

A crisis in the security industry?



By Matthew Panayi, Articled Clerk at Slater & Gordon, and former Crowd Control licence holder

Following the death of David Hookes on 19 January this year, allegedly at the hands of a “bouncer”, there has been much media attention on the security industry. This media attention has focused particularly on the apparently alarming rate of violent acts perpetrated by crowd controllers against venue patrons.

In this context, two important questions need be addressed. First, are there a disproportionate number of violent acts perpetrated by crowd controllers? And second, can changes to the *Private Agents Act 1966 (Vic) (Act)* solve any identified problems within the security industry?

Protectors or thugs?

There are approximately 19,730 registered crowd controllers working in Victoria at present.¹ Of these, a registrar at the Private Agents Registry estimates that approximately 130 appeared before him each year on assault charges, with approximately 30 licences being suspended or cancelled.²

In NSW, research has indicated that, of the 1100 reported assaults at licensed premises between 1998 and 2000, “[a] minority of young male bouncers are responsible for some of the violence. But most is perpetrated by males with no formal connection to the venue”.³

Barrie Woollacott of Slater and Gordon, estimates that there are approximately 100 pub/club assault cases on their books, and approximately 50% of these involve the pub/club security.⁴ An Australian professor has asserted that a Canadian study which found that “bouncers are likely to provoke violence or cause unnecessary injury in more than 30 per cent of incidents in which they are involved... [could be applied]...in Australia”.⁵

It can be inferred from the above information, that at a minimum, several hundred crowd controllers in Victoria are involved in violent assaults each year. This significant minority constitute a problem that needs addressing.

Changing the Act

Will changes to the Act reduce the incidence of violence? As has been highlighted since the David Hookes incident, under the current Act, s19K,

crowd controllers’ licences cannot be cancelled without a hearing. Also, while the Act s19G(3)(a)-(e) allows the registrar some discretion in refusing a licence, the only mandated offences which will make a person ineligible for a licence (s19H of the Act) are; trafficking in a drug of dependence or an assault punishable by imprisonment for 6 months or more.

Under a new Bill being considered by the Victorian government, a power to automatically suspend licences on the laying of a charge, and further ineligibility criteria are apparently being flagged.⁶

Training requirements have also been accused of being inadequate under the Act.⁷ In fact, it has been said the “[m]andated training standards for security operatives are amongst the lowest for any occupations and cannot guarantee high levels of competency on the job”.⁸ Section 19H(b) of the Act allows the registrar to refuse issuing a licence if appropriate training is not completed. Currently, the registrar will not issue a crowd control licence unless an approved training course has been completed. However, what is deemed appropriate is a matter for the registrar himself or herself and there is no provision in the Act that requires updates/ refresher training. This is despite many years of lobbying within the security industry for national training standards.⁹

The last amendments to the Act were in 1990, when the *Private Agents (Amendment) Act 1990 (Vic)* was introduced after a public and media outcry regarding bouncer violence, similar to what we see today.¹⁰ These changes resulted in the licensing of crowd controllers, who were not regulated at the time.

Concluding remarks

The criteria for refusing a licence needs to be extended under the Act, as does the police power to suspend licences in the wake of incidents. Training standards need to be reviewed, and movement towards recognised uniform standards nationwide should be fast-tracked. Anecdotal evidence, from personal experience, and also a recent submission to the Victorian Government,¹¹ suggests that the security industry itself needs to be closely scrutinised. Increased regulation of an industry

where “off the books” work is easy to come by, and pay and conditions often do not match the relevant award, will be difficult.

Finally, according to Barrie Woollacott, last year’s changes to the tort law in Victoria instigated by the *Wrongs and Limitation of Actions Acts (Insurance Reform) Act 2003 (Vic)* have reduced the incentive, that an otherwise robust common law system would provide, for pubs/clubs and security operators “to ensure a safe environment for their patrons”.¹²

Given that the one of the twin aims of tort law that underlies liability is deterrence of the potentially injurious conduct, an increased onus is now placed on the regulator. It is imperative that the regulatory regime contained in the Act is urgently updated to reflect the deterrence gap left by the curtailment of common law rights, and also to reflect the need for increased professionalism in the security industry.

Please note that the Victorian Government is likely to introduce amending legislation to the Act in the next session of Parliament. ■

1 G Wilkinson, ‘Accused was to face court over violence – DAVID HOOKES 1955 – 2004’ *The Daily Telegraph*, 21 January 2004 at 5.

2 C Munro, ‘The Rough with the Smooth’ *The Age*, 24 January 2004 at 3.

3 Dr M Flood, ‘Booze, Bravado and Male Honour make for a Culture of Violence’ *Sydney Morning Herald*, 23 January 2004 at 11.

4 Interview with Barrie Woollacott, Public Liability Specialist Lawyer, Slater & Gordon, 4 March 2004, interview by Matthew Panayi.

5 L Schwartz, ‘Bouncers Provoke Violence – Study’ *Sunday Age*, 25 January 2004 at 10.

6 *op cit n1*.

7 *op cit n5*.

8 T Prenzler and R Sarre, ‘A survey of security legislation and regulatory strategies in Australia’ (1999) *Security Journal* 12 (3) at 15.

9 *ibid* at 16.

10 *ibid* at 8. See also J Gorr ‘Bounced! What crowd controllers can and can’t do, and what can be done about it, under the new Victorian legislation’ (1991) *Legal Services Bulletin* 16 (3) at 136.

11 The Liquor and Hospitality Miscellaneous Workers Union, ‘Regulation of Victoria’s Private Security Industry - *The Private Agents Act 1966: LHMU Issues Paper*, 2002.

12 *op cit n2*.