The private security industry in Australia is at least double the size of public police services, and while there has been some research on security guards and crowd controllers, very little is known about “inquiry agents” or private investigators.

The authors estimate that there are about 25,000 private investigators in Australia, and this study, based on 40 in-depth interviews in Queensland and New South Wales, is a first attempt to assess what it is they do, how effective they are, the legal and ethical issues facing private agents, and how their efforts can be maximised by their clients, most notably agencies affected by fraud.

While more work needs to be undertaken with a larger random sample to develop an ongoing research base, this paper provides an important description of the activities of those interviewed, and the finding from this sample that for every dollar spent on an investigation, between $3 and $6 are saved in uncovering fraud.

The private security industry comprises (among others) a variety of security guards, crowd controllers, private investigators, process servers (serving legal documents) and debt recovery agents—the latter two often licensed together as “commercial agents”. Consideration of the work of “inquiry agents” (or “private agents”) leads to a number of questions addressed in this research project. What is the size of this sector? What are its main functions? How effective is it? Does it satisfy exclusively private, self-interested ends or does it make a broader contribution to society? To what extent do industry members conform to legal and professional standards of conduct? Is there a need for greater regulation? Should the industry be given more powers to do its work?

Research Method

A three-part research method was developed to find answers to these questions.

1. In order to obtain a picture of the size and occupational categories of the industry, regulatory agencies were contacted to gauge the number of licence-holders.
2. Interviews were conducted with investigators in New South Wales and Queensland. These states have seen considerable scandal and reform in the industry in the last two decades. Interviews were conducted because they allow for in-depth questioning and because private investigators tend to be poor respondents to mail-out
questionnaires (Gill & Hart 1997). Respondents were pursued through an opportunity method following recommendations from relevant professional associations (the Australian Institute of Private Detectives and the Institute of Mercantile Agents) and from listings in the Yellow Pages. Opinions were sought across a range of specialisations. A total of 40 interviews were conducted—15 in New South Wales and 25 in Queensland. All 40 respondents had Private Investigator licenses (in New South Wales, “Private Inquiry Agent”) and 15 had Commercial Agent licences.

3. The information gathered in steps 1 and 2 above was supplemented with a literature search to identify key documentary source material, including inquiries into the sector.

**What is the Size of the Private Agent Sector?**

It is extremely difficult to obtain a true picture of the size of the private agent sector because of a lack of consistent licensing figures. Table 1 shows available numbers of licence-holders for Victoria, Queensland, Western Australia, Tasmania and New South Wales. The total figure of 21,333 probably underestimates the size of the sector by at least one-quarter.

A figure of approximately 25,000 is consistent with previous research indicating that the private agent sub-sector makes up between 20 and 30 per cent of the larger security sector (Prenzler 2001). Another way of looking at the figures is in relation to police. The total of 21,333 in Table 1 equals almost half the 44,922 police in Australia in 2001. In New South Wales there are 13,614 police (Australian Institute of Criminology 2001), compared with 15,800 private agents (who comprise only one part of the greater security sector).

Table 1: “Private agents” in Australia, 2001

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Licence category</th>
<th>Number</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria</td>
<td>Individual inquiry agents</td>
<td>1,497</td>
<td>1,945+</td>
</tr>
<tr>
<td></td>
<td>Company inquiry agents</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Individual commercial agents</td>
<td>49</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Individual commercial sub-agents</td>
<td>166</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Company commercial agents</td>
<td>73</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Process servers (not licensed)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Queensland</td>
<td>Private investigators</td>
<td>1,176</td>
<td>1,982+</td>
</tr>
<tr>
<td></td>
<td>Individual commercial agents</td>
<td>273</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Licensed commercial agent corporations</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial sub-agents</td>
<td>453</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Private investigator companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Western Australia</td>
<td>Inquiry agents</td>
<td>429</td>
<td>1,465+</td>
</tr>
<tr>
<td></td>
<td>Investigators</td>
<td>1036</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Debt collectors and process servers</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>131+</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Inquiry agents</td>
<td>71</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial agents</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Process servers</td>
<td>53</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New South Wales</td>
<td>Private inquiry agents</td>
<td>5,339</td>
<td>15,800</td>
</tr>
<tr>
<td></td>
<td>Private inquiry sub-agents</td>
<td>4,434</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial agents</td>
<td>1,539</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial sub-agents</td>
<td>4,539</td>
<td></td>
</tr>
<tr>
<td>Grand total</td>
<td></td>
<td>21,333+</td>
<td></td>
</tr>
</tbody>
</table>

Source: Regulatory agencies (figures are for financial year 2000–2001 or calendar year 2001)

**What Do Private Agents Do?**

Of the 40 people interviewed for this project, 80 per cent were owners or directors of firms. The typical profile was for a principal to employ a secretary or administrative officer and then subcontract specialist tasks (such as surveillance) to single operators. Only a few interviewees were in larger firms with more than five employees. The sample presented a very mixed work profile. The larger firms tended to provide diverse services, but with the bulk of work in surveillance or factual investigations. A small number of firms were highly specialised. Only one concentrated on “personal work”—such as searching for missing persons and locating heirs. Another specialised in criminal work, including investigation of extortion and robberies. Other firms tended to concentrate on process serving and debt recovery.

In terms of changes in the nature of private investigator operators.
work, two key trends were identified. The first was a major shift, over the period from the 1970s to the 1990s, away from “domestic” work towards insurance fraud. “Gone are the days when we chased people for divorces, taking photos”, said one interviewee. The introduction of no-fault divorce was a major factor. Of greater significance was a profound change in the insurance industry’s response to suspect claims. Interviewees claimed that previous practice was to accept most claims and avoid adverse publicity. However, during the 1980s increasing competition and frustration with the level of suspected fraud led to a well-organised system of claims assessment and referral of suspect claims to investigators. The growth in insurance work was also driven by a second major change identified by interviewees: the use of hidden video cameras. The fact that “the camera doesn’t lie” (at least in most cases) makes for crucial objective evidence of fraud, especially for disability insurance.

The following approximate four-way division of labour emerged from the interviews:

- **Anti-fraud work**, mainly for insurance, including factual and surveillance work. For factual matters the process usually begins with interviewing the claimant, establishing a record of interview, and then making further inquiries if necessary. Most surveillance work follows the same routine: the client provides a profile of suspect claims, with documentation such as medical reports, and the investigator then does a standard 20- or 30-hour surveillance and tracking of the person. Insurance work includes investigating stolen vehicles, accidents, arson and welfare fraud.

- **Legal work** involves background or “factual work” for lawyers in civil, and some criminal, cases.

- **Commercial inquiry** is a growing area of work for private investigators. Businesses are turning to private investigators to undertake electronic counter-measures (debugging), liability investigations, workplace investigations into theft or harassment, and pre-employment checks. A growing area is trademark and copyright violation. An associated area of work is that of repossession and debt collection to enforce legal contracts. Although often termed “commercial inquiry”, much of this work can just as easily be done for government as for business.

- **The final area is domestic investigation**. This can include checking partner fidelity in personal relationships, abducted child recoveries and missing person inquiries.

This largely entails locating and interviewing witnesses or claimants. In some cases agents will locate and analyse forensic evidence, such as documents. Another aspect of legal work is the serving of legal summonses direct to the recipient (process service).

<table>
<thead>
<tr>
<th>Outcome</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases referred to surveillance providers</td>
<td>1,446</td>
</tr>
<tr>
<td>Finalised cases</td>
<td>1,063</td>
</tr>
<tr>
<td>Finalised cases resulting in debt or reduced payment</td>
<td>747 (70%)</td>
</tr>
<tr>
<td>Savings to future outlays</td>
<td>$4,167,982</td>
</tr>
<tr>
<td>Amount identified for recovery action</td>
<td>$3,996,113</td>
</tr>
</tbody>
</table>

Source: Department of Family and Community Services 2000, p. 238

**Table 2: Results of the Department of Family and Community Services’ Enhanced Investigation Initiative, 1999–2000**

Interviewees were extremely positive about the services they provided to clients. They generally estimated that they were able to obtain concrete results in 70 to 90 per cent of cases. This was assessed in terms such as recovery of losses, dropping of suspect insurance claims, criminal convictions, employment termination of offenders or locating people. Many disputed insurance claims are settled by withdrawal of the
claim following the disclosure of video evidence. A number of
surveillance operators claimed an approximate minimum saving of
$6 for every $1 spent on an investigation. Similarly, some
investigators estimated that a minimum of $3 is saved for every
$1 spent on a factual investigation that uncovers fraud.

This investigation work needs to be set in the context of
Australia’s enormous fraud problem. In its most recent
survey, the Insurance Council of
Australia (1998) estimated that
insurance fraud cost approximately $800 million in
1995–96. The size of Australia’s
welfare fraud problem prompted
the Commonwealth Government
to initiate an anti-fraud scheme in
1999. The scheme involved
contracting out surveillance work
on suspicious cases that were
resistant to formal investigations. Table 2 shows dramatic results
from the first year of operation in
identifying and stopping multi-
million-dollar fraud.

Private agent work can also
involve a very personal
dimension. Many interviewees
took satisfaction from helping
clients in difficult circumstances.
One gave the example of a client
who had been stalked for two
years. “Now they can sleep at
night”, he asserted. The large
majority of respondents also had
very positive views of the wider
contribution they made to society.
Some saw themselves as
champions of the honest worker
by keeping down costs resulting
from fraudulent insurance claims
or debt evasion:

With every debtor that we can
locate and induce to pay their
debts we’re helping members of
the public…You’re assisting him
recover his debts and prevent
him passing on his losses to the
public.

There is a lack of appreciation
by the public of the
professionalism of the industry
and the benefits of fraud
prevention and the benefits to
the taxpayer of stopping fraud
against government.

About half of the interviewees
reported referring matters to
police for criminal prosecution,
and all respondents were strongly
in favour of doing more work for
the public-sector justice system.
Many argued that they could do a
range of tasks—such as searching
for missing persons, conducting
surveillance, executing search
warrants, attending burglary
scenes or investigating traffic
accidents—just as well as and
more cheaply than police. The
following is an example of
cooperation between police and
private investigators.

We assisted the police fairly
recently in an attempted
murder, quite a violent assault,
where there were only two
detectives working on the
matter and the family of the
victim said “This is taking too
long. How can we help you?”
And the police said, well, we
[the private investigation firm]
are able to do surveillance, door-knocking around the street and
so on. And the family came to us
and the first thing we said to
them was, “We can probably
assist you if the police wanted
us to. But we’re certainly not
police officers and we can only
do what the police ask us to do.”
We went to see the police who
were only too happy to have
someone on board. It ended
with an arrest. It ended up very
successful.

Although most respondents
perceived that a great deal of the
demand for their services was a
result of government neglect of
law enforcement, they also were
clear that privacy was a factor
that motivated some clients. One
respondent cited the example of
parents wanting to know if their
children were on drugs: “If they
are, then they can get them on a
program. Police would have to
prosecute.” Others emphasised
the personal service they could
provide, and continuity of case
management and communication
that is not usually available from
even the best police department.
The contractual nature of the
work gave victims a degree of
input, if not control, which was
not possible in public-sector
processes.

## Legal and Ethical Issues

All interviewees were highly
conscious of the fact that their
occupation entails numerous
ethical challenges and risks.
Respondents reported receiving
and rejecting requests for illegal
or ethically questionable
services—such as placing
listening devices in homes or
offices, threatening or harassing
people, or seeking victims of
domestic violence who had gone
into hiding. The 1983 Australian
Law Reform Commission’s report
into privacy found that private
agents can be strongly tempted to
engage in breaches of privacy. It
concluded they:

…might commit trespass…
might obtain and disclose
information in circumstances
amounting to a breach of
confidence in the legal sense and
might breach legislation aimed
at making certain activities
criminal, such as that relating to
official secrets, interception of
telecommunications, and the use
of listening devices.
(Australian Law Reform
Commission 1983, p. 319; for a
review of the law as it relates to
private agents, see Prenzler
2001)

This assessment was borne out in
the 1992 New South Wales
Independent Commission Against
Corruption inquiry, which found
that private inquiry agents acted
as the go-betweens in a “massive”
trade in confidential information
(Independent Commission
Against Corruption 1992, p. 3).
However, the Commission noted
a partial “just cause” element in
some cases of illegal access.

In 2000 the Queensland
Criminal Justice Commission
exposed a similar, although much
less extensive, trade between police and private inquiry agents. The Commission identified the same market conditions for corruption as were identified in New South Wales, and a similar just cause element:

The demand for confidential information is created by end-users such as finance organisations and legal firms, whose staff are often trying to locate evasive individuals. Private investigators and commercial agents act as the intermediaries between the end-users and the suppliers of information.

(Criminal Justice Commission 2000, p. xviii)

Recommendations to improve security were focused on police computer systems and management. Nonetheless, the report highlighted the fact that the threat to confidential information goes well beyond police databases. The report recommended a review of licensing of private agents, clarification and toughening of penalties for illegal disclosures, and a prohibition on police working as private investigators. At the same time, it also recommended that consideration be given to allowing licensed agents greater access to information such as criminal histories, and information on drivers’ licences and vehicle registrations.

Views of interviewees for the current research project were extremely divergent regarding overall industry compliance with the law and ethical principles. About one-third of respondents said they were unable to comment. Another third felt that there was some misconduct but that this was relatively isolated and extremely difficult to eradicate. “There are still some cowboys” or “a few rogues” were common replies among this group. Another third felt that non-compliance was fairly widespread. The main areas of alleged non-compliance were accessing confidential information—by far the most extensive—as well as trespass, using unlicensed subcontractors, under-quoting in tenders and not working to tender.

Despite mixed views on current compliance, the very large majority of interviewees agreed that the conduct of private agents and the image of the industry had improved enormously in the last 20 years, especially since the Independent Commission Against Corruption inquiry. Many felt, nonetheless, that public perceptions had not caught up with this change. A few were quite pessimistic about the industry’s image. As one stated: “I think public perception is that 80 per cent of us are dodgy, but in reality it’s probably less than 0.5 per cent.”

Respondents cited a range of legal data sources that were useful for their purposes. These included electronic telephone pages, electoral rolls and property records. Respondents were particularly enamoured of a system operated by Queensland Transport that allows application for particulars relating to vehicle ownership. The restrictions mean that only those acting for insurance companies can access the database (recently amended to applications through solicitors and insurance companies). Documentary support and reasons need to be provided, with penalties for false applications and misuse of information.

The assessment of the value of these legal sources was fairly high, but respondents were unanimous in stating that they were insufficient for all cases. There is a group of people who disappear off these databases and become extremely difficult, if not impossible, to trace; respondents argued the situation necessitated access to a wider range of databases. The type of information they wanted to access included travel destinations, adoption records, rental property information, criminal histories, financial earnings and assets, and police motor vehicle accident reports. A number of interviewees emphasised the hypocrisy of privacy controls in regard, for example, to criminal histories: “You can sit in a court of law and find out if a person is convicted but then after that the information is kept secret.” All respondents, except one, argued that licensing should provide greater rights of access to government-held information and some privately-held information. The arguments were couched in terms of efficiency, but largely in terms of justice. As one interviewee stated:

We’re really good at protecting the guilty in our society…You know, a bloke owes $5,000 to someone—a builder—and he just happens to skip, you know. Why can’t we go down to the Road Transport Authority with that lawful excuse, being fully licensed and accredited and all the rest—paid up, good reputation? Why can’t I pay to see the RTA [Road Transport Authority] with a letter, even from a lawyer, if they want, to get that information?…All I want to know is where this guy lives because I’ve got a bankruptcy notice to serve him—or he is the witness in civil matters.

Maximising the Benefits of Private Agency Work

Private agents are available for citizens to pursue justice and protection in circumstances where the state does not provide a service or where an aggrieved party desires a more private service. These interests may be justifiably pursued and contracted to private agents if the agents conduct themselves in accordance with the law. The law as it currently stands in Australia is substantially protective of
people's privacy (Prenzler 2001). The main exception to this is allowable surveillance of people in public—although this is subject to potential prosecution for harassment, nuisance or interference. But in terms of refining the balance of interests, one possible argument is that at present the law is weighted unfairly in favour of people avoiding legitimate legal process. Interviewees presented a strong case for enlarging the access of licensed agents to confidential databases under strictly controlled conditions. There might also be a case for allowing investigators to apply for search warrants, actionable in the company of a solicitor or police officer. The proposals are worth considering in terms both of the interests of justice and to reduce the demand for illicit information.

On the issue of regulation, the results of the interviews supported previous findings that the more restrictive licensing systems introduced in the 1980s and 1990s (with integrity checks and compulsory training) have improved the competency and conduct of security providers, including private agents (Prenzler 2001). It could be argued that this is a self-interested perspective. Nonetheless, interviewees supported closer auditing of companies and a more vigorous system for receiving and investigating complaints. There was a strong consensus regarding the need for improved communication from regulatory agencies, and for more regular consultative research on regulatory strategies.

Training is a major area that practitioners felt required attention. All respondents except one (97.5 per cent) argued that mandated pre-entry training was not adequate in developing both practical and ethical competencies. In Queensland, the minimum training requirement to obtain a licence is a five-day course. New South Wales has a more advanced system with a sub-agent period of 12 months, including six weeks training for commercial agency work and seven weeks for private investigations (Prenzler 2001). To some extent, however, interviewees' criticisms related more to their own training experiences when starting out. Others were less concerned with the length of training than with the adequacy of specific content areas such as taking statements or dealing with distressed people.

Conclusion

Private investigators, process servers and debt recovery agents occupy a critical place in the justice system. At the same time, there are clearly pressures on these private agents to breach the law in pursuit of goals of law enforcement and crime reduction. All respondents in the interviews conducted for this project attested to a change of consciousness among practitioners over the last 20 years in terms of both a greater respect for privacy principles and also an increased perception of the probability of being exposed and sanctioned for breaching the law. However, interviewees were strongly of the opinion that tougher licensing and enhanced pre-service training were required to underwrite competency and integrity. They were also virtually united in the view that they could provide greater justice to victims of crimes and other wrongs if governments allowed greater controlled access to information.

Acknowledgments

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Dr Tim Prenzler lectures at the School of Criminology and Criminal Justice, Griffith University, Brisbane.
Michael King is an insurance investigator.

General Editor, Trends and Issues in Crime and Criminal Justice series:
Dr Adam Graycar, Director
Australian Institute of Criminology
GPO Box 2944
Canberra ACT 2601 Australia

Note: Trends and Issues in Crime and Criminal Justice are refereed papers.