

THOMPSON + CLARK

INVESTIGATIONS LTD / DETECTION / PROTECTION / SECURITY

31 March 2011

NZ Transport Agency
Transport Registry Centre
Private Bag 11777
Palmerston North 4442
241applications@transport.govt.nz.

Dear Sir/ Madam,

RE: Application for access to vehicle owner name and address

Executive Summary

Thompson & Clark Investigations Ltd (TCIL) is a licensed Private Investigation company and currently has access to the LTSA vehicle electronic database and has had this access for the past several years. This access is used as an investigative tool during the course of our investigation work. This application is made so that TCIL can be authorised to have continued access to the database which will enable the company to conduct its investigations on behalf of its clients.

TCIL has two directors (Nick Thompson and Gavin Clark) and a small amount of administrative staff the company also engages Contracted Investigators to assist in operations as the need arises. All cases managed by this company are handled by either one of the Directors and contracted staff is supervised by the directors.

If TCIL is successful in its application to continue to have access to the motor vehicle database then access will be handled personally by the Directors. As each case is closely monitored by the Directors then the information from the database will be handled by them and could be released to contractors only as part of their investigation where this information is significant and is required to assist with the investigation. The obligations required to be met as part of this authorization will be met by the Directors and all contractors and staff.

TCIL has been involved in several corporate investigations some of which have been referred to the police for criminal activity to be acted upon. TCIL has prepared these files to a high standard and delivered to the NZ Police work at an expected standard which is outlined in a NZ Police Regional Order regarding the standard of files presented by Private Investigators.

We have outlined some case examples of such work below as part of our application.

Our application is for a business that is not a representative body or member of a representative body. And as stated only the two Directors of the company will have access to the system. We have made payment of \$836 to the relevant bank account supplied for the application processing fee.

We have approached our application by listing the NZTA questions and answered each question directly as follows:

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NZTA Application questions and answers

(a) **what is your full name?**

The Directors of Thompson & Clark Investigations Ltd are Gavin Shane Clark and Nicholas Guy Thompson.

(b) **what is your physical address?**

The company physical address is Unit D1, 75 Corinthian Dr, Albany, Auckland

(c) **what is your postal address?**

PO Box 301775 NSMC Albany 0752

(d) **what is your email or other electronic address?**

Gavin.clark@tcil.co.nz and nick.thompson@tcil.co.nz

(e) **do you currently use information from the register?**

Yes

(f) **if you do, what do you use it for?**

Please refer to case studies outlined below

[REDACTED]

■ [REDACTED]
[REDACTED]
[REDACTED]

■ [REDACTED]
[REDACTED]
[REDACTED]

■ [REDACTED]
[REDACTED]

■ [REDACTED]
[REDACTED]

5. Comment

- i. It was not practicable to engage the police based upon the original information that was received and it was necessary to conduct further investigation to obtain more proof of offending before the police were able to provide resources to secure a criminal prosecution.
- ii. The use of CCTV to record vehicle activity over a period of time was more cost effective than physical surveillance continually watching this address. Access to the vehicle database to identify the owners of these vehicles observed on CCTV arriving at the address was crucial in identifying people involved in the theft ring.

6. Reasons for use of database

- i. **Collecting information directly from the individual.** It was not practical to collect the information directly from the drivers of these vehicles at the time as that would have tipped off the offenders that they were being investigated for the theft.
- ii. **Collecting the information from another source.** There was no practical alternative source other than the register to obtain the required information. As stated above the cost to conduct physical surveillance over this period and follow these vehicles to addresses was impracticable and not cost effective.
- iii. **Application to the registrar under Section 236(1)(b).** As there was a large volume of vehicles visiting this address it was not practicable to make application for this information and the expected timeframe for a response was considered to take too long when the information was required to be acted upon within a certain timeframe.

- iv. **Asking for the information under the Official Information Act.** As above the timeframe for a request under this enactment was not practicable for our purposes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. Comment

- i. In this case it was unclear whether this was a criminal or Civil matter, at the conclusion of the enquiry we were still not able to ascertain whether the product had been legally or illegally obtained. We were however through the foreign office of the [REDACTED] able to cease these imports into New Zealand.
- ii. The ascertaining of personal details through vehicle ownership was crucial in establishing who was involved in this importing operation.

6. Reasons for use of database

- i. **Collecting information directly from the individual.** It was not practical to collect the vehicle ownership information directly from the persons present at the warehouse at the time of this investigation as that would have tipped off the offenders that they were being investigated for possible theft.
- ii. **Collecting the information from another source.** There was no practical alternative source other than the register to obtain the required information as physical surveillance on each vehicle to a home address would have been too costly and too time consuming.
- iii. **Application to the registrar under Section 236(1)(b).** There were several vehicles present at this warehouse and it was not practicable to make application for this information as the expected timeframe for a response is considered too long for when the information was required to be acted upon.
- iv. **Asking for the information under the Official Information Act.** As above the timeframe for a request under this enactment was not practicable for our purposes.

[REDACTED]

[REDACTED]

[REDACTED]

3. [REDACTED]
4. Comment
 - i. Initially the client reported this matter to the police however they refused to investigate because it was not clear that there was any criminal intent on behalf of the group sending the invoice claiming that they had done advertising on behalf of the company.
 - ii. As a result it was necessary for TCIL to conduct enquiries to establish the facts and to further this investigation in order to prove criminal offending.
5. Reasons for database use
 - i. **Collecting information directly from the individual.** It was not practical to collect the vehicle ownership information directly from the persons working from this commercial office at the time of this investigation as that would have tipped off the offenders that they were being investigated for fraud.
 - ii. **Collecting the information from another source.** There was no practical alternative source other than the register to obtain the required information as physical surveillance on each vehicle to a home address from this commercial office would have been too costly and too time consuming.
 - iii. **Application to the registrar under Section 236(1)(b).** There were several vehicles present at this commercial office and it was not practicable to make application for this information as the expected timeframe for a response is considered too long when the information was required to be acted upon within a certain timeframe.
 - iv. **Asking for the information under the Official Information Act.** As above the timeframe for a request under this enactment was not practicable for our purposes

Case Study 4

1. TCIL manage all the security risk management for a large State Owned Enterprise. One of the major assets for this SOE is a large industrial plant on the West Coast of the South Island which operates over an area of around 22,000 hectares of natural bush and sub alpine terrain.
2. This SOE is impacted upon by Environmentalists who are opposed to the operation conducted in this area. It is the intention of the persons opposed to this company's activity to physically shut the company down. They have been known to trespass on the land, damage property, remain camped in the area in an attempt to halt lawful company operations and also harass members of staff. Some of the protest activity has cost the company millions of dollars.
3. Access to the land and operations is difficult due to the remote location however there is also lawful activity such as hunting, 4x4 driving, tramping and other activity in neighbouring blocks which use the same access road.
4. TCIL monitor this access road by conducting daily site checks and any suspicious vehicles are checked in the motor vehicle database and persons identified in order to establish whether there is an immediate threat to the site.
5. Comment
 - i. This method of protecting this large plot of land has proven to be very effective enabling trespassers to be identified and dealt with before they have been able to cause any damage to plant or equipment.
 - ii. The police in this area are not able to provide this service as it is pre incident offending and they have better things to do with their resources than preventing crime in only a small area compared to their entire region requiring policing.
6. Reasons for database use
 - i. **Collecting information directly from the individual.** It is not practical to collect the vehicle ownership information directly from the persons as the vehicles have been parked and left unattended for long periods and it is only practicable for us to check the parking areas on a daily basis.
 - ii. **Collecting the information from another source.** There was no practical alternative source other than the register to obtain the required information. In some cases the vehicles are known to TCIL due to the regularity of their visit and these are not required to be checked.

- iii. **Application to the registrar under Section 236(1)(b).** The time frame for receiving this information is crucial as we require immediate knowledge to take the appropriate action to locate the individuals intent on trespassing in such a large area of land.
- iv. **Asking for the information under the Official Information Act.** As above the timeframe for a request under this enactment was not practicable for our purposes

(g) what do you intend to use it for?

Continued use for clients as outlined in case study examples above.

(h) what are your reasons for not doing one of the following:

We have addressed each of these concerns for each case study example as outlined above.

(i) collecting the information directly from the individual concerned:

Investigative techniques rely upon the ability to remain covert, if the individual concerned became aware that they were being investigated then they would stop offending and the relevant evidence which would be required to present to the police would not be obtained. Therefore it is necessary to undertake these enquiries without the individuals knowledge.

(ii) collecting the information from a source other than the register:

Other sources of relevant information pertaining to the motor vehicle register is limited and the ability to check the register is more cost effective and speedy as often time restraints are crucial to the success of an investigation.

(iii) seeking confirmation from the Registrar under section 236(1)(b) of the Land Transport Act 1998 that a specified person is registered in respect of a specified motor vehicle:

Based upon our previous experience with use of the register we believe that the volume of our access would be such that to make application to the registrar on a case by case basis would be cumbersome and unnecessarily overload the registrar.

Also there may be occasions where a selection of vehicles would need to be checked in order to identify the correct vehicle as per the examples shown in case studies above.

(iv) asking for the information under the [Official Information Act 1982](#)?

As outlined above in most cases a request under this enactment would alert the subject of the investigation which would be detrimental to the purpose of the investigation as well as delaying the investigation as time frames provided for under the Official Information Act are not practical for our purposes where valuable evidence may be lost through time delays.

(i) what physical and computer security systems do you have in place to ensure that information from the register—

Both directors use laptops only which are both password protected to a high standard and are both running current anti-virus software COMODO.

(i) is kept secure; and

Laptops and company information is not available to anyone other than the two directors who are the only persons to have database access as per this application.

(ii) is used only for the purpose or purposes specified in the authorisation?

Each director is personally responsible for their own information and this will not be released to anyone except for persons working on cases that need the information as part of the investigation.

(j) how do you propose to tell the persons whose information has come from the register about the following:

(i) the fact that the register was the source of the information; and

After the enquiry has been completed and there is no longer any sensitivity around this information we intend to write to the individual concerned to advise them that their information from the register has been sourced.

(ii) what you use the information for; and the letter will outline that the information was used to assist the course of an investigation getting it to an acceptable standard for criminal or civil court purposes the details of which would be supplied.

(iii) the fact that the persons can notify the Registrar that they do not wish to have their names and addresses made available under an authorisation?

We will outline this in the letter to the individual.

(k) have you ever been found to have breached any of the information privacy principles in the [Privacy Act 1993](#)?

No

(l) have you ever been found, in proceedings of any kind, to have breached any confidentiality obligation?

No

(m) do you have a credit rating and, if so, what is it?

No neither director has a credit rating but there has never been any questions as to the credit status of each individual.

(n) for how long, up to 5 years, do you want the authorisation to last?

5 years, we would expect to reapply at this time.

(o) if you employ staff or engage agents,—

(i) how many of them are likely to have access to the information from the register?

Direct access would be retained by the two individual directors however personnel that require information from the database as part of their investigation can obtain this through the two applicants which will be disclosed with discretion.

(ii) what are the roles of those who are likely to have access?

Investigators

(iii) what training will you give those who are likely to have access on the proper handling of the information from the register?

Only the two directors will have direct access to the information in the register. Details of this information may be given to other investigators if applicable however the obligations upon the directors will be met. The investigators will be advised that the information supplied is confidential and only relevant to their enquiry.

(iv) what controls do you have in place to ensure that those who are likely to have access handle the information from the register properly?

- Restricted access to the register (two directors only).
- Trusted contracted investigators (years of service and trust also confidentiality agreements signed)

(v) what sanctions do you have available for those who do not handle the information from the register properly?

Any breaches will result in discontinued engagement as contract Investigators or disciplinary action.

(p) if you are in business,—

(i) what is the nature of the business?

(ii) what locations does the business operate from?

(iii) how long has the business existed?

Thompson & Clark Investigations Ltd (TCIL) was formed in Auckland, in April 2003 and is New Zealand's leading private investigation and corporate intelligence agency. Although based in Corinthian Drive Albany we operate nationally and have a significant client base which is represented by [REDACTED]

TCIL is operated by its two Directors, Nick Thompson and Gavin Clark. Nick Thompson is a former member of the British Army and was a Detective in the Metropolitan Police and worked on a variety of Criminal Investigations in Central London. Gavin Clark is a former Detective from the New Zealand Police Department and during his 14 year service he was a member of a variety of squads including investigation of serious offending.

TCIL is involved in protection of company assets and personnel and security risk management and services include.

- Investigation
- Surveillance
- Personal Protection
- Security Reviews
- Event management and support
- Forensic Analysis
- Electronic Counter measures

Other Considerations

1. We understand that the Privacy Commissioner has indicated discretionary access shall be related to the use of vehicles.
2. As outlined in our case studies the individuals are using vehicles in the course of their activity and the motor vehicle database has been sued to identify the individuals conducting this activity.
3. We understand that the Privacy Commissioner has expressed concern that organisations may provide access to information to third parties for payment.
4. TCIL have never provided such information and do not intend to do so. All of our clients (primarily corporate) and their intentions are vetted before we engage in a contract for services.

Conclusion

We trust that the above information is sufficient for our application for continued access to the motor vehicle database.

I am more than happy to answer any queries in regard this application and look forward to hearing from you.

Yours faithfully



Gavin Clark

[REDACTED]
gavin.clark@tcil.co.nz