

Private Investigators and Security Consultants requests to Police for assistance

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Policy statement and principles

What

Private investigators and security consultants interact with Police on a regular basis, and often include requests to Police for assistance. Police interactions and response to requests for assistance from private investigators and security consultants must be lawful, and consistent with [Police values](#) and the [Code of Conduct](#).

Why

An approach based on the above principles ensures Police interact professionally and lawfully with private investigators and security consultants, which will in turn maintain public trust and confidence in Police.

How

Police achieve this principled approach with private investigators and security consultants through:

- maintaining professional distance
- avoiding conflicts of interest
- protecting personal information from unlawful disclosure
- taking particular care with protecting privacy of children and young persons and being guided by the Oranga Tamariki Act 1989
- managing private investigators and security consultants' requests to Police for assistance or information on a case-by-case basis
- conducting, where appropriate, investigations into complaints referred to Police by private investigators and security consultants that meet the Police [expected standard of investigation case](#)
- ensuring, in respect of multi-agency groups or forums involving Police:
 - with non-government agencies (such as private investigators and security consultants), that clear 'Terms of Reference' and information sharing agreements are established at the time of being set up
 - where a government issue arises for a government response, that membership is restricted to government agencies.

Definitions

This table shows the definitions under the [Private Security Personnel and Private Investigators Act 2010](#)

Term	Definition
Certificate of approval	'Certificate of approval' means a certificate of approval issued under section 54 , or a temporary certificate of approval issued under section 60 ; and certificate holder means a person who holds a certificate of approval.
Private investigator	<p>'Private investigator' means a person who, for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business seeking or obtaining for any person or supplying to any person any information described as follows:</p> <ul style="list-style-type: none"> - means any information relating to: <ul style="list-style-type: none"> - the personal character, actions, or behaviour of any person; or - the financial position of any person; or - the occupation or business of any person; or - the identity or whereabouts of any person; <p>but</p> <ul style="list-style-type: none"> - does not include information that is contained in a public record. <p>Without limiting the meaning of the term carries on any business, a person is carrying on a business if he or she holds himself or herself out to the public as being ready to carry on that business.</p> <p>Note: No person is a private investigator within the meaning of the Act by reason of the fact that:</p> <ul style="list-style-type: none"> - they seek, obtain, or supply any information: <ul style="list-style-type: none"> - for or to the Crown, or any constable, or any local authority; or - at the request of a person who is not a client of the business; or - only as a necessary, usual, or reasonable incident of any other activity by that person that is not described in that subsection; or - for any purpose relating to the dissemination of news or other information to the public or to any section of the public; or - for any cultural or historical purpose or for any purpose relating to education, literature, or science; or - relating only to the person by whom they are engaged or retained; or - in the course of and for the purposes of the business of a bank, or of a credit bureau, or of a debt collecting agency; or - they are a security technician, security consultant, confidential document destruction agent, repossession agent, property guard, personal guard, or crowd controller. <p>s5</p>
Security consultant	<p>'Security consultant' means a person who for valuable consideration, either by themselves or in partnership with any other person, carries on a business:</p> <ul style="list-style-type: none"> - entering any premises that are not owned or occupied by themselves or their firm or any of their partners for the purpose of selling or attempting to sell any device of the kind referred to in section 6(1) (burglar alarm/warning device or locking device for a safe/strongroom) and ; or - entering any premises that are not owned or occupied by themselves or their firm or any of their partners for the purpose of advising the owner or occupier of the premises on the desirability of having installed on the premises any, or any further, such device; or - entering any premises that are not owned or occupied by themselves or their firm or any of their partners for the purpose of advising the owner or occupier of the premises on the desirability of having guarded the premises or any other property that may from time to time be on the premises or dispatched from the premises. <p>- s7</p>

Overview

Purpose

This chapter provides guidance for the management of requests for assistance, information and referral of complaint files from private investigators and security consultants on behalf of a victim.

Background

[Private investigators](#) and [security consultants](#) must be licensed under the [Private Security Personnel and Private Investigators Act 2010](#) and any person employed by a private investigator or security consultant in an investigative capacity is required to hold a [certificate of approval](#).

In addition to licensing requirements, many private investigators and security consultants also choose to become members of a professional body. In New Zealand this is likely to be the [New Zealand Institute of Professional Investigators](#) (NZIPI), the [New Zealand Security Association](#) (NZSA) or the [New Zealand Chapter of the Association of Certified Fraud Examiners](#) (ACFE). All of these bodies require their members to act ethically and in accordance with New Zealand law.

Police, security consultants and private investigators sometimes share common goals in respect of investigation, offender apprehension, reduction of criminal offending and improved security outcomes.

Inevitably, occasions will arise where an investigation conducted by a private investigator or security consultant will:

- stall because private investigators are not able to obtain or execute search warrants or obtain information; or
- uncover evidence of criminal offending and the private investigator seeks Police assistance with an investigation and any subsequent prosecution.

Police interactions with private investigators and security consultants

Police employees' interactions with external private investigators and security consultants include:

- engaging them as contractors for:
 - Police station alarm monitoring
 - security CCTV installations
 - crime scene security
- receiving from them:
 - files or information they have compiled with their investigations into offending
 - requests for information on behalf of the clients they represent (e.g. conducting an investigation on behalf of an insurance company into an insurance claim).

Interactions with private investigators and security consultants include investigating suspected unlawful activities of issue motivated/protest groups targeting companies, investigation of criminal offending, provision of security services and membership of relevant working groups.

Minimising risk

Police employees' engagement with private investigators and security consultants must consider the risk to the integrity of Police operations and to public trust and confidence in Police. Employees must:

- maintain [professional boundaries](#)
- ensure every request for personal information is considered on a case-by-case basis with relevant [policy](#) and legal provisions in mind
- not engage in unauthorised [secondary employment](#)
- manage [conflicts of interest](#)
- seek guidance from a supervisor or manager, or Police Legal Section, where there is any doubt.

General principles relating to offences brought to Police attention by Private Investigators or Security Consultants

The following principles govern how Police will manage referrals from any licensed private investigators or security consultants.

Fairness	Any investigation undertaken by either party must comply with the rules of natural justice and the professional standards expected by any Court in the criminal jurisdiction.
Disposition of investigations rests with Police	The final decision in respect of the disposition of any complaint referred to Police by private investigators or security consultants rests with Police.
Private investigator contact with suspects	<p>Unless there is imminent danger of property loss or damage, or the threat of bodily injury to persons, and immediate action is necessary, private investigators should be dissuaded from initiating contact with suspects or offenders for the purpose of expediting an immediate Police response.</p> <p>Police acknowledge that the role of a private investigator may require contact with a suspect. Any contact between the private investigator and the suspect must comply with the Private Security Personnel and Private Investigators Act 2010 and in particular the provisions of section 109.</p>

Related information

See these related documents:

- Police instructions:
 - [Departmental security](#) for information about governance, management and implementation of the provisions of the New Zealand Information Security Manual that covers, the Protective Security Requirements
 - [Information security](#) to help you to make best use of available technology and information whilst limiting the Police, the public and your own exposure to security risks.
 - [Managing security risks in policing](#) for assurance and protective security
 - [Privacy and official information](#) for making official and personal information available on request or proactively, while protecting it where necessary from unauthorised and unnecessary disclosure
 - [Information knowledge management](#) for guidance with information and records management, and knowledge management
 - [Intelligence](#) for information about intelligence collection, use and sharing it lawfully
 - [Private Security Personnel and Private Investigators](#) 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
 - The [New Zealand Security Association Letter of Agreement with Police](#) sets out the relationship for cooperation between the parties (and by definition, their respective employees) to reduce crime and increase community safety
- [New Zealand Information Security Manual](#), in particular the [Protective Security Requirements](#) sections.

Surveillance by Police and private investigators/security consultants

Police surveillance

Constabulary employees can lawfully conduct surveillance activities pursuant to the [Search and Surveillance Act 2012](#), with and without warrant in certain circumstances. See the '[Surveillance](#)' chapter for further information.

Police request for assistance

Section [56](#) of the Search and Surveillance Act allows constabulary employees to request assistance from any other person (including a private investigator or security consultant) to carry out surveillance activities authorised in a surveillance device warrant, under a constabulary employee's supervision.

Note: It is unlikely that Police would either need or allow a private investigator or security consultant to provide assistance in any surveillance operation, as this capability is well within current Police skills and resources. Approval to engage surveillance assistance from any person other than a Police employee must be obtained from a Detective Inspector or above.

Police tasking/engaging private investigator/security consultant for surveillance unlawful

Tasking or engaging a private investigator or security consultant to undertake surveillance activities that Police employees could not lawfully conduct themselves is unlawful. 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](#).

Surveillance by private investigators/security consultants

The [Private Security Personnel and Private Investigators \(Code of Conduct - Surveillance of Individuals\) Regulations 2011](#) have regulated surveillance activities conducted by private investigators or security consultants. 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 constabulary employees' 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.

Legal advice must be sought before surveillance evidence from a private investigator is used in any Police prosecution.

Exchange of information

Police receiving information

Police relies on the community to provide information for the prevention, detection, and investigation of offences. Police receives that information from a variety of sources, including on occasions from private investigators or security consultants. There is no impediment to Police receiving this type of information from any source.

Police seeking information

Police employees actively investigating offences are permitted to ask questions of any person. There is no issue with Police employees engaging with private investigators for the purpose of obtaining information about suspected offending (or with the aim of preventing offending), if it is thought that useful information may be obtained. [Collecting personal information](#) must comply with Principle 1 in section 22 of the Privacy Act 2020 by being for a lawful purpose connected with Police's functions and be necessary for that purpose.

See the '[Chief Justice's Practice Note on police questioning](#)' for judicially-developed guidelines for police questioning.

Police directing/requesting another person to seek information

Should a Police employee direct or request another person to seek information on Police's behalf, the person obtaining the information could be seen to be acting as an agent of Police and is likely to be subject to the same legal requirements as a Police employee in the same situation. For example, if a Police employee requests a private investigator to ask questions of a suspect, a Court may hold any resulting evidence inadmissible as the usual caution was not given.

Information provided to Police that is obtained unlawfully by private investigator/security consultant

If information provided to Police has been obtained from a private investigator or security consultant unlawfully (for example, through an unlawful interception of private communications), evidential issues may arise in any subsequent prosecution. Police may also investigate the circumstances in which the information was obtained, to assess the criminal liability of the party providing the information.

Police providing information

Non-personal information

Police employees may properly provide non-personal information to private investigators or security consultants in the same way as Police can to any other member of the public under the provisions of the [Official Information Act 1982](#) (for example in relation to crime statistics or Police policy).

Personal information

Police employees may provide personal information to private investigators or security consultants in limited situations. These situations include:

- where personal information is released with the consent of the individual that the information relates to
- where a private investigator or security consultant represents the victim of an offence (for example a private investigator engaged by an insurance company), and personal information is requested under the provisions of the [Official Information Act](#) and Police considers an individual's privacy interest is outweighed by the public interest in releasing the information.
- where the information can properly be released pursuant to the provisions of the [Privacy Act 2020](#) (for example, where reasonably believed to be necessary:
 - to prevent or lessen serious threat to life or health to an individual represented by a private investigator or security consultant - Principle [11\(f\)\(ii\)](#)
 - to avoid prejudice to the maintenance of the law by a Police - Principle [11\(e\)\(i\)](#).

Privacy Act or OIA request from private investigators/security consultants

Release of personal information to private investigators or security consultants under the Privacy Act or Official Information Act requires careful consideration. In appropriate circumstances, such as when a private investigator is investigating offending with the intention of handing the resulting investigation file to Police for further action, a Police employee may release personal information that would assist the private investigator to progress their investigation. Consider the [factors](#) below before making your decision whether to withhold or release personal information. If in doubt, seek guidance from your supervisor or manager, or from Police Legal Section.

No blanket agreement to provide personal information

No blanket agreement must be entered into about providing personal information to a private investigator or security consultant to assist them with their investigations. Each request for information must be considered on a case-by-case basis.

Factors that must be considered before deciding whether it is appropriate to release personal information include:

- the age/vulnerability of the individual that the personal information relates to
- the public interest in releasing the information
- the seriousness of the offending involved
- the nature of the information requested
- whether suppression orders or other statutory restrictions on disclosure of the information exist
- whether the information is necessary for the private investigator or security consultant to conduct their investigation.

Personal information relating to children or young people

The [Oranga Tamariki Act 1989](#) youth justice principles emphasise that the well-being and interests of children and young people are paramount. With this in mind, particular care is needed when dealing with personal information relating to children or young people.

Protecting privacy is one way in which their well-being is protected. In particular, section [208\(2\)\(h\)](#) of the Act provides "that the vulnerability of children and young persons entitles a child or young person to special protection during any investigation relating to the commission or possible commission of an offence by that child or young person."

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](#). Information requests from private investigators must be considered with 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 if the requester can show a genuine need to know the information, and the Police employee is satisfied that the information release is in the best interests of the child or young person.

Multi-agency groups or forums involving Police

Where multi-agency groups or forums are formed involving Police and external non-government parties (e.g. private investigators or security consultants) then clear 'Terms of Reference' and information sharing agreements must be established at the time of being set up.

Where a government multi-agency group is formed to co-ordinate the government's response to an issue, membership should be restricted to government agencies.

Contributions from outside groups or private companies (such as private investigators or security consultants) to the group's activities should be managed carefully, to avoid conflicts of interest arising.

Receiving and returning complaint files

Point of referral within Police

Complaints initiated by private investigators or security consultants must be received and sent directly to the Police File Management Centre (FMC) for forwarding to the relevant unit, station or district concerned for investigatory consideration.

Expected standard of investigation case

Investigation cases should be provided with a covering report by the private investigator or security consultant with the following information:

- full details of the private investigator or security consultant
- full details of the victim including their contact details or nominated representative;
- written authority from the victim for the investigator or consultant to act on their behalf
- full details of all witnesses
- a full and detailed narrative of the circumstances, including references to the victim, witnesses and other involved parties and the part that each play in the complaint
- full details of any suspect or offender, if known, and a description of the evidence that links them to the offence
- if the suspect or offender is an employee of the victim then details of their employment situation
- details of any exhibits that accompany the file along with appropriate documentation that clearly indicates the chain of evidence for each exhibit. **Notes:**
 - exhibits should where possible be originals and the private investigator or security consultant should retain copies of all exhibits handed to Police
 - use the Police Register of Property (PROP) system to electronically record and maintain records of all exhibits coming into Police possession
 - see the '[Exhibit and property management](#)' chapter for procedural guidance
- if the referral is made with an expectation that Police will obtain and execute a search warrant, sufficient evidence to support an application;
- an opinion of any possible offences;
- a draft Summary of Facts, if appropriate.

Unless compelling reasons exist, for example urgency or significant ongoing serious offending, files that deviate significantly from the expected standard should be returned to the private investigator or security consultant for remedial action prior to any further Police action.

Action to be taken by Police on receipt of a complaint file

On receipt of a complaint file Police must follow these steps.

Step	Action
1	As soon as practicable create a case in NIA.
2	Refer the file to the File Management Centre (FMC) for the district concerned
3	Review the file in accordance with the FMC standard operating procedures or refer it to the Criminal Justice Support Unit (CJSU) or for more serious cases to the CIB for further assessment by an experienced senior investigator.
4	Assess any statement or other evidence obtained by the private investigator from any suspect to ensure that it will be admissible and complies with the provisions of the Private Security Personnel and Private Investigators Act 2010 .
5	Rate the case using the Case Management matrix and consider whether the Information Management Tool (IMT) for serious crime should be used to manage the case appropriately.
6	Complete a 'Complaint Acknowledgement' form and return the form to the private investigator within 14 days.
7	Where appropriate, enter the details of any suspect who cannot be located into the NIA Case with a role of 'Suspect' and add a persons of interest alert (for example WTI) as soon as is practicable.
8	Keep the private investigator or security consultant informed of investigation developments as the complainant or victim's representative.
9	Where an offence is disclosed to the necessary standard of proof, consider along with the ' Solicitor-General's Guidelines to Prosecutors ' the desirability of deterring offending when deciding on the final disposition of the file.
10	Where any case is being considered for alternative resolution, consult with the private investigator/security consultant or the victim prior to any alternative resolution being agreed to.
11	Advise the private investigator or security consultant of any final decision of warning, diversion, prosecution or other disposition of the file.

Action to be taken on substandard investigation cases

Following assessment, Police may return any complaint file to the private investigator or security consultant where:

- the required standard of proof to prove a criminal offence has not and is not likely to be able to be met;
- the 'public interest' criterion described in the '[Solicitor-General's Guidelines to Prosecutors](#)' is likely to preclude the investigation advancing to a prosecution;
- the matters are identified as a civil matter;
- the integrity of the investigation and/or the victim raises concerns.

Joint investigations

There will be occasions when private investigators or security consultants will seek Police assistance to obtain and execute search warrants before determining whether their file should be submitted to Police.

Under the [Search and Surveillance Act 2012](#):

- private investigators or security consultants are not able to obtain or execute search warrants; and
- Police are not able to release exhibits that have been seized to them.

Accordingly, private investigators or security consultants should be advised to either continue with their investigation or refer the case to Police. If the case is referred, then Police will determine what action will be taken after an assessment by a CIB supervisor.

Under section [113](#) of the Search and Surveillance Act consideration may be given to call on the private investigator that referred the case to Police to assist in the execution of search warrants. However, this should only be done in those cases where it would benefit the Police investigation because of the private investigator's specific knowledge of the case.

