

FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

Section 67 of the Coroners Act 2008

Court reference: 1804/07

Inquest into the Death of JERRY KARAMEISINIS

Delivered On: October 5, 2011

Delivered At: Coroners Court of Victoria
Level 11, 222 Exhibition Street, Melbourne 3000

Hearing Dates: September 27, 2011

Findings of: JUDGE JENNIFER COATE

Representation: Mr John Constable of Counsel for Mirella Giordano
Ms Mills of Counsel on behalf of Mrs Loukia and
Mr George Karamesinis

Place of death: Alfred Hospital, Commercial Road, Prahran 3181

Police Coronial Support
Unit (PCSU): Leading Senior Constable King Taylor

FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

Section 67 of the Coroners Act 2008

Court reference: 1804/07

In the Coroners Court of Victoria at Melbourne

I, JUDGE JENNIFER COATE, State Coroner

having investigated the death of:

Details of deceased:

Surname: KARAMESINIS
First name: JERRY
Address: 8 Wooten Close, Frankston, Victoria 3199

AND having held an inquest in relation to this death on September 27, 2011 at Melbourne

find that the identity of the deceased was JERRY KARAMESINIS¹ and death occurred on 13th May, 2007

at Alfred Hospital, Commercial Road, Prahran 3181

from
1a. HEAD INJURY²

in the following circumstances:

1. Jerry Karamesinis (Jerry)³ was aged 30 at the time of his death. He was married to Mirella Karamesinis (also known as Mirella Giordano). They had been married for almost 7 years. There were no children to the marriage although Jerry and Mirella were hoping to start a family.⁴ At the time of his death, Jerry was employed full-time as an electrician. He was the much loved only surviving son of George and Loukia Karamesinis.

2. On the evening of Saturday May 12 2007 Jerry had arranged to meet up with a group of about eight friends at a hotel in Chelsea Heights. The group met at around 7:30 pm. After spending a little while at that hotel the group moved off to a venue in Frankston. After spending some time at that venue arrangements were made for some of the group to attend at a venue in

¹ Statement of Identification made by Mirella Karamesinis (wife) on May 13 2007

² Autopsy report of Dr Katherine White, forensic pathologist

³ Permission was sought and obtained from the family to refer to Jerry in this form

⁴ According to information provided by Mrs Loukia Karamesinis and Ms Giordano

Frankston called the 21st Century, where the group anticipated their names would be on a "VIP" entry list as a result of one of the group being familiar with an employee inside the 21st Century Venue.

3. At about 11:15pm the group left the venue that they were in with the intention of going to the 21st Century. On the way there, Jerry suggested to the group that they should go to another venue called Daveys, as he was familiar with the "crowd controllers" at that venue. However, upon approaching that venue Jerry was refused entry as he had a history at the venue and had been banned for life. An altercation developed between some unrelated males and some of Jerry's group and the crowd controllers outside that venue. Jerry's group left from the entrance to that venue and headed off to the 21st Century venue.

4. As a result of what took place at Daveys the crowd controllers radioed their colleagues at the 21st Century to warn them about this group and to refuse the group entry into the venue.

5. The group approached the entrance to the 21st Century and waited at the VIP entrance. The VIP entrance to the venue is cordoned with two metal bollards and ropes to allow controlled access to the venue. Whilst standing there, the group were advised by a crowd controller that they were refused entry to the venue. Working as crowd controllers at the entrance at this time were Henry Vong and Christian Adams. According to Adams' statement, he told the group that they were not permitted to enter the venue.⁵

6. There were a considerable number of people standing around the entrance to the 21st Century at that time. The scene appears quite confronting. The weight of the evidence appears to be that Jerry, despite having been told they were being refused entry, commenced to walk into the venue by releasing one of the ropes from the bollard which was creating a barrier across the entrance and behind which the crowd controllers were standing. This action resulted in some pushing and shoving between Adams and Jerry, with Adams apparently trying to recover the bollard from Jerry and get it back into position on the ground. The weight of the evidence is that Jerry's group appear to continue to remonstrate with the crowd controllers as to why they are not allowed entry into the 21st Century. Mr Vong can be seen moving around, looking somewhat agitated, trying to keep the group at bay whilst this is happening. The evidence is that he radioed for "back up".

7. In the CCTV footage from the one camera capturing the scene, Jerry, after having the bollard removed from him can be seen walking back around to the front of the entrance area. From the CCTV footage he can be seen walking slowly with his hands in his pockets back across the front of the entrance. At no stage does he remove his hands from his pockets. According to

⁵ See statement of Christian Adams in the inquest brief

the statement made by Vong, as Jerry went walking past in this way observed, he threatened to stab Vong by stating "I'm gonna stick ya"....⁶

8. Vong stated that as a result of this threat, he pushed Jerry to create distance between them fearing an imminent attack. This exchange is also captured on CCTV footage retrieved from the entrance to the 21st Century. There is variation in the eyewitness descriptions as to whether or not Vong punched Jerry with a fist or pushed him with an open hand in this exchange. There is also variation in the witness accounts as to what if anything was said by Jerry as he walked past the entrance and Vong moved out to make physical contact with him, causing Jerry to fall to the ground and hit his head.

9. However, what is not contentious is that the action on the part of Vong, be it pushing or striking, or a combination of both, caused Jerry to immediately fall back onto the road in what appears to have been an unprotected fall. As a result of this fall, Jerry hit the back of his head and sustained what were fatal head injuries.⁷

10. He was attended to by paramedics and intubated at the scene and conveyed from outside the 21st Century venue to the Alfred Hospital where various life-saving interventions were attempted. Unfortunately these interventions were unsuccessful and Jerry was declared brain dead at 6.20pm on May 13 2007.

11. Dr White, forensic pathologist stated in her autopsy report that all of the observed changes to the brain noted on autopsy and CT scan could be explained as a result of the back of Jerry's head hitting the ground.

12. Dr White also included the results of the toxicology report. It was her opinion that Jerry would have had a blood alcohol reading of between .05 to .07g/100ml at the time of the incident. Dr White noted that there were no drugs detected other than a drug called Midazolam, a benzodiazepine, which she concluded was likely to be therapeutic in nature and possibly administered whilst Jerry was in intensive care. Indeed, the records of the paramedics confirm this was so.

13. An investigation surrounding the circumstances of this incident was conducted by investigators from the Frankston Crime Investigation Unit. Henry Vong was arrested and formally interviewed in a tape recorded interview. He also made a statement to police which is contained in the Inquest Brief.

⁶ The material in the Brief of Evidence which became Exhibit 1, contained a photograph of a folding knife found in the pocket of Jerry. There is no evidence that this knife was produced by Jerry in this altercation.

⁷ See autopsy report of forensic pathologist Dr Katherine White

14. Forty seven statements were obtained as part of the investigation and are contained in the Brief of Evidence (Exhibit 1) now tendered into evidence in this inquest.

15. Investigating member Detective Sergeant Paul Busutill gave evidence that a Brief of Evidence was submitted to the Office of Public Prosecutions for an opinion regarding prosecution against Henry Vong. The evidence of Detective Sergeant Busutill was that the Director of Public Prosecutions (DPP) was of the view that the Crown would be unable to rebut a claim of self defence and thus did not authorise a criminal prosecution.

16. Detective Sergeant Paul Busutill gave evidence that he agreed with this view expressed by the DPP.

17. At the close of the evidence in the inquest, Jerry's mother, Mrs Loukia Karamesinis made a very moving statement about her son Jerry and the impact of his death upon the family. She described her son Jerry as a sensitive, loyal and loving person who had been hard working and productive in his life. She described Jerry's commitment to assisting the family in the care of their late disabled son, Andrew. She also described how the loss of both of their sons had caused her and her husband to describe their lives as a "tortured existence".

Conclusion as to the factual circumstances of the death

18. I find that Jerry Karamesinis died on May 13 2007 as a result of injuries to his head sustained in a fall after being struck by Henry Vong crowd controller employed at the 21st Century night club.

COMMENTS:

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected with the death (including any notification to the Director of Public Prosecutions under Section 69(2) of that Act):

19. Having made the mandatory findings in this inquest, a coroner investigating a death may comment on any matter connected with the death including matters relating to public health and safety or the administration of justice, but must not include in a finding any comment or statement that a person is or may be guilty of an offence.

20. It was understood by each of the interested parties in this matter and accepted at the Directions Hearing on 23 August 2010 that the coronial process is not a trial or a search for guilt or criminal or civil liability. Indeed it was accepted by all parties that section 69 prohibits the coroner from doing that.⁸

⁸ See section 69 **Coroners Act 2008**

21. No party took issue with only the investigator being called to give evidence of his investigations and produce a Brief of Evidence.

Comment on the administration of justice

22. However, at the close of the evidence in the inquest, Mrs Loukia Karamesenis raised in the strongest terms her unhappiness with the decision of the DPP not to charge Mr Henry Vong with any offence and not to test the evidence in court in the traditional way via a judge and jury process. She expressed absolute bewilderment and distress in this court about what she saw as a failure in the administration of justice that the evidence was not put to the test. Such sentiments have been expressed often in this jurisdiction, most notably in those deaths where no charge has proceeded against any person and the family has wished to use the coroner's jurisdiction to endeavour to elicit the basis of a criminal charge against a perceived wrongdoer. It is well understood by those of us familiar with our legal institutions and legislative framework that this is not the function of the modern coroner, that is, that the coroner is not to be a substitute for the criminal justice process. There is a prosecuting authority in this State whose role it is to make independent decisions about who gets put to trial and on what offence or offences and there is a criminal committal process in place that no longer includes the coroner. Nonetheless, I note by way of comment that it often makes for very raw emotions and considerable tension in this jurisdiction when the coroner's inquiry is the only avenue for the family's wish for some public "accountability" and explanation for the death of their loved one.

Public health and safety

23. At the Directions Hearing, I identified one issue touching upon a potential public health and safety issue arising out of Jerry's death which was the training, licensing and supervision of crowd controllers.

24. To this end, Senior Sergeant Belinda Murphy from the Licensing and Regulation Division (formerly known as the Licensing Services Division) of Victoria Police was requested to provide a statement to the coroner on these issues. Senior Sergeant Murphy did provide a comprehensive and helpful statement⁹ and attended the court to give evidence. Attached to that statement were a set of documents setting out the contents of the current training regime for crowd controllers in Victoria.

⁹ Exhibit 3 Statement of Senior Sergeant Murphy. (Rather than set out the comprehensive contents of the material provided by Senior Sergeant Murphy in her statement as to the legislative regime and structure of private security or crowd controller licences in Victoria, and the various changes and developments in the licensing regime given the statement was not contentious, I have appended the statement to the finding and marked it as Appendix 1. Senior Sergeant Murphy produced a number of pages in various appendices to her statement which came into evidence but I have not included in Appendix 1.)

25. Senior Sergeant Murphy stated that she had been working in the Licensing Services Division (now the Licensing and Regulation Division) of Victoria Police for the past 15 years and is currently the Manager of the Compliance Support section. She stated that one of the functions of this section is to approve and review the training undertaken by private security licence holders which includes security guards and crowd controllers in Victoria. Senior Sergeant Murphy stated that the Licensing Services Division of Victoria police is responsible for regulating the private security, firearms and control of weapons legislation in Victoria.

26. Senior Sergeant Murphy noted that since 1990 to the present Victoria Police has undertaken a role in determining the training requirements for security licence holders to ensure that they are appropriately trained as part of their role in ensuring public safety. Senior Sergeant Murphy's evidence provided some understanding of the developments in training and regulation in the area, both at a state and national level, and how that appears to be still evolving. Senior Sergeant Murphy described the range of complexities and competing interests in endeavouring to regulate an industry such as the private security industry.

27. Senior Sergeant Murphy stated that a person seeking a crowd controller licence in Victoria must meet the legislative requirements and lodge with the Licensing and Regulation Division of Victoria police a completed application form, a copy of their completed training requirements, identification documents, character references and meet probity requirements; now also including the provision of fingerprints.

28. Senior Sergeant Murphy stated that she had undertaken a check of records held at the Licensing Services Division relevant to Henry Vong. She stated that her checks indicated that Henry Vong was issued with a private security individual operator licence in the activities of crowd control and security guard on 9 March 2006 to expire on 10 March 2009. She noted that the application for a security licence in Mr Vong's case was not undertaken by mutual recognition of another state's security licensing regime and that Mr Vong completed all of the requirements of the Victorian regime.

Disciplinary proceedings pursuant to the Private Security Act

29. Senior Sergeant Murphy also stated that she initiated a disciplinary inquiry under Section 50 of the *Private Security Act* into the security licence held by Henry Vong as a result of his involvement in the death of Jerry Karamesis. She stated that Henry Vong's security licence was immediately suspended under the provisions of section 51 of the *Private Security Act* and a letter advising of the suspension was forwarded to Henry Vong and his employer Australian Crowd Control Services on 22 May 2007. Henry Vong's security licence remained suspended until a hearing was held on 1 August 2007 at which time Mr Vong's licence was reinstated. A copy of

the file from that disciplinary action and hearing was produced¹⁰ and tendered into evidence. The evidence with respect to the hearing was that Mr Vong was legally represented before a police member of Inspector level, who decided to reinstate Mr Vong's licence. No reasons for this decision appear on the file produced. Senior Sergeant Murphy gave evidence that she could not find any reasons recorded in the system she had access to and therefore could not assist in elucidating the rationale for the reinstatement. Neither the Inspector that conducted the disciplinary hearing nor the police member assisting the Inspector at that hearing were called to give evidence or requested to provide any information or statement to this inquest. It is not appropriate for me to comment on the conduct of that hearing or the outcome of that hearing. This comment is directed only to the apparent lack of reasons for the decision being made recorded in the system of the regulating body generally. Given that this action was taken after such a serious incident, connected to a loss of life, it would seem prudent at least that the body primarily responsible as the regulator of the security industry should have available to it an understanding of the outcome of a disciplinary hearing which resulted in the reinstatement of a licence after such a serious incident.

30. According to the evidence of Senior Sergeant Murphy, Henry Vong has not renewed his security licence since it expired on 10 March 2009. However, should such an application be made in the future, an ability to understand the outcome of the previous disciplinary proceedings would seem an appropriate matter to take into account.

Registered Training Organisations and Probationary licences for crowd controllers

31. Entities authorised to provide training for the Certificates for crowd controllers are known as Registered Training Organisations (RTO). These bodies are private training organisations run on a commercial basis engaged in providing the training requirements in Victoria. As I have understood the evidence, it is these RTO's that are responsible for delivering the training component of the necessary Certificates required for a licence to be a crowd controller. The RTO receives the fee from or for the enrollee in the Certificate course and it is the RTO which is responsible for the "passing" of the enrollee at the end of the course.

32. The evidence of Senior Sergeant Murphy was that the course for crowd controllers was a combination of class room paper based learning, as well as some role playing in the class room based on a range of scenarios. Her evidence was that once the individual completed the Certificate requirements and produced the other documents required as detailed above, that person obtains a full licence as a crowd controller and can commence work as a crowd controller immediately. That is, there was no requirement to be examined or observed in any sort of real environment and no requirement to work with a more experienced person for an initial period to assist in the mentoring of that person or the development of their skills and no probationary

¹⁰ Exhibit 4

period. In this case, Henry Vong was three months post the granting of his licence as a crowd controller.

33. Senior Sergeant Murphy estimated that between 20,000 to 25,000 persons hold licences to be crowd controllers or security guards in Victoria. Whilst applicants for crowd controller licences must now produce two references to accompany their application, there is otherwise no specific or general testing of the suitability of an individual applicant for this work. The places in which crowd controllers are required to work are often volatile environments in and around licensed premises late at night, with alcohol and sometimes drugs fuelling the behaviour of some legitimate patrons; some would be patrons and others gathering in the environment.

34. To emphasise the nature of the environment in which crowd controllers work, one need go no further than to examine the highly disturbing and confronting statistics compiled by the Coroner's Prevention Unit on the number of deaths in and around licensed premises in the last decade. Between the years 2000 to 2010, there have been 35 deaths in and around licensed premises in Victoria. All of the deceased have been male and the majority aged between 18 to 34 years old. All of the identified apparent assailants have been male. In 57% of these deaths, the deceased and the assailant were not known to each other. In 62% of the deaths, they occurred immediately outside the licensed venue. Three of the deaths referred to in the above figures have been directly causally connected to a crowd controller who worked at the venue (this includes the death of Jerry Karamesinis). These figures serve to starkly demonstrate the highly dangerous nature of the environment in which crowd controllers are required to work.

35. Crowd controllers are given considerable authority in their workplace and heavy responsibilities. Heavy reliance is placed upon them being able to maintain order in public places and monitor and control behaviour, often under very difficult circumstances.¹¹ It is a reasonable expectation of the community that such people will be given the basic skills, training and supervision to perform their role. Senior Sergeant Murphy gave evidence that crowd controllers are a largely casual workforce, often being people who are working a second job as a crowd controller and therefore may only be working one night a week and hence not necessarily developing or maintaining skills and techniques for de-escalating or defusing situations in and around the venue.

36. Given the facts in this case and the confronting figures as to the number of fatalities in and around licensed premises, and given that current training is class room based, it would appear timely to consider the value of introducing a probationary period for licensed crowd controllers that could address a range of issues. Consideration should be given to requiring a crowd controller to first receive a probationary licence rather than an immediate full licence. In such a regime, crowd controllers in their probationary period would require their employer to

¹¹ See s.3 *Private Security Act 2004*

have them working with a more experienced crowd controller for an initial probationary period. The final aspect of the probationary regime should require the RTO to observe the probationary licence holder handle him or herself in the workplace as the final practical component of the Certificate requirements.

Presence of Drugs and Alcohol

37. In the course of this inquest, Counsel on behalf of the family raised an issue as to whether or not Mr Vong may have been affected by drugs or alcohol at the time of this incident. It is important to note that there was no evidence that Henry Vong was affected by drugs or alcohol. The possibility was raised based on interpretations of Mr Vong's observed demeanor and movements on CCTV footage. Senior Sergeant Busuttil gave evidence that Henry Vong was not requested to undergo any drug or alcohol testing in the wake of the death of Jerry Karamesinis. He stated that the police had no power to compel such testing. It was the evidence of Senior Sergeant Murphy that there was no requirement placed upon crowd controllers to submit to testing for the presence of drugs or alcohol generally or in the wake of a serious incident such as this death.

38. The evidence of Senior Sergeant Murphy was that Western Australia had introduced some testing requirements for the security industry but that Victoria had not. I understood from the evidence that the introduction of testing in Western Australia had resulted from a concern about the vulnerability of the security industry to the susceptibility to the drugs and alcohol often readily available in their workplaces. Accepting the complexities of such a regime, this issue appears to be one well worthy of consideration in Victoria. That is, the consideration of the introduction of a requirement that it be a condition of a crowd controllers' licence, that he or she may be required to furnish a sample of breath or blood to a member of Victoria Police, in the event that the licence holder is involved in an incident in the course of his or her employment that is reasonably likely to result in serious injury¹² or the death of any person or persons.

39. It is accepted that it cannot be asserted that an enhancement of training and an increase in the supervision of crowd controllers will result in preventing deaths in similar circumstances to that suffered by Jerry Karamesinis. However, given the alarming figures compiled by the Coroners Prevention Unit of the number of deaths in and around licensed venues in Victoria over the last 10 years, if the licensed crowd controllers are more able to detect and address and de-escalate conflict in and around licensed venues, considerable loss of life may be prevented in our community.

¹² As defined by the *Crimes Act 1958 (Vic)*

RECOMMENDATIONS:

Pursuant to section 72(2) of the **Coroners Act 2008**, for the above reasons I make the following recommendation(s) connected with the death:

Recording of reasons in disciplinary proceedings

1. That the Chief Commissioner of Police require Victoria Police members conducting disciplinary proceedings under the *Private Security Act* to enter written reasons for decisions into the records held by the responsible Victoria Police division.


Probationary licences for crowd controllers

2. That the Chief Commissioner of Police together with the Australian Skills and Quality Authority, the Victorian Registration and Qualification Authority and the Department of Justice, review the current requirements of licensing of crowd controllers and in doing so consider introducing a graduated licensing regime comprised of the following: (a) crowd controllers being granted an initial probationary licence after completing basic Certificate requirements, (b) the completion of a number of performance hours under the supervision of a full licensed crowd controller (c) a requirement that the RTO must have observed the probationary licence holder in his/her workplace on at least one occasion and (d) that the Licensing authority receive a satisfactory report of the probationary licence holder from a current employer.

Drug and alcohol testing for crowd controllers involved in a serious incident in the workplace

3. That the Chief Commissioner of Police together with the Secretary to the Department of Justice consider the introduction of a requirement that a licensed crowd controller may be required to submit to drug and/or alcohol testing if requested by a member of Victoria police who is investigating an incident in which it appears that serious injury or loss of life may result, in which the crowd controller is alleged to have contributed to that serious injury or loss of life in the course of his or her employment.

Signature:



Judge Jennifer Coate
State Coroner
Date: October 5, 2011



Belinda Jayne Murphy states:

I am a Senior Sergeant attached to the Victoria Police Licensing Services Division (LSD) which is situated at Level 4, Building 3, of the World Trade Centre, 637 Flinders Street, Melbourne. LSD is responsible for regulating the Private Security, Firearms and Control of Weapons legislation in Victoria. I have been working at LSD and the Private Agents Registry (previously responsible for security licensing) for 15 years and I am currently the manager of the Compliance Support Section which is one of the three sections making up the Regulation Support Unit. One of the functions Compliance Support undertakes includes the approval and review of training undertaken by private security licence holders.

The Private Security Act 2004 and Private Security Regulations 2005 comprise the legislation governing the Private Security Industry in Victoria.

Section 3 of the Private Security Act outlines a crowd controller as a person who is employed or retained principally to maintain order at any public place by doing all or any of the following –

- (a) screening entry into; or
- (b) monitoring or controlling behaviour in; or
- (c) removing any person from; or
- (d) otherwise maintaining order on –

any such place, unless the person is doing nothing more than securing or checking that persons allowed admission -

- (e) have paid admission; or
- (f) have invitations or passes allowing for admission;

Since 1990 to present, Victoria Police has been undertaking a role in determining the training requirements for security licence holders to ensure that licence holders are appropriately trained as part of their role in ensuring public safety.

A person seeking a crowd controller licence in Victoria must meet the legislative requirements and lodge with LSD a completed application form, a copy of their training document(s), identification documents, character references and meet probity requirements.

Section 172 of the Private Security Act 2004 outlines that the Chief Commissioner of Police is responsible for the approval of security training requirements and training organisations for licensing purposes in Victoria.

The following individual licence activities under the Private Security Act require a training qualification as part of their application for approval with LSD:

1. Security Guard (incorporating categories of unarmed, armed, cash in transit, monitoring centre & control room operator)
2. Crowd Controller

3. Bodyguard
4. Investigator
5. Business Licence (if the nominated business licence holder does not have membership of an Approved Industry Organisation.)

The current qualifications and the competencies for each licence activity are attached at **Appendix A**.

On the 1st July 2005 when the legislation was amended the training requirements were changed for crowd controllers from a Certificate II in Security Operations to a Certificate III in Security Operations. A further review of the training requirements for all licence holders has been undertaken since that time and on the 1st January 2010, the training requirement for a crowd controller reverted back to the Certificate II Security Operations, however this was accompanied by a number of other changes.

Proposed changes to the Private Security Act 2004 which will come into effect on the 4th July, 2011, will introduce licensing requirements for dog handlers and individual security trainers. Registered Training Organisations (RTOs) will be required to hold a security business licence. The purpose behind the introduction of licensing for trainers and training organisations was two fold, firstly to ensure consistency with other States due to the Council of Australian Government (COAG) recommendations for security licensing and secondly, to ensure greater control by the Chief Commissioner over the probity of persons involved in security training and the quality of training being delivered. The changes will now allow the Chief Commissioner to undertake disciplinary action against those trainers and training organisations who fail to deliver acceptable training.

Currently all RTOs approved by the Chief Commissioner for security licensing purposes must in the first instance be registered either by the Victorian Registration and Qualifications Authority (VRQA) or the National Audit and Registration Agency (NARA).

The VRQA regulates all education and training providers in Victoria from home schooling to higher education including overseas secondary student exchange organisations. There are over 3700 providers in total and they maintain a register of all schools and providers in Victoria and the accredited qualifications they offer. Every provider, unit and qualification recorded on the register meets standards required under the Education and Training Reform Act and Regulations.

NARA provides audit and registration services for RTOs that operate in more than one Australian State or Territory.

There are currently 27 LSD approved RTOs delivering the Certificate II in Security Operations for crowd controllers in Victoria.

LSD has a Memorandum of Understanding with the VRQA which facilitates arranging joint audits and inspections of approved RTOs for compliance and enforcement purposes, both with VRQA and NARA appointed auditors.

RTOs deliver security training from nationally accredited courses derived from the Construction and Property Services Industry Skills Council (CPSISC) training packages. The CPP07 Property Services Training Package was implemented by LSD for licensing purposes on 1 January 2010 after replacing the PRS Property Services Training Package. (Training packages expire and are reviewed on a regular basis) I was invited as a regulator representative onto the CPSISC committee formed in 2007 to review changes to the training package.

The content or subject matter of training being delivered is generally determined by the individual unit of competency, for example the CPPSEC2004A Respond to Security Risk is one of the 17 units of competency that currently comprise the Certificate II in Security Operations required for crowd control licensing. This specific unit addresses the knowledge a crowd controller is required to possess relative to the use of force and force continuum, apprehension, arrest and restraint of persons where applicable. The unit is broken down into Elements, Performance Criteria, Required Skills and Knowledge and Range Statement. A copy of this specific unit of competence is attached at **Appendix B**.

This unit of competence can be accessed through the National Training & Information Services (NTIS) website, and from the CPP07 Property Services Training Package (Volume 5 of 7) which lists the Security Units of Competency for different licence activities and other information which may provide a background to the differences between a Certificate II and III in Security Operations. I have attached a number of pages which may assist but I have not attached all 1105 pages. **See Appendix C**

The training requirement for crowd controllers from July 2005 to the 31st December 2009 was intended to be undertaken in three stages. Prior to the issue of the licence an applicant was to complete ten units of competency, followed by another six units of competency within the first 12 months of obtaining the licence. It was previously a condition of the licence that the Certificate III in Security Operations (consisting of fourteen units of competency) was to be completed within two years of obtaining a licence. This training regime was to allow a licence holder to obtain on the job experience and receive training and assessment over a period of time. It was a requirement and condition on all licence holders (prior to the 1st March 2006) to obtain a Certificate III to ensure the appropriate level of competency and training for the Commonwealth Games.

LSD implemented a compliance and enforcement strategy in 2009. As a result of information sourced from the 2009 audits of RTOs (with and without the assistance of the VRQA) and on-going complaints regarding the standard of training, LSD engaged in a re-approval process of all RTOs desirous of delivering security training from 1 January 2010. As part of the LSD compliance and enforcement strategy to improve training it also introduced new conditions of approval for RTOs. The new conditions of approval are attached at **Appendix D**.

Some RTOs have also incurred additional conditions, for example restricting the number of students being trained at any particular time.

One condition of approval relates to training duration, requiring RTOs to deliver the combined security guard and crowd control course in not less than 128 hours face to

face. This requirement was introduced after consultation with local and national peak security bodies, VRQA auditors, training organisations and training experts in response to ongoing complaints regarding the quality of training being delivered, including some RTOs admitting that they had to reduce the training time to stay competitive as an RTO. Victoria is the only State that has regulated the training hours to this degree.

LSD removed the requirement for crowd controllers to undertake a Certificate III in Security Operations for a number of reasons including to ensure consistency with other States due to the Council of Australian Government (COAG) recommendations for national harmonisation of security training and licensing. LSD investigations identified that many RTOs were issuing the Certificate III qualifications at completion of the Certificate II in Security Operations course and were not complying with the training requirements for competitive and financial reasons. Additionally some of the training competencies were duplicated in the Certificate III with the licence holder being provided with recognition of prior learning for the remaining competencies. This practice served no real purpose or benefit to the individual in improving or developing their skill and knowledge.

LSD explored the proposal to implement training at renewal of a three year licence however this proposal has been adjourned until such time as a review of the entry level training has been undertaken.

LSD is proposing to review all its training requirements as a result of the implementation of the new training package, particularly in respect of Positional Asphyxia, with a view to strengthening this specific aspect to ensure that there is a stronger focus on a more preventive approach.

LSD cannot be confident of the quality of training of all licensed persons within the security industry in Victoria for the following reasons;

1. An investigation undertaken by LSD staff into applicants applying for security licences from other states under the Mutual Recognition Act has overwhelmingly identified students do not have a clear understanding of the cause and remedy of Positional Asphyxia. This investigation commenced as a result of a Victorian RTO delivering security training on behalf of a Queensland RTO which issues the training qualifications so that students may obtain a Queensland licence in the first instance, then using this licence to apply for and be granted a Victorian licence under the Mutual Recognition Act. The reasons behind this are due to the Victorian RTO not having security on its scope of registration with the VRQA. The RTO has entered into a partnership arrangement with the Queensland RTO and this arrangement although currently legal is clearly being undertaken to circumvent the stricter training requirements for security licensing in Victoria. Many RTOs in other states are delivering the Certificate II in Security Operations in 3 and 4 days, including First Aid, compared to Victoria where it is a LSD condition that the Certificate II in Security Operations is delivered in 128 hours (approximately 17 days).
2. The NSW Security Industry Registry is experiencing similar issues with 50% of applications for a security licence in 2010 emanating from Mutual Recognition

applications from Queensland and the ACT to avoid provisional licensing and permanent residency requirements in NSW. All current legal advice indicates licensing authorities cannot refuse applications made under the Mutual Recognition Act if the applicant meets the requirements in the original state.

3. The COAG Stage 1 recommendations for security licensing are currently being implemented by all states to ensure there are nationally agreed and consistent training competencies for each security licence activity. Although the competencies have been agreed to, other aspects of training such as duration and whether or not ongoing training should be implemented did not form part of the recommendations. COAG Stage 3 recommendations will explore a National Licensing System.

LSD has representation at the Security Industry Regulators Forum (SIRF) which meets regularly. NSW, WA and Victoria are states where Police act as the regulator, while the remaining States and Territories have either the equivalent Justice Department or Consumer Affairs performing the role of the licensing authority.

I have undertaken a check of records held at LSD relevant to Henry VONG. These checks indicate that VONG was issued with a Private Security Individual Operator Licence in the activities of crowd controller and security guard on the 9th March 2006 to expire on 10th March 2009.

At the time of application VONG provided to LSD a Certificate II in Security Operations PRS20103 issued on the 13th February 2006, a Certificate III in Security Operations (Crowd Control) PRS30103 issued on the 17th February 2006 and a Certificate III in Security Operations (Control Room) PRS30103 issued on the 17th February 2006 by the International Security Training Academy. The International Security Training Academy is an RTO approved by the Chief Commissioner to deliver security training in Victoria. The application for a security licence in Victoria was not undertaken by mutual recognition of another state's security licence.

As a result of information I received a disciplinary inquiry under Section 50 of the Private Security Act was undertaken into the security licence held by VONG as a result of his involvement in the death of Jerry Karamesinis on the 13th May 2007. VONG's security licence was immediately suspended under the provisions of Section 51 and a letter advising of the suspension was forwarded to VONG and his employer, Australian Crowd Control Services, dated the 22nd May 2007. His security licence remained suspended until a hearing was held on the 1st August 2007 at which time it was reinstated. VONG has not renewed his security licence since it expired on 10th March 2009.

VONG had completed all the training requirements for the issue of a Private Security Individual Operator Licence.

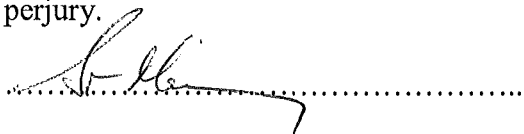
I have read the Coroners Prevention Unit report prepared by Mr. Jeremy Dwyer and provided information to assist in the preparation of that report. The information provided in the report is accurate and correct overall. I would only make one amendment or update to paragraph two under the heading as follows:

3.5 The interstate training 'loophole'

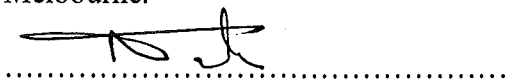
"The Licensing Services Division is currently conducting a review of this exemption, which stems from a number of issues including that individuals can avoid Victoria's training and licensing requirements by obtaining interstate licences in jurisdictions where the training requirements are less stringent."

LSD has reviewed extensive legal advice in relation to this issue which has indicated that LSD cannot refuse a licence issued under the mutual recognition process or impose training conditions to the licence.

I hereby acknowledge that this statement is true and correct and I make it in the belief that a person making a false statement in the circumstances is liable to the penalty of perjury.



Acknowledgement made and signature
witnessed by me at 8.30 a.m. on 18/4/2011
at the Licensing Services Division, World Trade Centre,
Melbourne.



Dennis Tocock
Senior Sergeant
Regulation Support Unit
Licensing Services Division