically [compliance with security of information](#) and requirements of employees to make best use of available information whilst at the same time mitigating risks such as those associated with information loss)
- [Intelligence](#) chapter:
 - [Part – Collection management](#)
 - [Part – Intelligence for investigations](#)
 - [Part – The intelligence cycle](#)
- [New Zealand Information Security Manual \(NZISM\)](#)
- [New Zealand Security Association](#) Letter Of Agreement
- [Office of the Ombudsman](#)
- [Office of the Privacy Commissioner](#)
- [REDACTED] chapter s6(c)
- [Police vetting service](#) chapter re the [Private Security Personnel and Private Investigators Act 2010](#))
- [Privacy and official information](#) chapter
- [Private Investigators requests to Police for assistance](#) chapter
- [Private Security Personnel and Private Investigators](#) chapter
- [Surveillance](#)

Appendix J: Referral Report to Police Professional Conduct



National Criminal Investigations Group

Police National Headquarters
180 Molesworth Street, PO Box 3017, Wellington
Phone +64 4 474 9499 Fax +64 4 499 2152

TO: National Manager Police Professional Conduct
FROM: [REDACTED] s9(2)(a)
DATE: 14 November 2018
SUBJECT: Enquiry into Police engagement with external security consultants

STAFF: IN CONFIDENCE

1. INTRODUCTION

As discussed last week, Police has undertaken an investigation into our interaction with external security consultants, including private investigators such as TCIL Investigations Ltd (TCIL) between 2003 and the present.

The investigation is now complete, with a report currently being prepared for the Commissioner.

The investigation included a search of Police email systems, and has identified sixteen Police employees that appear to have breached the Police code of conduct. Two of these employees do not seem to be currently employed by Police (verification is required).

Due to the email phase of the enquiry being completed at a very late stage of the Police enquiry due to the length of time taken to extract the data, these officers have not yet been made aware of these issues and explanations for the matters below have not been sought to date.

2. BACKGROUND

In September 2018, the Commissioner directed that we undertake an internal investigation based on the principles of the State Services Commission inquiry currently underway. Whilst Police do not fall within the SSC inquiry, the Commissioner sought an assurance that any engagements with external security consultants met ethical standards consistent with the New Zealand Police values and Code of Conduct.

In regards to the terms of reference for the enquiry, the investigation aimed to identify whether Police has engaged with any external security consultants, including but not limited to Thompson & Clark Investigations Limited (TCIL), the circumstances of and reasons for any such engagement, and the nature and outcomes of the engagement.

The investigation included conducting searches across all Police information systems, including the Police email system, back to 2003. Approximately 13,000 Police emails were

These incidents are summarised below, to inform the meeting to be held at PNHQ on Thursday 15 November 2018.

3. MATTERS IDENTIFIED

s9(2)(a) - rest of document

[illegible]

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[REDACTED]

[REDACTED]

[REDACTED]

National Criminal Investigation Group

PNHQ

14/11/18

Appendix K: Letter from Police to Auckland Mayor: Graffiti Project

T/A



482 Great South Road, Otahuhu, Auckland
PO Box 22 142, Otahuhu, Auckland 1640
Phone +64 9 259 5912, Fax +64 9 270 4628

09 APR 2013
MAYORAL
OFFICE

His Worship, Mayor Len Brown
Auckland Council
Private Bag 92 300
AUCKLAND 1142

Dear Mayor Brown

GRAFFITI VANDALISM

Thank you for your letter of 15 March 2013 advising of the recent launch of the Auckland Graffiti Vandalism Prevention Plan.

NZ Police supports this Council initiative and notes the strong partnership we have had with Council in the past in combating graffiti. We look forward to continuing to work with the Council on this issue.

[REDACTED] Auckland City, will be the initial contact with regard to working with Council staff to develop the logistics of the work that may be requested from Police.

s9(2)(a)

[REDACTED] may be contacted by e-mail – [REDACTED] or directly by telephone on [REDACTED]

s9(2)(a)

Yours faithfully

A handwritten signature in black ink, appearing to read 'Allan Boreham'.

Allan Boreham
Assistant Commissioner: Upper North

Safer Communities Together

Appendix L: Email to Auckland Districts 29 April 2014: Graffiti Project

From: [REDACTED] s9(2)(a)
Sent: Tuesday, 29 April 2014 9:22 a.m.
To: [REDACTED] s9(2)(a)
Subject: FW: OIA Request template
Attachments: OIA Request T&C.DOCX; Mayoral Letter Graffiti.pdf; Police reply to Mayor Letter graffiti.pdf

[REDACTED] ACD Team s9(2)(a)

Attached is a letter of support from AC Boreham which commits Police to supporting Auckland Council in its graffiti eradication project.

Basically what has been agreed to is the Council will investigate (through a Private Investigation company – Thompson & Clark) the very worst taggers across Auckland Metro.

Police have committed to supporting the investigation and sometimes prosecution of these offenders. On average this has been 1 or 2 a month for a District.

It is important that Police in each Area/District develop a sound relationship with [REDACTED] s9(2)(a) from Thompson and Clark if you have any repeat tagging issues in particular areas. He may be able to assist or point you in the right direction.

I would like to encourage all three Police Districts to cooperate as fully and as speedily as possible with Thompson and Clark in trying to stop the worst taggers in Auckland Metro.

Attached is an OIA template that you and your staff may be seeing from Thompson and Clark requesting information (normally an address) from Police. Can you please make your all your District/Area staff that deal with taggers aware of this process and the need for support in this matter.

If there are any issues please let me know.

Thank you.

Kind regards

[REDACTED]

s9(2)(a)



[REDACTED]

s9(2)(a)

Auckland City District

Auckland Central Police Station | Cnr Cook and Vincent St, Auckland City | DX#CX10078 |

[REDACTED]

s9(2)(a)

From: [REDACTED]@tcil.co.nz
Sent: Monday, 28 April 2014 15:26
To: [REDACTED]
Subject: OIA Request template

s9(2)(a)

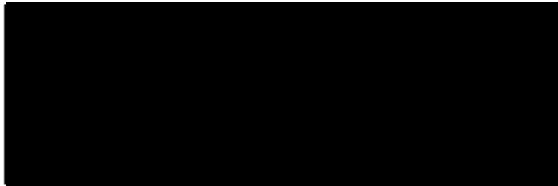
Hi [REDACTED]

s9(2)(a)

Thanks for your help on this one. I've made some further amendments and think we are getting close now.

How does this read?

Cheers,



s9(2)(a)

THOMPSON+CLARK
INVESTIGATIONS LTD / DETECTION / PROTECTION / SECURITY

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Also note, the views expressed in this message may not necessarily reflect those of the New Zealand Police. If you have received this message in error, please email or telephone the sender immediately

Appendix M: Memo to File Management Centres: Graffiti Project



26 March 2015

The Manager
File Management Centres

Auckland City District

Waitematā District

Counties Manukau District

Re: Auckland Metropolitan Graffiti Project

The Auckland Metropolitan District Commanders have committed to working with Council to eradicate graffiti and hold offenders to account for the damage they cause.

In that regard Council have assigned a 3 year contract to TCIL Investigations Ltd to identify, apprehend and deal with the very worst graffiti criminals in Auckland. The offences can range from Criminal Damage to Wilful Damage to Graffiti (Section 11A SOA) depending on the seriousness of offending.

Auckland Metropolitan Police have committed to helping in this process to ensure the effectiveness of the project. Police assistance will sometimes include receiving and entering files, investigation of files, search warrants, locating and interviewing and prosecuting offenders, and entering POI's where necessary. Not all of this assistance will be required in every case and TCIL will normally try to complete the investigation and file without assistance of Police.

However, on occasion it will be necessary for Police to provide assistance of this nature. Bearing in mind this project only deals with the very worst offenders across Auckland please provide every assistance possible to support TCIL in this regard.

Yours faithfully

[Redacted signature]

s9(2)(a)

[Redacted signature]

Auckland Police District

[Redacted signature]

[Redacted signature]
[Redacted signature]
[Redacted signature]
[Redacted signature]

s6(c) &
s9(2)(a)

Appendix N: Letter to Gavin Clark 26 January 2016: Graffiti Project



21 January 2016

Gavin Clark
Director
Thompson and Clark Investigations Ltd (TCIL)
Albany
Auckland

Re: Graffiti in Auckland

Dear Gavin

Thank you for meeting to discuss the Police commitment towards the prevention, detection and prosecution of graffiti in Auckland.

As you are aware, Assistant Commissioner Boreham has made a commitment to work with Auckland Council, and therefore TCIL as the Auckland Council's agent, in addressing graffiti in our city.

In essence the commitment of Police is to help target the very worst offenders committing large amounts of graffiti across the city.

The role of TCIL is to investigate the offences, identify the offenders and present a complete investigation file as possible to Police. Police will then determine whether Youth Aid or prosecution action is possible.

In relation to your query about Police disclosing information to TCIL, it is my view that under Principle 11 of the Privacy Act, Police should be able to provide you with the bare minimum information in which to help TCIL carry out your enquires into graffiti offending. I would envisage that information may be name, address and date of birth. I would not see it necessary to supply any further information unless there was a safety issue involved. The Privacy Act states release of private information may occur where

non-compliance (with the Act) is necessary—

- (i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or
- (ii) for the enforcement of a law imposing a pecuniary penalty;

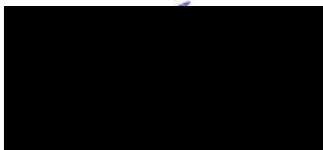
or

(iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation).

If any Police Officer has any concerns around the release of information they should seek the advice of their supervisor or feel free to call me. If Police do not supply the information it is likely that serious criminal offending will go unpunished.

I look forward to continue working with you into the future.

Yours faithfully

A large black rectangular box redacting the signature of the sender.

Auckland Police District

s.9(2)(a)

Appendix O: Extract of Intelligence Phase Report for the Investigation

Police Engagement of External Security Consultants (PEESC)

Intelligence Phase Report

This report will outline the intelligence phase to date and matters of interest as relevant to the PEESC investigation terms of reference.

The following elements form part of the intelligence phase:

- **Connected Companies Chart:** This chart shows the association between Thompson and Clark Investigations Limited (TCIL) and other security related companies. The relationship between TCIL and the other companies is primarily through Nick THOMPSON or Gavin CLARK (or both) in their role as either a current or former Director and/or Shareholder. Further details are included in Appendix One.
- **Primary Entities and Associations:** This chart shows the associations between persons and companies that have been assessed as the primary focus for this investigation. This chart identifies and prioritises current and former employees of the associated companies for the purposes of identifying any potential interactions with Police (in line with the terms of reference).
- **Timeline:** The timeline collates significant interactions between TCIL (and other external security consultants) and Police. Some of these interactions contain matters of interest.
- **Intelligence Holdings Spreadsheet:** This spreadsheet contains specific holdings on identified persons and companies. These holdings are intended as a reference point only and are drawn from documents in the File Management Spreadsheet.

Based on the intelligence phase to date, I can make the following assessment relating to the investigation:

- Interaction with External Security Consultants (ESC) is widespread across many areas of Police, with this engagement contributing to a wide range of crime prevention and investigation initiatives.
- Almost all documents assessed relate to business as usual or routine interactions between Police (NZP) staff and ESC, primarily TCIL, with specific involvement of THOMPSON and CLARK. The information showed no evidence to indicate the tasking of ESCs or payment to ESCs for information.
- Almost all interactions are professional and have been conducted in good faith and in line with organisational protocols and expectations. Numerous examples of good practice have been identified (and several detailed below).
- The interactions between Police and ESC's are generally consistent with the standard practice of Police staff being able to accept and assess information from a range of sources in the execution of their duties.
- Information has been disclosed to external security consultants relating to the provision of case updates to the victim(s) of the offence (including their agents, eg. TCIL), or providing basic information to fulfil legal or privacy requirements in the investigation of an offence (i.e. sharing agreements between Police and external agencies), or as a result of information requests to assist an ESC with an investigation.
- The matters of concern identified in this report relate to specific incidents and/or staff interactions which are likely as a result of inadequate consideration to professional boundaries, perceived conflicts of interest or the legal parameters relating to information disclosure.
- Other than four separate and isolated cases where Police employees may have undertaken unauthorised secondary employment, there are no holdings where there has been an obvious intent to deceive, undermine organisations protocols, or obtain information that Police cannot lawfully obtain themselves (i.e. tasking ESC to obtain intelligence or conduct surveillance).

[Table redacted]

Matters of Interest

The following matters of interest have been identified which highlight interactions and practices that fall within the scope of the terms of reference.

The following themes can be identified across the matters of interest:

- There are several examples of unauthorised secondary employment where Police staff have been approached or engaged to undertake surveillance or security type activity.
- Some interactions could be perceived as a conflict of interest and/or attract a negative perception, particularly when there is confusion between an individual's personal and work capacity.

- [REDACTED] s6(c)
- [REDACTED].
- There is an example where the professionalism of an interaction could attract a negative perception.
- There are several incidents which could amount to a breach of the Privacy Act.

Examples of Good Practice

- The following examples highlight good practice by Police staff during their interaction with ESC:
- [REDACTED] received a phone call from [REDACTED] who described an investigation where TCIL staff were going to act on a target. [REDACTED] if this target was going to be a risk. [REDACTED] indicated that he could not provide any information from Police databases and that [REDACTED] shouldn't ask for this type of information in the future. s9(2)(a)
- [REDACTED] during Operation Exploration declined several invitations to events hosted by major oil companies where TCIL directors or staff were likely to be in attendance as the security consultant. This was a deliberate move to maintain professional boundaries. s9(2)(a)
- There are several examples where Police have worked alongside external agencies and ESC on specific crime prevention initiatives (i.e. Housing New Zealand burglary initiative, Auckland City Council graffiti prevention programme). These operations were managed in a professional manner with a clear understanding of agency roles and purpose of engagement.
- [REDACTED] s6(c) & s9(2)(a)
- [REDACTED] was contacted by [REDACTED] out of office hours with respect to surveillance they were undertaking on a group and potential imminent offending. [REDACTED] assessed the risk and determined it was too high for Police and the public as it involved a potential termination within warrant. [REDACTED] was advised that this type of operation involved too much risk and should not be undertaken. s9(2)(a)
- [REDACTED] was asked by [REDACTED] for an intelligence brief during his involvement with the PEPANZ conference (2017). [REDACTED] refused to provide this brief as he did not believe it was appropriate. s9(2)(a)

Prepared by: [REDACTED]

s9(2)(a)