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Regulating Private Security in Australia

Tim Prenzler and Rick Sarre

Private security is a major industry in Australia and security services affect almost all aspects of people's lives. There are twice as many private security operatives in Australia as there are police. Following substantial growth in the last few decades the industry has entered a period of relative stability and has, in a sense, "come of age", with considerable attention now being given to issues of consumer protection, professionalisation and government regulation. This Trends and Issues paper addresses questions about the scope of security work, and current problems and issues; and recommends a model of enhanced cooperative regulation of the industry to benefit both the consumers of security and quality security providers.

Adam Graycar
Director

The security industry in Australia has tended to follow international trends in its development and, like its overseas counterparts, appears to have enjoyed a period of intensive growth in the 1970s and 1980s. Available figures are complicated by changes to licensing requirements and by the narrow definitions of security work adopted by the Australian Bureau of Statistics (ABS). Some indication of growth is apparent, however, from Victorian figures, which show that between 1980 and 1990 the number of licensed security firms and security guards almost doubled and the number of inquiry agents tripled (Frost 1991). In marked contrast, ABS labour force estimates for "guards and security officers" show only a slight increase between 1994 and 1998—from approximately 31,000 to 32,750 (ABS 1998a).

State-based licensing figures show a much larger industry than is apparent from ABS data, and it is clear that security operatives outnumber conventional police by at least two to one as a result of the growth of the preceding decades (see Table 1). Police numbers have not declined relative to population, but have been outstripped by security. The gap would be considerably wider if one were to include unlicensed personnel.

The 1995 ABS *Business Register* recorded 2010 "Security and Investigative Services" (ABS 1997). This might be considered a surprisingly small number, but the industry in Australia has been dominated by a few large firms. The only detailed figures available, from a special ABS study in 1988, reveal that only 1 per cent of security enterprises was responsible for 66 per cent of employment and 60 per cent of turnover (ABS 1988, p. 2). A trend towards oligopoly accelerated in the 1990s with Tempo purchasing Group 4, and acquisitions involving Chubb, Wormald, Mayne Nickless and MSS.

Academic studies and media reports tend to focus on "private" or "contract" security. This sector constitutes the larger part of the industry, but the situation is more complex than the stereotype suggests. A large number of government agencies, businesses and educational enterprises employ their own security staff. This public "in-house" sector receives very little attention. Its functions are

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Australian Institute
of Criminology
GPO Box 2944
Canberra ACT 2601
Australia

Tel: 02 6260 9200

Fax: 02 6260 9201

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Table 1: AUSTRALIA, Ratio of police to licensed security providers

| Police* | Security** | Ratio |
|---------|------------|-------|
| 42 093 | 94 676 | 1:2.2 |

* As at July 1997. **Source:** ABS 1998b, p. 345. Includes AFP and NCA.

** As at March 1998. **Sources:** Dolahenty 1998, p. 13; Tasmania Police and ACT Consumer Affairs, July 1998.

similar to those of in-house security in the private sector, the most noticeable example being loss prevention officers in the retail sector. In another permutation, the Australian Protective Service, in the Commonwealth Attorney General’s Department, is a government agency which provides security to government departments on a contract basis.

A further dimension of complexity relates to the functions of security personnel. These are highly diverse, with wide differences in the types of tasks performed and the levels of technical or interpersonal skills required. Table 2 sets out the main divisions in labour. There are also numerous related occupations involving input into security such as architecture and town planning, insurance, financial auditing, fire services, and computer software design.

Explaining Private Security

The figures above confirm the central place of security services in crime prevention and law

enforcement. Expansion has been attributed to a number of factors. Increasing crime during the 1970s and 1980s was facilitated by lifestyles that shifted much family activity away from the home, that increased population densities, and that increased the number and availability of goods which are easily stolen and easily converted to cash. In other words, a decrease in guardianship coincided with a large increase in the number and value of targets (Felson 1998). There has also been greater physical separation between commercial, industrial and residential areas and a consequent reduction in “natural surveillance”. New security concerns have also developed in areas as diverse as terrorism and threats to electronic data.

The growth of various forms of “self-provision” of security is also closely linked to the recognition of the limited capacity of conventional policing to prevent crime (Sarre 1997). In a now famous study in Los Angeles County, Felson (1998) estimated that each police patrol officer on

duty was responsible for protecting 3000 locations. This amounted to a daily coverage of 29 seconds per location; which explained why fewer than 1 per cent of offenders were “caught in the act” and why a policy that might involve increasing police numbers would have a negligible effect. Similarly, an Australian study estimated that for each 1000 crimes reported in victim surveys, only 43 result in convictions and only one person is jailed (Mukherjee et al. 1987).

These circumstances have created a trend towards individuals and corporations providing their own security. Self-provision of security is also reflective of the immediate benefits in crime prevention achieved through the application of “situational” crime prevention principles. These involve strategies designed to suit the particular vulnerabilities and needs of an organisation (for example, Clarke 1997) or strategies that employ what has become known as Crime Prevention Through Environmental Design (CPTED). “Security” — including associated terms such as “risk management”, “asset protection” and “loss prevention” — is now recognised as a highly diverse function that can be provided through a variety of sources. Terms such as “hybrid policing” have been developed to describe the evolving diversity of forms of policing including increasing cooperation between public police and private security (Johnston 1992).

Problems and Issues

The large, but often hidden, presence of security services raises questions about the implications of the growth of social control by “non-police” agencies. It has been argued, for example, that increased privatisation of security will produce “two justice systems”: a better service for those able to pay and a publicly funded inferior service for those unable to pay (Shearing &

Table 2: Main security positions and functions

| Position | Function |
|--|--|
| Inquiry Agent | Obtain evidence for court cases, search for missing persons. |
| Guard/Security Officer | Provide protection through static guarding, patrol, call out, screening (as at airports), and cash-in-transit. |
| Crowd Controller | Protect patrons in places of entertainment. |
| Bodyguard | Protect individuals. |
| Consultant | Conduct security audits and advise on security needs. Provide advice on security equipment. |
| Security Manager | Oversee all aspects of security within an organisation. |
| Equipment - Manufacturer & Distributor | Research, production, marketing and distribution of security equipment. |
| Equipment Installer | Install and service security equipment including locks, alarms and CCTV. |
| Control Room Operator | Monitor security cameras, access control and alarm systems. |
| Trainer | Teach security competencies. |

Stenning 1983; Swanton 1993). One could conclude that a growing amount of crime and anti-social conduct will be dealt with privately — through employment termination for example — rather than through the criminal justice system. There has also been criticism of the industry for disregarding people’s legal rights; for example, allegations of security guards harassing young people in public places. Moreover, the availability and relatively low price of some security devices — along with the aggressive advertising that goes with them — are said to contribute to a “fortress society”, exploiting fear of crime and driving people indoors behind bars. Security technology, such as surveillance cameras, are seen as invading privacy and over-regulating contemporary society.

Table 3 provides a model of the different principles underlying private and public security, highlighting both benefits and detriments inherent in the two approaches. As with all models, this one simplifies reality. There are numerous overlaps and points of cooperation.

Apart from the general issue of privatisation, allegations of impropriety are also frequently made against the industry. A discussion paper on industry regulation in the Australian Capital Territory (ACT) described “serious problems” accompanying security growth and noted that “violence and allegations of criminal infiltration have dogged the industry” (ACT 1992, p. i). In 1994 the Victorian Deputy Registrar for Private Agents claimed that security firms “have very poor selection procedures. They lack any real supervisory hierarchy. People are sent out on the job and not seen again until they return. There are extremely poor standards in respect to training” (in Private Cops 1994). Similarly, a New South Wales Police inquiry cited firearms instructors’ views that the one day of weapons instruction required for security guards was “totally inadequate”

(NSWPS 1995, p. 23). Such concerns have been expressed from within the industry as well as from without (Rees 1984; Prenzler 1995); and the 1990s has seen a number of inquiries revealing serious problems in some sections of the industry, including the following.

- Prosecutions of leading security companies for misrepresentation of patrol and alarm monitoring services.
- A pattern of serious assaults and failure to protect patrons on the part of crowd controllers in licensed premises.
- Corrupt relations between police and security officers trading in confidential information and preferential treatment for security repair firms.
- An enormous waste of police resources responding to false alarms.
- Shoot-outs between armed robbers and cash-in-transit personnel involving death, injury and serious threats to public safety (see Prenzler 1998).

It could be argued that the above cases are not representative of the security industry generally. It could also be argued that the industry is surprisingly “clean”, given the opportunity structure involved in security work. Security personnel necessarily obtain inside knowledge about a client’s assets and vulnerabilities, as well as possessing technical expertise which allows them to circumvent many protective devices. Assess-

ing the real level of misconduct in the industry is extremely difficult. But what is most instructive about the cases cited above, and others not included, is the *potential* for abuse inherent in the security relationship. There are many reputable companies providing an excellent service for their clients. The problem for consumers lies in selecting reliable firms and in monitoring their performance. Members of the public too, benefit from security, but are simultaneously vulnerable to malpractice.

Despite the many challenges to the integrity of security services, the industry stands firm, and with good reason. Demand for security is certainly not declining. Given their limitations, reliance on public police does not necessarily present a significantly better alternative. Thus, the somewhat awkward cooperation between police and security services appears inevitable. Critics tend to expect too much from police or from crime prevention through social development, and also tend to ignore the impacts of crime on victims and the fear of victimisation. Security services may protect the profits of rapacious corporations, but they are also the necessary immediate refuge of the weak and vulnerable, and security can provide vital protection to disadvantaged groups in contexts such as public housing. In addition, there is considerable merit in the non-prosecutorial preventive orientation of security services in keeping potential offenders, especially young people, out of the criminal

Table 3: Differing principles underlying public and private provision of security

| <i>Public</i> | <i>Private</i> |
|-------------------------|---------------------------------------|
| taxpayer funded | profit driven |
| public interest | client interest |
| equal service | selective service |
| offender oriented | protection oriented (loss prevention) |
| reactive | proactive |
| specific powers | agent and citizen powers |
| centralised bureaucracy | fragmented |
| heavily regulated | less regulated |
| intensive training | minimal training |

Based on Swanton (1993).

justice system. Rather than deride security then, the most productive response is to find the best form of regulation which provides maximum protection to consumers.

Regulatory Responses

Given the potential for malpractice, what are the options for controlling the industry? Any regulatory program will need to avoid restricting productive competition and unnecessarily constraining honest providers. However, regulation must avoid being tokenistic. It must have a genuine capacity to weed out malpractice. Traditional options for industry control have recently been assessed by Sarre (1998) and are summarised below.

Civil law

A growing number of court cases in Australia have found security firms liable for breaches of contract or tortious duties and awarded compensation to clients. However, while civil remedies provide an incentive to security firms to comply with contract arrangements and other responsibilities, they are essentially a form of individualised remedy and do nothing to detect illegal or unethical behaviour in any systematic fashion. Taking civil action also involves considerable risk to the plaintiff in losing and being left with large legal fees. This risk is particularly high for individuals aggrieved by the aggressive actions of security personnel (Sarre 1994).

Industry self-regulation

Self-regulation has been one staple regulatory device operating over and above the legal framework. However, industry bodies tend to take a passive approach to checks on members' conduct and members who are expelled are able to continue operating. Associations themselves have at times had their integrity questioned. The NSW Independent Commission

Against Corruption (ICAC) report into the illegal release of confidential information found the then President of the Association of Investigators was involved in the illicit trade, as were members and past and present office bearers in the Institute of Mercantile Agents. The report stated the industry "cannot be regarded as fit to regulate its own affairs" (ICAC 1992, p. 128).

Market forces

Deregulation has, at times, been suggested as a way of improving quality through market pressure, but this has received little support. The most recent example in Australia is the "Bartley report" (Deregulation Unit 1990) in NSW which recommended the abandonment of the existing system of limited licensing. The ICAC (1992) report condemned the Bartley report as being naive in the extreme and recommended "tighter control" by government to protect the public interest.

Criminal law

The criminal law is also a crude tool with which to deal with alleged misconduct. Successful prosecutions of security personnel are rare, partly because of the difficulty of obtaining sufficient evidence to satisfy the high standards of proof in criminal proceedings. This has been particularly apparent in cases of shootings involving security guards.

Government regulation

Historically, parliamentary direction for the industry has occurred on a piecemeal basis through legislation governing weapons, trade practices, privacy, consumers' rights and private agents. Licensing was a rudimentary administrative arrangement that provided few controls. Growing recognition of problems in the industry, especially with violence by crowd controllers, led to expanded selective licensing systems, beginning with NSW in 1985 and Victoria and Queensland in the early 1990s. Compul-

sory training and criminal history checks were introduced to improve standards. In the mid- to late 1990s Western Australia, South Australia and NSW moved towards comprehensive licensing.

Despite a trend towards expanded control, the extent of licensing varies significantly across the country (see Table 4), as do the specific categories of licences, requirements for a licence and licence fees. Prescribed training is limited in most cases to periods of one week or less. The effectiveness of exclusion by criminal record is highly questionable given the fact that very few offenders are ever convicted and that prediction of future offending is extremely unreliable. Nonetheless, there is strong industry support for this means of limiting access to the industry (Prenzler, Hayes & Wortley 1998). Exclusionary provisions are usually applicable for ten years. However, the form of checking on criminal histories varies considerably between jurisdictions. Regulatory agencies responsible for enforcement also differ (see Table 5). To date, there have been no controlled studies of expanded legislation to test the impact of new requirements. The very limited research on industry views shows opinions have been divided on the benefits in terms of improved conduct, but the majority of security managers have felt licensing was too limited, and that enforcement agencies have not been adequately resourced to be proactive in auditing compliance or pursuing professionalisation (Prenzler, Hayes & Wortley 1998).

Consultation with industry in the development of new legislation has also often been inconsistent. Nevertheless one may conclude that security managers generally are in favour of enhanced regulation. For example, a 1998 survey in Queensland showed that 81 per cent supported licensing of all security operatives (Prenzler, Hayes & Wortley 1988). Submis-

Table 4: Licensed security categories by State and Territory

| Category | WA | Qld | Vic. | SA | NSW | NT | Tas. | ACT* |
|---------------------------------|----|-----|------|-----------------|-----|----|----------------|------|
| Companies | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Guards (contract) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Guards (in-house) ^{††} | ✗ | ✗ | ✗ | ✓ | ✓ | ✗ | ✗ | ✗ |
| Crowd Controllers | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✗ [†] | ✓ |
| Bodyguards | ✗ | ✗ | ✗ | ✓ | ✓ | ✗ | ✗ | ✓ |
| Inquiry Agents | ✓ | ✓ | ✓ | ✓ | ✓ | ✗ | ✓ | ✗ |
| Consultants | ✓ | ✗ | ✗ | ✓ ^{**} | ✓ | ✗ | ✗ | ✓ |
| Control Room Operators | ✓ | ✗ | ✗ | ✓ | ✓ | ✗ | ✗ | ✗ |
| Installers and Repairers | ✓ | ✗ | ✗ | ✓ | ✓ | ✗ | ✗ | ✓ |
| Hardware | ✓ | ✗ | ✗ | ✗ | ✓ | ✗ | ✗ | ✓ |
| Locksmiths | ✓ | ✗ | ✗ | ✗ | ✓ | ✗ | ✗ | ✓ |
| Trainers | ✗ | ✗ | ✗ | ✗ | ✓ | ✗ | ✗ | ✗ |

*Registration: similar to standard licensing. **Partial. †Pending ††Includes loss prevention officers.

sions from the industry regarding expanded regulation usually include practical recommendations for improving standards.

The most recent case of legislative change is in NSW. The *Security Industry Act 1997* came into effect on 1 July 1998, and at present provides the best model for enhanced regulation. Core features of the new system include comprehensive licensing, criminal history checks prior to training, pre-service training for operatives, auditing of compliance with industrial awards, public liability insurance, an enforceable code of conduct, and mandatory review of the effectiveness of the Act. Firearms training is mandated under a separate Act.

These features appear to have general industry support, although other elements of the new system sparked controversy. There have been allegations that consultation has not been sufficiently inclusive of all industry associations (Adams 1998). While competencies for operatives were taken from national standards — a commendable step — it is questionable whether the 50 hours of pre-service training for novices allows adequate coverage of the diverse range of skills required. There has also been

some criticism that employers of security staff must hold a “Master Licence”, which may be a disincentive for in-house security in hospitals, retail stores and similar institutions (Adams 1998). Employers must pay higher fees for greater numbers of employees (up to \$2000 for more than 50 employees) when employees also pay for their licences. There is also a major question concerning the role of police in regulating the security industry, as in NSW, Victoria, WA and Tasmania. Arguably, police roles do not include regulating what is essentially a rival industry. Mutual recognition was also left wanting in that licensees in other States must still be separately licensed and pay fees in NSW to operate in that State.

Future Themes: Advancing Cooperative Regulation

Australian reviews reinforce the view that the security industry, especially through its professional associations, is eager to contribute to improved regulation (NSWPS 1995; Prenzler 1995). Security managers recognise that weak enforcement upsets the “level playing field” by allowing substandard providers to compete unfairly. A major impediment to effective regulation, however, is the fragmentation of industry associations and their failure to provide a united organisational or policy focus. Thus, despite a conscientious response from the security industry, including practical proposals for regulation focused on industry integrity and competence, there are still questions about an ideal form of industry regulation. This should not be unexpected. Over a decade ago, Grabosky and Braithwaite (1986) critiqued a variety of unproductive regulatory approaches. Regulation can fail quite simply, they argued, because of industry alienation, and the employment by regulators of detached or “token” enforcement strategies.

Six years later, in their study entitled *Responsive Regulation: Transcending the Deregulation Debate*, Ayres and Braithwaite (1992) suggested that what they referred to as “responsive regulation” was the most likely mechanism to produce good compliance rates without antagonism between regulator and industry. “Responsive” regulation, they argued, involves industry inter-

Table 5: AUSTRALIA, Regulatory agencies and legislation

| Jurisdiction | Agency | Legislation |
|--------------|------------------|---|
| NSW | Police | <i>Security Industry Act 1997</i> |
| Vic. | Police | <i>Private Agents (Amendment) Act 1990</i> |
| Qld | Consumer Affairs | <i>Security Providers Act 1993</i> |
| WA | Police | <i>Security and Related Activities (Control) Act 1996</i> |
| SA | Consumer Affairs | <i>Security and Investigation Agents Act 1995</i> |
| Tas. | Police | <i>Commercial and Inquiry Agents Act 1974</i> |
| NT | Consumer Affairs | <i>Private Security Act 1995</i> |
| ACT | Consumer Affairs | <i>Fair Trading Act 1992</i> |

nalisation of standards through its involvement in setting the standards. It also involves input from "third party" stakeholders such as consumer groups or insurers. Once accepted by all stakeholders, terms such as "cooperative regulation" or "co-regulation" enter the regulatory lexicon.

The above theory suggests a model of industry regulation which should work to unify, rather than replace, the existing "patchwork" system of accountability. In the context of the diverse protective security industry, the following features could be included.

1. Comprehensive licensing would cover all occupations involved in security work and recognise the high levels of trust and client vulnerability entailed in security. Questions remain about how many related occupations need coverage, such as administrative staff in a security firm, but all the main players should be covered, including security system installers, control room operators, consultants and in-house operatives.
2. Regulation would be national, with States and Territories endorsing a model Act and Regulations. This would allow interstate portability of licences and removal of "havens" for licence applicants rejected in other jurisdictions.
3. Development and administration of amended legislation would be consultative, with standing industry and stakeholder committees advising the regulatory agencies, and with a national body representative of the industry engaged to coordinate development.
4. Regulation would involve exclusion of personnel through a national system of criminal history checks and power over licensees through an enforceable Code of Conduct.
5. Mandated training standards would be based on analysis of security tasks and establishment of basic competencies for all security occupations. Flexibil-

ity could be incorporated, for example, in recognition of prior learning.

6. Regulatory agencies would be proactive, holding a mission both for research and professionalisation. Compliance monitoring and complaints investigation would need to be vigorous, including innovative approaches such as behavioural observation studies and other forms of research into the conduct of security staff. Compliance monitoring would extend to elements such as award payments.

There is little doubt that should such a model be adopted, the industry, its consumers and society more generally would be the beneficiaries.

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Dr Tim Prenzler is a Senior Lecturer in the School of Justice Administration, Griffith University, Brisbane. Associate Professor Rick Sarre is Head of the School of Law and Legal Practice, University of South Australia, Adelaide.



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 Dr Adam Graycar, Director
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 GPO Box 2944
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