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Submission 133.6

BY:.....  
**Legislative and Constitutional Affairs Committee**  
**Inquiry into Crime in the Community – Hearing 20<sup>th</sup> August 2003**  
**Final summarisation by Duncan Kennedy**  
2<sup>nd</sup> September 2003

My thanks go to the Committee for hearing me out. I believe that, as complex as the issues I have raised are, the Committee did get somewhat of an understanding of the importance of what I am on about.

May I firstly apologise for becoming a little flustered at the hearing when I realised that I may not have had the time to fully develop my arguments and that was compounded unfortunately by the acoustics which were not conducive to me accurately hearing some of the questions put to me. Never-the-less I have read the transcripts and am happy to make very few amendments, mainly where an occasional word was misheard by the transcriber. I will mail those corrections back to you in a day or so.

However there were some specific issues I did really want to put to the Committee but time just did not allow it. I will not detail many of the “instances” I had ready to relate to them, but feel that if I make this last submission, highlighting some of those, I can rest easy that I have done my very best.

**Committee members may like to be fully appraised of my opening address, which was understandably cut short. I left a copy with those files you retained.**

#### **The Headlines**

I did want to bring to the committee’s attention a montage of headlines collected from the Daily Telegraph, the Sunday Telegraph and the Sun-Herald over a three month period. As indicative of the problem faced by the public and as frightening as these headlines are, believe me the actuality and the reality are both far worse than we might imagine.

- 19/04/01 Sex attack in home raid
- 4/04/01 Robbery victim slashed
- 5/04/01 Iron bar, bat in home raid
- 14/04/01 Gran tied, robbed
- 18/04/01 Baby held in robbery
- 2/05/01 Woman, 83, beaten at home
- 18/04/01 Magistrate attacked
- 2/05/01 Home invasion injury
- 9/05/01 Invaders rob seven
- 14/05/01 Breaking-in 100 times
- 15/04/01 Woken by three armed men
- 11/05/01 Daughter foils home invasion
- 15/05/01 Burglars hit resident
- 21/05/01 Father held knife at child [kicked in front door of his former de facto’s unit]
- 16/06/01 Grandmother assaulted
- 20/06/01 Grandmother found in home strangled
- 16/06/01 Fears as Mosman home invader grows bolder

- 8/07/01 Burglary was rude awakening
- 8/07/01 Home intruders foiled
- 11/07/01 Two quick break-ins
- 25/07/01 Two tied up in robbery
- 11/07/01 Grandma beats intruders
- 8/07/01 Man beats home invaders

When I went up to Sydney for the intended Committee hearing on the 6<sup>th</sup> August, the radio talkback was about the family in the so-called "security" units at Newington where the daughter was raped while her parents were bound in another room. Also on "Talkback Radio" was the Glebe family, living in a so-called "security" block at Glebe – the block and many of the units were always being broken into – the same story all over Sydney.

### **Alarm v Barrier / Locksmithing v Guards**

I did have several indicative and definitive stories to relate to differentiate between reactive "alarm" security and consequently the importance of pro-active "barrier" security and locksmithing. But in particular I wanted to alert you to the following story. Several years ago two of my staff wanted to expand their security knowledge and enrolled in an "alarm" course at Hornsby TAFE. The next day after their very first night class I asked them how it went. They told me that the first thing they had learned was how to disable and disarm alarm systems. I checked with them and no-one had checked any of their bona fides before teaching them such things. As a member, I reported my concerns to the Australian Security Industry Association Ltd (ASIAL) who reported it to the Police Fire Arms Registry who were administering the Security (Protection) Industry Act 1985 at that time. They sent an undercover police person along to one of those classes who found known criminals attending, sent there by the Commonwealth Employment Service for training and who were openly talking during their lunch break about the jobs they could now pull with their new found ability. Similarly TAFE at Mt Druitt were teaching the manufacture of so-called security screen doors totally oblivious of Security Industry legislation. I do not believe these sorts of issues have been addressed by legislation.

I wanted to quote from an editorial by the president of ASIAL in the latest issue of *Security Insider*. "Just as you wouldn't put your life in the hands of an unqualified or unregistered doctor, nor should you put your security in the hand of unqualified or unlicensed security personnel. .... so too is it important for industry regulators to ensure that ALL players offering security services abide by the law. As an operator of an electronic security business I frequently get asked to tender for jobs where the technical specifications have been put together by someone who obviously has a limited understanding of security....." [He is complaining about the authorities doing nothing / not doing enough to enforce legislation regarding the security industry].

### **The NSW Department of Fair Trading**

In regard to the Department of Fair Trading I specifically wanted to tell the story of the Australian Consumer's Association "Choice" magazine journalist Colleen Ford. Before I start, I have to say that I did not originally hear the story from Colleen but there is a written statement from her in my files (which I left with you) which confirm it. She was assigned the task of writing a story on how the Department of Fair Trading

went about investigating complaints. It was agreed that she pick a topic and she chose the security screen door industry because Choice were getting a lot of inquiries about security screen doors. The Department said "any product but security screen doors". She said "no, they had given her the choice, did they have something to hide"? I understand that the Department of Fair Trading then contacted Choice and advised that if Choice wanted any cooperation in the future they had to get rid of her. I understand this reason was specifically given as the reason for her termination. Colleen then got a freelance assignment to write the security section of the NRMA annual report and NRMA told me, at the time, that the Department of Fair Trading were so concerned that they rang NRMA on three occasion to warn them against employing her. To NRMA's credit they employed her anyway.

The Department of Fair Trading will tell you that I am the only one concerned about the issue. Not so. A host of prominent people have tried to convince them to rectify the problem. Richard Amery, as the Labour opposition spokesman on Fair Trading was so concerned after investigating the issue that he raised it in State parliament. NRMA have raised it at Ministerial level, in fact with Faye Lo'Po directly. John Tingle MLC raised it with Faye Lo'Po. Jeanette McHugh as the federal Labour minister for Business and Consumer Affairs was, from an ASIAL presentation to her, outraged by the problem but gone from parliament two months later. Helen Wellings from the Channel 7 Today Tonight program raised it with Alan Fels who expressed his concern in her program. Mr. O..... from Sylvania could not believe how easily his new security doors got broken through but when he tried to report it to the Department of Fair Trading they refused to accept his complaint on the basis that Duncan Kennedy had suggested he report it to them and Duncan Kennedy didn't know what he was talking about. Many customers have told me of their frustration trying to get the Department of Fair Trading to consider their complaints.

At ASIAL's cost I gave a two hour presentation to their solicitor. His view was that it would "take months of detailed investigation by an independent authority to establish whether or not enough evidence existed to support criminal negligence charges" but added that "in his view criminal negligence was a very strong possibility". A general meeting of some 70 senior security executives, all members of ASIAL subsequently passed a unanimous resolution that these allegations be passed onto ICAC. I confirm that ICAC did not request to see one shred of any evidence.

I was getting a lot of referrals about security problems at domestic tenancy situations. I wrote to the Residential Tenancy Tribunal, a division of the Department of Fair Trading. They advised me that security was probably the single biggest concern of *tenants and that they got thousands* of inquiries each year. I was advised that the Residential Tenancy Tribunal was *unaware of Security Industry legislation* and had been incorrectly advising tenants in regard to their rights and landlords in regard to their obligations – i.e. they had been advising they seek home building licence details rather than Security Industry licensing details as required under the law.

**Whether the Department of Fair Trading licensing section or the Residential Tenancy Tribunal were unintentionally or deliberately misleading inquirers does not exempt the Department from the provisions of Fair Trading legislation which entitles potential victims who have acted upon their advice in good faith to receive, at the very least, adequate warning that:-**

- **They may have been misled in regard to the advice they have been given by the Department about their prospective security purchase**
- **Their resultant security purchase may well not provide the level of protection they might reasonably expect from a properly licensed security supplier.**

Then, I just have to reinforce the plight of tens of thousands of consumers being misled by advertisements regarding the new range of woven stainless steel mesh "security" screens by reciting the following story. At API Security I had a lady come into the showroom who had purchased / had installed on her home, Crimsafe security screening. She wasn't happy with the actual installation and asked us if we could "fix it up" for her. I asked her for what reason she had had the product installed and she said "for the protection of her family". I asked her whether that product would meet that expectation if it could be cut with a knife. She said "it couldn't be cut with a knife – both the brochure material and the salesperson had assured her of that fact". I showed her our testing of the product and she was disgusted that she had been lied to. She was ready to take it up with the Department of Fair Trading, and I encouraged her to do so but so that she would know what she would be up against, I showed her the product complied with Australian

Standards [redacted]  
with a knife" did not breach the Fair Trading Act. The [redacted]  
"how could the authorities allow such a lie?" Out of interest sake I then rang the  
Department of Fair Trading and spoke to a Natasha. I explained the Crimsafe product,  
the advertising claim and the reality. Natasha stated that she "had no doubt the claims  
breached the Fair Trading Act and that we should lodge a complaint". I advised her  
that we already had, but that the Minister John Watkins had already ruled that it did  
not breach the Fair Trading Act. Her response was "Oops – I am not going to buy into  
that" and she hung up.

Similarly, Mrs. E. M. of Chatswood bought "security" doors containing this particular  
type of screening. If you refer to the Channel 7 Today Tonight program referred to  
above you will see that "kids" broke through the screening by slitting it and robbed  
her while she was at home with her new baby.

I was approached to re-sell the Crimsafe screening product. An appointment was  
made. I advised that I would be testing it by cutting it with a knife. I was told  
categorically that "that would be OK, it just cannot be cut with a knife".  
Subsequently, the appointment was cancelled on the basis that they would not allow  
me to test cutting it with a knife.

#### **Administration of Security Industry licensing by NSW Police Department.**

In regard to the Police administration of Security Industry legislation [the Fire Arms  
Registry of the old Act – the Security Industry Unit of the new Act], I did want to  
raise these concerns. At the introduction of the new Security Industry legislation in  
1997 I thought I would try and get one of the biggest suppliers of "so-called security  
screen door" components [along with the accompanying brochure material used by  
the firms assembling their components into doors] into line with the new Act. I  
arranged a meeting with a Daniel Harasymiw – Manager – Security NSW – Boral  
Window Systems. I pointed out the importance of a security product that met the  
reasonable expectation of the customer for the purpose for which they [the end  
customer] were buying the security screen door and that it was my belief that for the

last ten years they [Boral and their predecessors] had been ignoring security industry legislation. I pointed out that the new Act made it an offence to use anyone by contract, franchise or otherwise to install any security product unless they [the security door salesman and installer] too had an appropriate security industry licence. His answer surprised me at the time. "We haven't let the police enforce security industry legislation in regard to security doors to date and we are not going to let them start now". I put his comments down to bravado, but when you look at the rest of my material, it does make you wonder.

I refer you to a copy of a letter on my files [in your possession] from Abbott and Tout [Solicitors] to Comalco as far back as 1992. That letter makes it absolutely clear that anyone selling or installing security screen doors, for example, is required to have an appropriate security industry licence – no ifs or buts. I believe that all the large security door component suppliers obtained similar advice. Yet even today most of those large corporations still in the business encourage their resellers to flout security industry legislation.

The Police Security Industry Unit told me that in the case of the Wollongong man murdered by 12 year old kids after they broke in through in so-called security door was, after all, just one death. I remind the committee that in the case of the Garabaldi Salami directors case it took just "only" one death. **BUT** over the years I have endeavoured to follow up some of the cases with the police where it would seem that a person was dead, assaulted, raped or traumatised because of a junk security door. For example, "a woman with a knife at her throat after a man forced his way through a security door"; "the single mother whose underwear drawer was soiled by a perverse intruder after her security door was breached"; "Carole V C dead because her security door failed"; "David T C dead because his security door failed"; "the 67 year old woman tied up after a break-in through her security door"; "Terri G, the Public Housing tenant who had her security door smashed down"; "the Strathfield woman who had a hole punched in her security door"; and the list goes on "the Elizabeth Bay woman, Bill B, the Winmalee woman stabbed, the Sefton man tied up – all after a break-in through a sub-standard security door. **Now my police contacts have always been very proper and told me that as I was a member of the public they could not confirm how entry was perpetrated in any of the above cases, BUT they always added that I "was on the right track and that I should keep up the pressure on the authorities to address the issue".**

### **The Department of Housing**

*I wanted to relate to the Committee the following story. Ten years or more ago I appeared before a NSW Select Committee investigating Government purchasing and gave evidence under oath. I challenged a claim that the Department of Housing had spent \$35 million on security doors. I subsequently received a letter from the Head of the Department telling me that the Minister had advised the Committee that I had misled them. I challenged the Department of Housing and two years later [too late to have the Select Committee report changed] I received a letter from Housing making three significant admissions. [you have copies on the files I left]*

- (1) In the opinion of their architectural staff the Australian Standards were not an appropriate benchmark for compliance with NSW Security Industry legislation*

- (2) Hence forth, so as to avoid confusion, the Department of Housing would refer to their screen doors only as "heavy duty fly screen doors"
- (3) Consequently they had no requirement to use contractors with the proper Police Security Industry license to install those doors – "home building" contractors would suffice.

A few years later, as a result of many break & enters and assaults etc in Housing Commission tenancies, the Minister announced that he was spending \$10 million on security doors – an announcement that made the headlines. I rang up three Area managers to see if we could contract for the security doors only to be told that they, the Department, had their own contractors and that we were not welcome. I reminded those managers of the Ministers announcement that "proper" security doors were to be installed and they confirmed that that was what their own selected contractors were installing. I reminded them of the "admissions" letter I had received from the Department referred to above. They each answered along the lines "Oops ..... we had forgotten about that. What the Minister meant to say in his press release was that the Department were installing heavy duty flyscreen doors". I said that the tenants were relying on the statements of the Minister for their personal protection inside their home – would the Minister issue a corrective statement? Answer "NO". A couple of years later a girl got raped in a Housing Commission Unit at Campbelltown and sued the Department for providing inadequate security. The Departments defence was that their obligation was only to install "heavy duty flyscreen doors". Talk about adapting the truth to the circumstances.

#### **The Australian Standard – Security Screen doors**

I wanted to bring to the attention of the Committee that, as with most products in Australia, there is an Australian Standard for security screen doors put out by Standards Australia / Australian Standards Association. Some of those Standards are, by law, mandatory e.g. Bicycle Helmets and I think Sun-Glasses. Others are optional. I believe that I have the expertise to state categorically, and would do so as an expert in Court, that the Australian Standards for security screen doors breach the Fair Trading Act and the intent of NSW Security Industry Legislation. In support of that contention I would cite the principles laid down in the High Court precedent *Glass v Rivers Locking*. On my files in your possession there is a copy of a letter from Mike Seidl, Security Manager, NRMA to the effect that he has studied the Standard and that it is so defective, NRMA could not advise their policy holders to seek that Standard for their security door purchases. The response from the Standard's Security Screen Door Committee was to dismiss that letter with the comment "what would he know"? I am aware that others wrote to Standards Australia in the same vein – Paul Rishman for example [Paul Rishman was formerly head of security for the NSW Department of Public Works and then head of Security in NSW for NAB before becoming a security consultant]. Again the Security Door Committee response was "what would he know"? NSW insurance assessors from Zurich, Commercial Insurance and GIO have all complained about the inadequacy of the Australian Standards in regard to security screen doors. ASIAL endeavoured to get Standards Australia to accept Mike Seidl and Paul Rishman onto the security door committee but that was rejected by them on the basis that "it would give the security industry too much say in the writing of the Standard".

I have already referred to the letter from the Department of Housing stating that in their opinion the Australian Standards were deficient as regards NSW Security

Industry licensing. But look further at the Committee setting those Standards. Standards Australia have been aware for around eight years that those on the Committee who work for companies deriving income from NSW do so knowing that the companies they work for have been deliberately breaching NSW Security Industry legislation for many years by refusing to obtain the necessary security licences under NSW Security Industry legislation – so how can those Standards be trusted? I would also argue that those Australian Standards Committee members obtain a benefit by way of a wage from the companies they work for and so by offering security advice to this security door Committee without the required security “consultant’s” licence they are in breach of the Security Industry legislation – so again how can the public trust the Standard?

### **Terrorism and Security**

I refer you to the Sun-Herald August 10<sup>th</sup> 2003 [page 4] where the following advice was boldly offered for “TERROR-PROOFING YOUR BUSINESS”

- *Solid main doors with hinges and hinge pins on the inside to prevent removal should be installed. This advice is just plain WRONG.* I know what they are getting at BUT to have the hinges and hinge pins on the inside mean an inward opening door. There are two things wrong with that. An inward opening door on commercial premises would most likely be in breach of the Building Code of Australia but even more telling is the fact that an inward opening door is much easier to smash down than an outward opening door. Nor is the security problem of the “fault” lines caused where the screws hold the hinge leaf to the door, solved. Then of course the “mortice” housing the lock also becomes a significant “fault” area when attacked. The correct solution is to leave the doors as outward opening but add an additional top hinge to carry the weight of the upgrade to the door, then to protect the hinges and hinge areas of the doors with specially designed and adequate gauge “security hinge clamps” and to clad the external face of the door with an adequate gauge, ballistic resistant, metal plate. Finally I wouldn’t use a “mortice” lock but rather a heavy-duty “back-set” lock, perhaps a two point or even four point locking bar or a heavy-duty “Quad” bolt. All of this work needs to be done by a security expert conversant with break & enter techniques – frankly a carpenter type person will just get it so wrong because he does not have the training for security upgrades.

A number of the other “advices” in that article are likewise just plain wrong. **And significantly enough, nowhere does the article contain the most important advice of the lot i.e. use an appropriately qualified contractor with a Police Security industry licence as required by NSW law.**

When I visited Sydney on 6<sup>th</sup> August, I went to a swimming pool complex in the suburbs. Now I know nothing about bomb making but I would be very surprised if chlorine was not one of the possible ingredients a terrorist could use to make a bomb. Anyone can enter the carpark of this particular swimming pool complex at any time of the night and off the carpark is the “HAZCHEM” room which even when locked can be opened by any 15 year old street thug with a pocket knife or bent screwdriver without difficulty.

I have heard stories of patrol guards being able to get into government offices during their rounds using teaspoon handles. I know of government offices myself where all it takes is a bent screwdriver to get in through the locked doors. Governments rave on



about OH&S legislation but then risks the lives and general wellbeing of MPs [and their staff] for example by providing totally inadequate or inappropriate locking protection for them when they are perhaps working alone in their constituent office [for example].

**The "security driver" issue raised at the hearing in regard to Goulburn jail**

To illustrate the importance of this issue I wanted to relate the story from a few years ago, [before they became interchangeable with "tamper-proof" drivers and available at the local hardware store] where we had installed security grilling at ANZ @ Blacktown using this type of fixing. A few months afterward, my office received a phone call from "painters". They had a "contract" to paint the offices at ANZ Blacktown and they needed to remove our grilles so they could paint the reveals of the windows. We asked for a phone number so we could call them back. They made an excuse and would call us back the next day. When we checked with the bank, no such painting works were to be carried out at all. Needless to say we never heard back from what were obviously going to be armed hold-up bank robbers.

**So just how far does the misunderstanding of the security issues extend?**

The Building Code of Australia makes the statement that security is for the protection of valuables, not people and so they argue that, as fire safety is for people it takes precedence over protecting valuables. **This is a major issue.** This interpretation and the lack of understanding that often security is, first and foremost, for the protection of people, mean that Council Building inspectors are insisting upon locking systems orientated to fire safety only but which place staff, for example, at risk of armed hold-up. I had a meeting with the NSW Department of Urban Affairs. They told me that as regards the Building Code, nobody had ever considered that in fact security could be for the protection of staff [e.g. bank tellers, pharmacists, TAB staff, hotel & club staff counting takings, and the like]. Locking which does comply with good security practice and at the same time complies with the intention of the Building Code is available but Council Building inspectors will not allow them to be used. As a licensed security expert I was often faced with the dilemma - to do a locking system to comply with Council requirements would place the lives of staff at risk and therefore the possibility of my being personally sued : to do it in accordance with good security practice, even in accordance with the intent of the Building Code, put me at risk of being sued by Council. When I asked the Department of Urban Affairs for a ruling they admitted the correctness of my argument but their answer was "in your dreams" because it would just be too hard to get the Building Code changed.

Take Sydney University Campus with a population of some 35,000 people. I understand they have over a thousand reportable crimes per year ranging from theft to assault, rape and even the occasional murder. I got consulted after an incident where a live-in student had been assaulted after a break & entry. The apartments had been

*had security screen doors for the protection of students but the Fire*

Department had been through ...  
to the students and the University, meant they could then be opened by anyone ON THE  
outside with a piece of wire or bent screwdriver. The University had also recently  
installed several brand new security grille doors on other apartments, which in theory

also complied with the Fire Department's requirements. Yet I was able to easily open these locked grille doors with nothing but my fingers. The University assumed that the people they had brought them from knew what they were doing.

I was called upon by a hotel to consult after some 25 armed hold-ups of clubs and hotels in the area over a few months. I found that they locked up after the patrons left and the staff were left to count the takings. I was able to get through the locked Council specified emergency egress / panic bar locking systems with a small engineers ruler without sound in less than two seconds.

Would you believe that the Yellow Pages knowingly print advertisements for security door companies, which are in breach of security industry legislation by the fact that those companies do not hold a security industry licence. Knowing this the Yellow Pages accepts their money and prints their advertisements anyway and don't care that by doing so they are breaching the trust of those relying on the good name of the Yellow Pages.

**The problem with the word "security" is that by using it, regardless of how appropriate it might be in any given circumstance, the mere use of the word will mean an ability to obtain a huge surcharge/profit on the standard price.**

**It is my earnest belief that under both Fair Trading and Security Industry legislation, and regardless of whether or not any other issue in my submissions are addressed, the potential victims are entitled to adequate warning that they may have been misled in regard to their security purchases.**

**It is obvious from my submissions that regardless of what other avenues the Committee may explore, the fact of the matter is:- proper enforcement of Fair Trading and Security Industry legislation and the acknowledgment of the security relationship to the protection of staff under Occupational Health & Safety legislation, will ultimately force crime (if there has to be crime) into areas where police can concentrate many more resources to fighting it – all for the benefit of the community.**

*If the Committee deems it appropriate, I hereby authorise this submission for public release.*