

Private eyes dread a return to infidelity on camera



"There were a lot of photos of ankles wrapped around ears" ... Warren Mallard, of Lyonswood Investigations. *Photo: Jon Reid*

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PICTURE this: a husband so desperate to escape an unhappy marriage that he commits fraud to "expose" himself in an act of infidelity. He hires a prostitute to act as his lover and a private investigator to burst into a motel room and photograph them *in flagrante delicto*.

Australia's private investigators can recall the boom days of a seedy, sordid business, when a spouse would go to such extremes to get a divorce. Until the arrival of no-fault divorce laws in 1975, a marriage could not be dissolved unless one spouse was found, in effect, to be the guilty party. Commonly it was for adultery, more often for desertion. Otherwise cruelty, drunkenness, imprisonment or insanity might be grounds for divorce.

Now Tony Abbott , the prominent Liberal and Catholic, wants to turn back the clock.

"Heaven help us," says Warren Mallard, managing director of Sydney's Lyonswood Investigations and Forensic Group. He does not want a return to the "ugliest days of all" for marriage in Australia.

"People had to be caught in a compromising position. That required evidence, so there were a lot of photos of ankles wrapped around ears, for want of a better expression. It was not work that investigators relished."

The humiliating pictures could be tendered to the Divorce Court. "But it got to the point where people wanting a divorce would commit fraud and deception and 're-enact' the offence of infidelity - hire a prostitute, hire an investigator, to catch them in the act." Even in cases of amicable divorce, couples agreed to such fabrications.

So wouldn't all this be great for business? "Yes," said Mr Mallard. "Investigators and lawyers would again reap the harvest. But wasn't that the point of changing the law? To take lawyers out of it? To let couples work it out themselves?"

Mr Abbott, worried that divorce has become too easy, suggests couples could opt in to a fault-based divorce system. The current no-fault system would continue, but couples could commit to a harder test should either party ever want a divorce.

"But how, in this day and age, do we gather evidence of infidelity?" asks Mr Mallard. "We have privacy laws now. We can't just barge into motel rooms, into people's houses. A video of two people holding hands is not proof of an affair."

The president of the Australian Institute of Private Detectives, John Bracey, suspects Mr Abbott's proposal will be buried. If not, however, his industry would be ready once again to take instructions from clients to gather evidence of their spouses' adultery.

"And if there is a law that infidelity is grounds for divorce, we can't have another privacy law that prevents us from gathering evidence of the infidelity. It would be lunacy."

Mr Mallard said the industry took a hit after the 1975 reforms, but it now had more work than ever in family law, gathering evidence for custody disputes, on the adequacy of care for children, on alleged abuse and against fathers who refused to pay maintenance. "A father claims he's on the dole and has no money to pay. We catch him, on video, laying a thousand bricks a day for \$800 cash. We conduct this surveillance in a public place. It is entirely legal."

Source: [The Sydney Morning Herald](#)