

DEBT RECOVERY IN NSW

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The Chair
Legal Affairs Committee
NSW Parliament
Macquarie Street
NSW 2000

**ADDITIONAL SUBMISSION TO LEGAL AFFAIRS
COMMITTEE RE DEBT RECOVERY**

I think the major decision that the legal affairs committee has to make is should privacy override completely the right of a defendant and an applicant in either the civil and criminal jurisdictions which obviously must include the debt collection (nine processes through the court) and should an applicant or a defendant in either jurisdictions have to pay particularly in the debt collection industry in the civil jurisdiction enormous legal fees to arrive at justice.

The AIPD understands rightly or wrongly that this inquiry is to determine the processes and procedures for the collection of debts in New South Wales and whether it is effective. There are three areas of particular note in commercial agency application and they are the following:-

1. **Process serving** - the serving of processed issued by the courts which includes Subpoenas, Court Summonses, Court Orders, etc;
2. **Repossessions** - for both real property and goods such as motor vehicles.
3. **Debt collection** - non-payment for goods received or services rendered.

Repossessions and Debt Collections have a GST component. The possible non-collection of Debt Collection and Repossessions and can be for a number of reasons and the most common reason that experienced clients do not bother pursuing the collection of debts is because (as previously stated to the committee), there are nine stages or processes that the Court administers. The first 5 are to achieve a Judgement Debt and a further 4 processes are necessary for what is legally referred to as 'enforcement'.

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Clients normally have to look at the financial feasibility of spending money via the current nine processes in order to try and collect the Debt and together with the filing fees and associated legal costs, most of the clients make a commercial decision to write the Debt off. The AIPD's understanding that often clients wait 120 days and then get the 'Commercial Agent' to write the Debt off for tax purposes so at least they can secure some benefit in relation to their predicament of having the subject Debt/s written Off.

If the Committee so desires, the AIPD, through its members particularly in the Commercial Agency area can quickly illustrate the costs of the procedures and processes for the collection of a 'debt' and exemplify the cost factors involved under the present dysfunctional system. Perhaps some consideration of the Committee could be given to legislating that Commercial Agents have access to information for matters and potential matters before the Courts and Tribunals.

We are mindful of the CAPI Act in NSW that quite clearly states that if a Commercial Agent makes enquiries they have to have a private investigator's licence because they are making enquiries about a party without their knowledge and on behalf of a third party and that is the role of a **Private Investigator**. However, as we have already advised the Committee, Private Investigators are prohibited under the Federal and State Privacy Acts to access information for matters before the Courts and Tribunals both in the civil and criminal jurisdiction and also potential matters before the Courts and Tribunals.

As previously stated, Commercial Agents and Private Investigators are inextricably bound-together and therefore any alterations to the CAPI Act **must also give to private investigators access to information** for matters before the civil and criminal courts and also matters that are likely to or have strong potential progress to the Courts, Commissions and Tribunals.

It is our understanding that SLED (which now has the responsibility for overseeing the CAPI Act) has suggested that the Commercial Agents be possibly referred to the Fair Trading Department for their management and control **however**, that the Private Investigators be retained under SLED. This is in complete contradiction of the CAPI Act which states that if a commercial agent makes enquiries he has to have a private investigators licence. It is completely inappropriate to separate these inter-related activities to two different government departments, resulting in further costs to industry members, and further complicating these already poorly government managed industries. Further, it is vitally important to understand that neither activity has any relationship to the Security Industry and needs removal from that regime. Referral back to the control of the Attorney General's Department or even Fair Trading for both would be sensible and acceptable.

It must be stated quite clearly that all Commercial Agents also hold a Private Investigator's licence otherwise they simply could not trade, due to the previously mentioned requirement in the NSW CAPI Act.

It would appear from our brief appearance before the Legal Affairs Committee that consideration might be given for Commercial Agents to have access to information

for matters that are already before the Courts, however this causes enormous procedural problems which we will outline in the next paragraph.

When a client approaches a commercial agent seeking the recovery of monies for goods that have been delivered, the first thing that a commercial agent must do is locate the Debtor or/and ascertain whether the Debtor has actually received the goods. If the Debtor has not received the goods then the client has no case, effectively. If the Commercial Agent was able to locate the Debtor and/or the Debtor admits he either owed the money or received the goods then the commercial agent would then negotiate and/or mediate the time payment of the debt or the receiving of the goods.

This will obviously be extremely beneficial as it will save huge amounts of money in relation to wasted Court time and also Court Costs, Court filing fees and that is what Commercial Agents are there to do.

It has also been suggested to us from information supplied to the committee that Commercial Agents should not be allowed to represent clients or defendants in matters before the civil courts and that only solicitors should be able to do so. Whilst this might have some merit, on the other hand, Commercial Agents are extremely adept in their particular trade and profession and if they overstepped the mark or do something wrong they would lose their licence and they would lose their business and they would effectively be out on the street so it is not in the interests of any Commercial Agent to abuse the legal system in any way shape or form.

Perhaps some consideration might be given for Commercial Agents to represent their clients in the civil jurisdiction providing the client signs an authority for the Commercial Agent to do so. This places the client in a position of being able to choose in having a Solicitor or Commercial Agent to present their matter in the civil jurisdiction and in particular the client will be able to make an informed decision as to the cost benefits of such a move.

On 3/6/05 the AIPD:-

SUGGESTED REGULATIONS AND REASONS TO CONTROL THE PRIVATE INVESTIGATION INDUSTRY IN AUSTRALIA

This is a fairly comprehensive document and although it was suggested for Federal legislation as can be seen on our website www.aipd.com.au (Proposed Bill), it could also be quite simply used for any proposed State legislation. We would respectfully recommend that the Committee members read the proposed Bill and the suggested regulations. We also for your convenience attach a copy of the suggested regulations with this submission.

We also attach a copy headed '*Debt Collection/ Private Investigator Reforms Summary and Solutions*' to assist the Committee.

We believe it is imperative that the *Members of the Legal Affairs Committee* also read the National *Code of Practice for Private Investigators and Mercantile Agents in Australia 2008* and that consideration should be given to including the requirements

of the industry to be compliant with the Code of Practice as stated above in any amendments to the CAPI Act.

We feel it is necessary to again quote a simply analogy to *explain the difficulties in the Mercantile Agent/Private Investigation industry and that is:- "If you take the tools of trade away from a private investigator or a commercial agent (as the case is presently), then they simply cannot conduct their occupation properly or service government clients, the private sector or the public in a prudent, beneficial or professional manner"*. In other words, what is the point of having onerous licensing regimes with exorbitant fees and having members to be fingerprinted both for commercial agents and private investigators and they are prevented from performing their job. This has been the situation since 1991. Quite frankly this is a completely ludicrous situation and does need to be properly addressed as soon as possible, not only in NSW but in every State and Territory of Australia as the current regimes simply fail the industry, business and government alike, as well as private citizens.

Yours faithfully

John Bracey



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3/6/05

SUGGESTED REGULATIONS AND REASONS TO CONTROL THE PRIVATE INVESTIGATION INDUSTRY IN AUSTRALIA

In accordance with the Privacy Commissioners review report March 2005 “**Getting in on the Act**” and we refer to section **7.9 –7.10** pages 222 and 224-231, more specifically we refer to page 229-230 ‘Accountability’ and we quote as follows:-

“Nevertheless, the laws and institutional bodies that regulate private detectives are quite different to the conditions under which law enforcement agencies operate. For example, complaints against state or territory police forces that conduct surveillance operations and collect individual’s personal information can be made to the state or territory ombudsman or the police complaints commission.

Accountability mechanisms help to legitimise surveillance and reassure the community that the negative impacts on privacy by law enforcement activities are minimal and warranted. Accordingly, the Privacy Commissioner has suggested in submissions¹ and a recent speech² that new surveillance and law enforcement policies and initiatives that potentially violate privacy should be balanced by accountability measures that ensure collection and disclosure of individual’s personal information is conducted with accountability and that collection is justified and proportional to the threat.

Private detectives can be distinguished from other enforcement bodies on the basis that they are not accountable to the government or the community, or any accountability body such as an ombudsman who can investigate complaints and award compensation, in the same way that law enforcement agencies are. It would therefore be difficult to recommend private detectives be accorded similar access rights to personal information as law enforcement agencies as proposed by the AIPD”.

It is the Australian Institute of Private Detectives’ (A.I.P.D) view and recommendation as the largest body in Australia representing Private Investigators that for essential control and regulation of the industry the industry should adopt the following requirements and procedures:-

¹ <http://www.privacy.gov.au/publications/secleg.pdf>

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STEP 1 - FEDERAL LEGISLATION

1. There should be Federal legislation covering Private Investigators across all the States and Territories. The Draft Bill which we enclose for Federal legislation which would need to override, but not necessarily, all existing State and Federal legislations in relation to Private Investigators.

STEP 2 - REQUIREMENTS FOR NATIONALLY RECOGNISED QUALIFICATIONS

2. The next step is a Federal Act and should include, out of necessity, incorporation of the requirements in relation to the Code of Practice for the Private Investigation Industry across Australia. This includes the requirements for investigative qualifications as well as mandatory OH&S and recognised training for the industry. All such training to be on a national accreditation basis and using only nationally recognised courses. It is envisaged that after a short period of establishment that university courses will be designed and funded by the Australian Institute of Private Detectives (AIPD) to enhance the standing qualifications for the Private Investigation industry.

STEP 3 - FEDERAL REGULATIONS

3. The third step is the Regulation and the guidelines for the operation of the industry and the procedures for the proper administration and regulation thereof.

STEP 4 - PRIVATE INVESTIGATORS AND COMMERCIAL AGENTS TO BE INCORPORATED

4. It is essential that Private Investigators with an endorsement as Commercial Agents be incorporated in the one Act and to be completely separate from the Security Industry.

STEP 5 - NATIONAL PRIVACY ACT EXCLUSION Law Enforcement Provisions

5. It is vital that Private Investigators are incorporated under the Law enforcement Exclusion Provisions of the Federal Privacy Act 6(1) in order to have legitimate access to information to represent both government, corporate and private clients in respect of matters before the Courts, Commissions and Tribunals including both Criminal and Civil.

STEP 6 – OVERSIGHT

- 6 It is important to note that in the draft Private Investigators Bill 2005 PART 6: section 31, 32, 33, 34, 35, all state that the Commonwealth Ombudsman must be informed of all complaints and has the right to investigate any complaint. Part 12 section 72 states that the Commonwealth Ombudsman shall have an oversight of the Appeal Board, Control Board and the Australian Institute of Private Detectives Ltd

² See http://www.privacy.gov.au/news/speeches/sp5_04p.html

These six essential key factors complete essential ingredients of the requirement for the proper oversight, regulation and administration of the Private Investigation industry.

It must be understood that the Private Investigation industry plays a very important role in a number of areas in relation to the following:-

1. **The Criminal Justice System** for preparing defence in relation to criminal matters, i.e. to ensure the constitutional right of all Australians to have the right to a fair trial and be able to question any of the allegations that are put before a defendant and to check the veracity of the witnesses and the evidence. This involves the ability to have access to information in both the private and public sectors and includes the need to be able to preserve all types of evidence in the form of documents and objects.
2. **Debt Collection** is an important element for any organisation, government department /agency, private entity or an individual, on a number of factors and they include the following:
 - i. If debts are not collected, the government does not collect the company tax.
 - ii. The government also does not collect the 10% GST which would then flow back to the States.
 - iii. Businesses, both large and small alike suffer considerable consequences as a result of these uncollected debts. The bad debts for uncollected debts in 2002 from the statistics tabled in Parliament for 40,086 companies amounted to \$5,823,415,533 which amounted to approximately \$120,000 per company see Annexure "A". In 2002 there were some 10,979 partnerships which claimed tax losses of \$155,886,879 which equated to approximately \$14,000 per partnership. All these Companies and Partnerships worked on an accrual accounting system.
 - iv. Information from the Australian Bureau of Statistics indicates that there are some 1,233,200 small businesses in Australia as at 2002 and they worked on a cash accounting system, this means that they only paid tax and GST on the money that they collected. As these small businesses and sole traders are probably smaller than partnerships we have conservatively estimated that they were unable to collect a figure of say \$10,000 per business on average and this amounts to approximately \$12,332,000,000 in 2002.
 - v. As a result of the above losses, government, business and individuals should be entitled to recover debts from debtors under the Common Law and the conduit to locate debtors is the Private Investigation Industry. By implementation of Federal legislation and adoption of a self-Regulated through the AIPD, the required 'control element' for the maintenance and security of confidential information can be met. This self-administration would be similar to the Legal profession, the Engineering and Accounting profession. See the Code of Practice for Private

Investigators in Australia and the Draft Commonwealth Private Investigators Bill 2005.

This would allow government, corporate, small business and individuals legitimate access to a regulated single forum to legally locate debtors and persons in matters before the Courts, Commission and Tribunals. These may include small businesses, large businesses, finance companies, banks, insurance companies etc.

3. **Stolen identities - identity fraud.** There also needs to be certain facilities available to check the credibility of applicants seeking credit from credit providers and to open Bank accounts. See Annexure "B", Attorney-Generals interview of the Sunday program March 27th 2005. We quote from the Attorney General Philip Ruddock's interview of The Sunday program on March 27, 2005:-

"Well the question is if you're going to have an identity card how do you establish it and the only way in which you could establish it is to go through the steps that have to be taken now when any individual organisation needs to identify an individual i.e. to go back to the source material that we have and to verify it. The steps that we are taking in relation to enhancing identity and identity checking is going to be far more important than any notion or card which would be dependent upon exactly the same steps having to be taken. So in other words banks and for identity fraud they need to verify at the source that those documents are genuine and that they exist and they are issued to the correct person".

We know from experience this has been an enormous growth industry of crime since the inception of the Federal & various State/Territory Privacy Acts. Our members have informed us, many organized crime gangs from all over the world now have operations in every major capital city in Australia and one of their specialties is Identity Fraud. The reason being that there is no process for business, banks & financial institutions and credit providers to check the authenticity of identities due to the Privacy legislation.

These gangs receive credit card details from overseas via their organised channels and contacts overseas which they purchase. They then create duplicate credit cards and a host of other identikit documents in Australia. These extend to identifications such as but not restricted to false driver's licences, false Medicare cards, false birth certificates, false passports and false citizenship certificates and in some cases they also falsely create essential utility documents such as Council rates, electricity invoices, water and gas accounts to present to banks, financial institutions, insurance companies, credit providers etc, under the Australian 100 points qualification system. These banks, credit, financial and insurance institutions have no facilities to check the source or authenticity of any of these documents due to the Privacy legislation.

4. **Repossession of goods.** It is important that Private Investigators engaged in this specialist area of repossession of goods and/or properties on behalf and Liquidators, Trustees in Bankruptcy, ITSA which is the Federal body that looks after bankruptcy, have access to information to locate the debtors and the goods. It is very important to allow Private Investigators to seek hidden assets of a

bankrupt or persons providing Statement of Financial position in matters before the Courts, Tribunals and Commissions.

These activities are dramatically hindered by the existing preventions created by the Federal and State/Territory Privacy Acts. See the AIPD submission the Review of the Federal Privacy Act conducted by the Privacy Commissioner.

In the civil jurisdiction it is important because for every criminal act there is normally a civil connotation. E.g., if there was an armed hold-up of a payroll or an armed hold-up at a company, whilst that is a criminal offence and it is investigated by the relevant enforcement body in the particular State or Territory, it is also often a requirement by the insurance company/ies to verify and to have verified, as to whether anybody from the company assisted, right from the director down to the storeman, had an knowledge of, prevailed or passed information, or assisted in that armed hold-up.

If that is so, under the terms of the insurance policy, the policy is null and void and the insurer does not have to pay the claim/s. That is just one example of where Private Investigators essentially do need to have access to this information, to be able to verify these facts. If the access is denied and the investigator is unable to verify these, this leads to wrongful pay-outs by the insurance companies which leads to continued increases in premiums and wrongful financial burdens on business which in turn leads to the ordinary citizen in Australia being penalised because the insurance companies have to keep paying out on most claims as they cannot be properly investigated.

A further example of that is the history of workers' compensation claims and the civil liability area. The exposure to fraud in those areas incited complete changes in legislation by State and Territory and the Federal Governments in Australia at the expense of the legitimate claimant /plaintiff.

One of the most important factors that we need to take into account is that it must be recognised (and we have no doubt that the Federal Government and all the State Governments accept this), that the Private Investigation industry must be properly regulated.

The Regulations can be done by a number of ways. The least palatable would be for the States - each State as currently exists, to try and regulate the industry however this option has failed miserably and will continue to do so in terms of allowing free flowing and unimpeded trade for Private Investigators to work in Australia. This option also provides no vision for the future, with inability to establish uniformity in the industry and therefore no suitable platform for the consideration of exclusion from the Privacy Act under the Law Enforcement provisions which is an essential requirement for the Industry as well as a requirement to assist Government, Business and individuals in Australia and to provide an 'on the ground' information source to the Federal Government in the interests of Homeland and National Security. See previous submission to Daryl Williams re the Private Investigation legislation in various States.

The major problems with the State legislations is that there is no uniformity and as a license is required in each state a Private Investigator is unable to continue an enquiry across a border or borders unless he or she holds a license in each State, which is simply financially unrealistic and commercially restrictive even though there is in place the Mutual Recognition Act, the Police in various States do not recognize the Mutual Recognition Act and threaten to prosecute Private Investigators if they cross the border. The State licensing approach inherently restricts the trade of Private Investigators and this reality arouses issues under the Trade Practices Act for the current licensing resumes.

Further there is no legislation to regulate Private Investigators in the Northern Territory, the Australian Capital Territory and Tasmania. NSW is now attempting to implement new legislation from 1st July 2005 without proper consultation with the industry and to be under the control of the NSW Police Minister, which means that it is just an abhorrence in itself and this can not be tolerated.

Mr Roden an Assistant commissioner at the ICAC stated in his report that the NSW Police should never have any involvement in the Private Investigation Industry, least of all the keeping of a register. The NSW Police Royal Commission in NSW found that Police officers engaged in manufacturing evidence as well as telling lies and taking bribes.

Yet 14 years later, the NSW Government has elected to have the NSW Police who also administer and the licencing of the Security Industry, to have responsibility for the management and licencing of the Private Investigators in NSW.

Security licensing in NSW is well known to be in a state of total disarray with the NSW Police Registry having no ability to properly audit and regulate the industry or ensure compliance of license holders with Industrial Relations or Occupational Health & Safety Legislation and Criminal records.

Many States incorrectly group the Private Investigation industry with the Security Industry. They have specifically different roles and by grouping them together or addressing legislation of these two industries together, is simply unworkable, fanciful and an uninformed approach. This approach is conducted in Victoria, QLD and soon to be NSW.

DRAFT FEDERAL BILL

Under the terms of the Draft Federal Private Investigator's Bill the AIPD would be the controlling body with a Control Board and a separate Appeal Board, answerable to the Federal Attorney Generals Department and the Commonwealth Ombudsman. Any required investigations of any matters would be referred to the Commonwealth Ombudsmen.

The Control Board under its general functions holds the authority to be able to conduct investigations and make determinations and where an investigation is ordered and should the finding be of an adverse nature against a certified practicing investigator or any other person the Control Board holds the authority under the Act particularly under Section 9 Prosecutions (shall with respect to a prosecution or defence against the Bill), have the same functions and responsibilities and the powers of prosecutions as provided under Part 3 as a Director of Public Prosecutions Act 1986.

This ensures there is no onerous burden of a financial nature placed upon any other Federal or State body for the prosecution process, similar to the various Law Societies' process of regulation and investigation of complaints of its members. This however does not prohibit at any stage investigation and prosecution of any member or others for criminal offences committed by any member or person in the relevant State or in the Federal jurisdiction and the relevant authorities from prosecuting those person's or organisations for criminal offences under the ordinary process of law.

The arbitrator of any decision by the Board being left in the hands of the Attorney General for referral to the Commonwealth Ombudsman, if deemed appropriate.

An important area which is vital to Private Investigators acting in matters before the Family Court, when they are either instructed by a solicitor and/or a client directly to investigate certain matters, it is paramount that they have access to information as to whether there is any restrictions on the client either male or female, from such orders like, restraining orders, AVOs, DVO's and such like as well as an specific Court Orders. Conducting an investigation based only on what the Private Investigator has been advised by the client could lead to massive problems if the investigator is not aware of these legal restraints that have been imposed. The inability to have access to confidential information inherently places the Private Investigator in a position of vulnerability and he/she could be open to criminal charges for being in breach or in contempt of any Court Orders. It also has potential implications for the related parties of a matter.

It is also important in such matters that an investigator be aware in any domestic dispute, whether one or either of the parties may have a gun licence or a possibly a history of violence and could be endangering the life of the associated parties involved in the Family Law matter, as well as the Investigator or putting at risk the life/lives of any of the investigator's staff or subcontractors to whom the Investigation Firm or Main Contract Investigator obviously has a duty of care under the OH&S legislation and Risk Assessment, and to check these aspects.

In a specific Family Law case in Queensland in recent times, we note a Private Investigator was charged criminally after locating the whereabouts of the children of the client who was involved in Family Law litigation and the location information was passed onto the client/father who then killed the children. The investigator was charged for aiding and abetting in this incident as a result of there being no suitable process for the investigator to access the essential information, before accepting any instructions to conduct an investigation.

Unfortunately under the current Privacy Laws, the Main Contractor Investigator has no rights to be able to check whether he is endangering himself/herself or any staff, or subcontractors, whereas the Police and all other law enforcement entities do have access to the confidential information and are able to conduct the necessary enquires to protect their investigative staff and approach an investigation appropriately.

PROCESS TO CONTROL ACCESS TO CONFIDENTIAL INFORMATION BY PRIVATE INVESTIGATION INDUSTRY

Under a Federal Private Investigators Bill, the required location information and other classes of confidential information required to be accessed by private Investigators could be controlled by the Federal Attorney-General or through the Federal Police.

We suggest the following mutual system be implemented to resolve the current difficulties as indicated previously, that relate to Government, Australian Business and individuals and prevent Private Investigators assisting these bodies. We believe our proposal provides the necessary safeguards and controls to protect confidential information of Australians and maintain the integrity of the legal process, allowing all persons and entities access to a defence and equal before the law.

Structure and Access to Information

- Under the Federal Private Investigators Act there should be a provision for Certified Private Investigators to be eligible to access certain confidential information through the appointed industry regulating body the AIPD and under the control of the Federal Attorney Generals through the Federal Police.

- This will also of course require amendment to the Federal Privacy Act to include Private Investigators under the Law Enforcement Exclusion Provisions 6(1).
- Only one person from the Main Contractor Investigation Company would be permitted access to confidential information through the AIPD and would be probity checked and given a once only code and identification number. Sub-contractor investigators or sub-contract investigation firms/companies would not have the search access to confidential information.
- The Australian Federal Police will be the medium to conduct the required searches as they already have access to the States & Federal information. The proposed process would be as follows:-
 - 1, A main contractor would access the AIPD computer, the computer would then check name and access code/password and that the nominated person or Main Contractor has not been suspended or is currently under investigation. Then that there were sufficient funds in the persons account for the operation.
 - 2, The AIPD computer would than contact the Federal Police computer and the name and code is then recorded and any requests for information is recorded in that Contractors name and code as its is on the AIPD computer. This leaves an indelible and transparent audit trail.
 - 3, The various States and Territories Department of Transport and Criminal database are accessible through the Federal Police and any other sources that are done through the Federal police are charged to the AIPD and at the end of every month the AIPD sends to the Federal Police a check for all the searches,
 - 4, The cost for the various searches can be agreed with all the parties concerned.

NATIONAL SECURITY ASSISTANCE

The AIPD will provide the conduit for Certified Private Investigators to supply information that comes to their attention at any time whilst engaged in field operations or elsewhere, and this will be passed onto the Federal Police for appropriate recording and channeling.

The beneficiaries of the entire information exchange process are:-

Governments, Insurance Companies, Banks and Financial Institutions, Credit Providers, Small Business and the individual citizen.

BENEFITS TO THE FEDERAL GOVERNMENT

- 1, Securing the taxation on monies from organisations that are presently written off as bad debts as debtors cannot be located or the money has not been collected as in the small business cash accounting system. Bad debts in 2002

was \$5,823,415,533 for 40,000 businesses and the estimated bad debts for 1,233.200 small business of \$12,332,000,000 in 2002.

- 2, Collection of the GST, on these amounts for small and large business, which is not presently retrieved, amounted to \$1,815,541,553 in 2002.
- 3, A uniform and efficient system to manage and regulate Private Investigators in Australia.
- 4, Through efficient regulation and access to information legally, this would dissolve the illicit black market trading in confidential information which we believe is still prevalent in Government Agencies including various State and Territory Police Services.
- 5, An information reporting process can be established embracing and channeling the information Private Investigators are privy to 'on the streets' each day, (using the Third Force principle), back to the Federal Government databases in the interest of Homeland or National Security.
- 6, The Federal Government retains complete control of the said Confidential Information.
- 7, Confidential Information is 'controlled' by allowing the said searches to be conducted only via the Federal Police and overseen by the Commonwealth Ombudsman.
- 8, All Private Investigation search request are to be directed through the AIPD computer then to the Federal Police computer.
- 9, The funds for the said searches are transferred automatically by electronic transfer each month from the AIPD secured computer database to the Federal Police. Conservative estimate income to the Federal Government or Federal Police would be around \$300,000.00 per week; \$1,200,000.00 per month.

The most important aspect of this proposed Federal legislation is that it gives to the industry the ability to regulate itself and the overseen by the Commonwealth Ombudsman with the Attorney-General having Ministerial Responsibility.

Should the AIPD who would administer the Federal legislation if and when it is passed not be seen to be competent or the Control Board deviates from the expected manner in which the Industry should be administered, then the Attorney-General has allegedly powers to change the Act or the regulations as well as to change the representatives on the Control Board. The Attorney-General were always be kept informed of the overall operation of the industry through the representatives on the Control Board.

John Bracey
3/6/05

STRUCTURE FLOW CHART

