

Mike Brownlow

From: Fred Dehmel [fdehmel@csiinvest.com]
Sent: Sunday, May 02, 2010 1:25 PM
To: Mike Brownlow
Subject: RE: Bill 22
Attachments: Bill 22 - Law Amendments Committee Presentation.doc

Hi Mike,

Here is my presentation. I believe my time is 5:15pm, but will confirm.

I give Mike Brownlow permission to present my presentation to the Law Amendments Committee of May 3, 2010, concerning Bill 22 in my absence.

If you have any comments on my presentation, please let me know. As it stands now, I will not be back in City in time to present.

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From: Mike Brownlow [mailto:mbrownlow@commissionaires.ns.ca]
Sent: April-30-10 5:39 PM
To: fdehmel@csiinvest.com
Subject: RE: Bill 22

Fred, You can send it to me and give me permission to submit it on your behalf (an email will suffice) and I will give it to them. You need 15 copies to present which I will make for you and handout if you are not there. I was going to do the same thing for Roger if it was today. Cheers Mike

From: Fred Dehmel - CSI [mailto:fdehmel@csiinvest.com]
Sent: Friday, April 30, 2010 12:24 PM
To: Mike Brownlow
Subject: Re: Bill 22

Do you know if I can send my presentation in, in case I am not back

Fred Dehmel (via blackberry)
President/Managing Director
CSI

From: "Mike Brownlow" <mbrownlow@commissionaires.ns.ca>



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Canadian Association of Private Investigators
The Council of Private Investigators–Atlantic Canada

Comments on behalf of the Private Investigative Industry

Regarding:

Bill 22

“Security and Investigative Services Act”

Presented by: Fred Dehmel, CII, CFI, CD

Certified International Investigator

Certified Forensic Investigator

Past President – Council of Private Investigators – Atlantic Canada

President – Canadian Association of Private Investigators

Past President – Council of International Investigators

Past President – Investigations Canada

President – CSI Investigations, Halifax, NS

May 3, 2010

Good afternoon, I want to thank the committee for allowing me to present here today on this very important topic and Bill. I have been asked to provide you with some stakeholder input as it applies to the Private Investigative Industry and any proposed changes to the above Act.

I have been authorized and represent **The Council of Private Investigators – Atlantic Canada (CPI-AC)** and **The Canadian Association of Private Investigators (CAPI)** with respect to changes in the Private Investigators & Security Guards Act. I am also a member of the **Security and investigators Alliance (SIA)** committee that has been assigned to deal with the aforementioned matter to provide you with our input as it applies to the Private Investigators industry.

I would first like to state that all of the above organizations fully support the Government's initiative to update the Act and we are very interested in providing you with our positive input, so that the best possible legislation can be brought forward for the people of Nova Scotia. We are eager to be helpful in this process.

The private investigators of Nova Scotia are in favour of new legislation and support the Government's efforts. We feel new legislation is long overdue. We believe in training and regulation for the industry; however we want the best legislation for the people of Nova Scotia and our industry. In its present form we feel that this Bill is fundamentally flawed and will not serve or protect the public or industry. Further, and most importantly, it is without any industry consultation. Our industry along with SIA have worked very hard and have been very cooperative with the Department of Justice and the Registrar's office over the last few years, only to have none of the recommendations from industry experts considered.

The private investigative industry is a long established industry that has changed dramatically over the last 10 years. Our industry is made up of highly trained professional investigators, many of whom are former members of our public police forces. Our members investigate everything from missing persons, commercial fraud cases, international crime, corporate and criminal investigations and very often assist our federal and municipal police forces. Most of our investigators were not only trained at some of the most prestigious investigative institutions in the world, but are certified in many specialized areas, such as forensics, polygraph, interviewing, international investigations, computer forensics etc. Our professional investigators belong to international and national organizations that continually meet for professional development and to ensure members are up to date on current laws and policies and criminal activities. Current members of the law enforcement community also belong to these same organizations.

In the December issue of Statcan Jusistat, it revealed that Canada employs over 10,200 private investigators, with about 220 of those in Nova Scotia.

Industry Experts and Professionals

As stated above this industry is made up of highly trained and professional investigators and they deserve the right to be heard and have input into this Bill. The only people who are qualified to give professional advice and input for this industry are the industry principals. The special qualifications, wide areas of expertise and the requirements for investigators are so complex that our input is absolutely required. Some important points:

1. The Registrar does not understand what qualifications are required for any particular investigation;
2. Many professional investigators are hired by the federal government and provincial governments to conduct investigations on their behalf;
3. Many are retained investigators for various Public Complainants Commissions across Canada;
4. We routinely investigate serious criminal matters, such as sexual assaults, major frauds from corporations, theft, murder and are also involved in criminal defence work.

Bill Shortcomings

After reviewing many Acts concerning Security Guards and Private Investigators from across the country, it is clear that this Bill is a "cherry pick" of many of the worst of phrases and sections from other provinces and other jurisdictions. It offers nothing for industry. This was the opportunity to bring all stakeholders to the table and make sure Nova Scotia received good legislation and not a rushed through document that serves no one.

A simple read of this Bill reveals that it is an authoritative document, giving sweeping and unprecedented powers to the Registrar. It is an extremely open to interpretation and many of the rules are decided based on the unqualified opinion of the Registrar and without evidence. Also in many cases the substance of the Bill is being left to Regulations, which have not even been discussed to date.

Some Major Concerns

The Bill provides extraordinary powers to the compliance officer picked by the registrar. The authority given to the Compliance Officer is so far beyond what is legal or reasonable. As it stands now the compliance officer can enter a business and look at anything, seize anything without any reason or warrant. Not even the police can do this.

We do not object to the Compliance Officer having the authority granted by a Justice to enter a business, if there are reasonable and probable grounds to believe an offence is being committed. He should have to go before a Justice and get a warrant. To allow an appointed public servant to enter a business and seize property is not legal.

The government has a responsibility to protect business owners also. Further where is the protection for our client's confidential information, intellectual property and evidence of ongoing cases?

Many of our offices have secure rooms or lockers for the protection of evidence of pending cases. Very often we must attend courts and hearings and provide evidence concerning investigations we carry out. To allow an appointed compliance officer to enter without a warrant or warning and rummage through files and evidence would be a violation.

Our businesses would fail if our clients determined that a compliance officer could enter our offices and take anything they want without any warrant or even reasonable grounds that an offence has been committed.

A simple wording change would correct this.

Clean Criminal Record

We support the idea of licenses not being granted to individuals that are not free of criminal records that might have a negative effect on the public interest. We feel that as a stakeholder association we should be consulted on the specifics of what the threshold might be for this. As an industry we feel that because the person has a criminal record, should not in its self stop that person from having a private investigator's license. The fact that the applicant has been charged with an offence of impaired driving 10 years ago, or shoplifted 15 years ago does not affect their ability to be licensed. However, more serious offences should be considered.

It also means that convictions that have no possible effect on community safety are included – convictions such as impaired driving, being caught smoking a joint when you were a kid in college! We do agree that the Act should lay out the particular offences that a person may not have been convicted of: things like assault, any crimes involving violence, fraud, financial crimes, drug trafficking or growing.

Even police forces across Canada accept applicants with criminal records and further do not dismiss serving members for convictions while serving. The effect of this on the industry and the employment opportunities would be costly.

Business Name

The Bill requires that the Registrar approve the business name of a licensee. This authority resides with the Registry of Joint Stocks. It is unacceptable that the Registrar feels it has the right to decide a name of a business. This is outside your scope and authority and would cause a financial burden on businesses and much confusion, as which department would have the final authority. The Registry of Joint Stocks already has processes in place to protect against duplicate or similar business names.

Requirements and Qualifications

Again the Bill lacks specifics on qualifications for licensing. This clearly shows that there was a lack of consultation with experts, as we could have assisted greatly in this area. As it stands now it is left up to the Registrar. What are these qualifications, conditions and requirements? Who is deciding what they should be?

The Canadian Association of Private Investigators has been developing a national training standard for investigators. We have met with all provincial registrars and they have shown great interest in our efforts and asked us to continue and keep them advised. The writing of this standard involves every provincial investigative association and all the Registrars.

Providing Information to Registrar

The Bill requires that applicants for a license provide authority to the Registrar to ask and request industry to supply any information, including personal information, before granting a license. The legislation must be clear, that the information requested must be relevant to the issuance of the license. We are aghast at the sweeping access to our personal lives that this Registrar would have before I could be allowed to work. Will there be an investigation into our marital life? Do they want our bankbooks? This is absolutely ludicrous. What is the reason for this unprecedented access to the personal lives of investigators? We do support background checks, but reasonable and outlined checks, that are relevant and similar to other provincially regulated businesses.

Denying of a License

The Bill allows for the Registrar to deny a license to an applicant or business based on their opinion of the applicant's character or mental disability or past conduct.

For the Registrar to be able to deny a license based on an unsubstantiated opinion of their office is not acceptable. What qualifications do they have to form this opinion? Where is the appeal process, should a license be denied? Further it indicates that their opinion can judge the skill level of an investigator. What qualifications does anyone in the Registrar's office have to assess the skill level of a professional

investigator? Also to decide that the person's mental state or character is left to the Registrar's opinion without any substantiation, this is wrong.

If a person got money from a relative to start the business and you think his character is bad, they can be refused a license? The Registrar without any guidelines could refuse a license based on their opinion of character. There has to be some substantiated reason.

Appeal Process

Throughout this document, the Registrar has sweeping authority to deny, revoke, dig into the personal life's and even enter a business without a warrant or reasonable or probable grounds. However the Bill does not allow for a proper appeal process, except for the subject to request the Registrar to reconsider.

Where is the appeal process, a hearing process? There must be in place a proper appeal and hearing process in place to allow an individual or business an opportunity to present their defense. This appeal process must be an inclusive body, such as an Advisory Board.

Out of province Investigators

Article 5 (1): ***This article allows the Registrar to grant temporary exemption to private investigators from other provinces from holding a Nova Scotia license. Subpara (b) the private investigator or armed guard needs to enter the Province to continue an investigation or armed guard service inside the Province on behalf of an employer or client who resides outside the Province and enters the Province solely for the purpose of that investigation or armed guard service***

Our issue with this is the definition of "Continue" In the investigative world, an investigation commences once we have accepted the case. This para would allow our competitors from outside the Province to request an exemption to conduct their investigation in Nova Scotia, rather than the current process of hiring a Nova Scotia licensed investigator to do the work. A simple solution to this would be to add "when time does not permit the requester to hire a local licensed investigator"

Mandatory Basic Training Requirements

Our organizations strongly support and encourage any revisiting of the act to include mandatory and consistent basic training requirements for licensed Private Investigators. In

A. Mandatory Licensing:

We do feel that additional enforcement and stronger penalties should be levied with respect to unlicensed Private Investigators and practitioners that are skirting the act by masking under different occupations of a similar nature i.e. Forensic Investigators, Security Consultant. These people are acting as investigators and are largely uncontrolled.

B. Portable Individual Licenses

We strongly feel that the concept of portable licenses for private investigators, puts the public at risk and we do not support this concept. Portable licenses would allow private investigators to carry an official Nova Scotia ID card indicating that they are licensed to act as a private investigator. At present, in order to be licensed as a private investigator, the applicant must first be hired by a licensed investigations company, that has been properly licensed and carrying all the applicable insurances. Under the portable license concept, an individual would apply directly to the Registrar for a license and be granted a license. The PI would then have to find employment with a licensed firm prior to carrying out investigative work and then would be allowed to work for multiple investigative agencies at one time.

There would be nothing stopping a licensed PI that is not employed with a company to "freelance" as a private investigator, as the license would no longer state "is a private investigator, while employed with....." How would the public know the difference, since the license would indicate the person is a PI. And, what about liability insurance? The public could be at serious risk, should one of these "investigators" decide to conduct work outside the employer's firm.

We do support the concept of individual licenses (but clearly attached to an agency) that would allow for an easy transition from one employer to another should an investigator decide to transfer agencies. For example, at the present time a investigator who leaves one agency must go through a re licensing procedure which can be in most instances quite a lengthy time consuming ordeal resulting in lost wages to the employee and revenues to the investigation agency.

Term "Private Detective" and "Province of Nova Scotia"

Article 10 (6): States that private investigators cannot use the term "Private Detective", so as not to confuse the public into thinking we are law enforcement officers. This term has an extremely long history in our industry and in fact it is the term used still today in many countries. I doubt there is anyone who would not know this term refers to PI and not public police. In fact a number of international PI associations refer to this term for membership. This is ridiculous to not allow it use. This proposed Act refers to us as "Agents", a term more clearly to indicate Government employee, rather than "Private Detective"

Further this para indicates that we are not allowed to use the term "Province of Nova Scotia" does this mean we cannot say that we are Private Investigators licensed by the Province of Nova Scotia? Even though our license indicates that? If we are licensed by the Province and must comply with all the regulations and pay the fees, why would we not be allowed to indicate that we are licensed by the Province.

CONCLUSION

As a major stakeholder in the private investigation industry we need to be consulted and provide input into this extremely important Act. We support wholeheartedly the fact that this needs to be reviewed and appreciate being allowed to be part of the input of and process in that regard.

In review, our organizations; CAPI and CPI-AC, support the concept of reforms to the Private Investigators and Security Guards Act. We do not believe:

1. that there should be mandatory licensing for private sector corporation employees that are not put out to the public for general hire;
2. We do not, as an industry, support the concept of portable individual licenses;
3. We do support the idea of more flexibility with respect to the easy transfer of licensed investigators from one employer to another should they terminate employment from an agency;
4. We agree to comprehensive background checks being completed and believe they should be able to be completed by an independent third party or the Ministry; and
5. We support the concept of a licensing classification system, based on experience and tasks being performed. We believe that most or all of these areas should go to stakeholder committees for refining.

Again we look forward to an opportunity to meet with you again and provide positive feedback, so that we get the best possible Act for Nova Scotia and our industry. I can be contacted at 450-0697 or fdehmel@csiinvest.com. I also invite you to view our website located at www.capicanada.ca for more information or www.cpi-ac.com

Yours very truly,

**COUNCIL OF PRIVATE INVESTIGATORS – ATLANTIC CANADA AND
CANADIAN ASSOCIATION OF PRIVATE INVESTIGATORS**



Fred Dehmel, CII, CFI, CD