

# Manitoba Ombudsman

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April 5, 2011

The Honourable Ken Champagne  
Chief Judge  
Provincial Court of Manitoba  
5<sup>th</sup> Floor - 408 York Avenue  
Winnipeg, MB R3C 0P9

Dear Chief Judge Champagne:

**INQUEST INTO THE DEATH OF RUSSELL COOK  
OUR FILES: 2009-0751 AND 2009-0752**

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I am writing to advise of the results of the inquiries made by my office concerning the inquest report recommendations dated November 26, 2009, issued by the Honourable Judge Linda Giesbrecht into the death of Mr. Russell Cook.

Russell Cook came to his death on October 26, 2006 at the City of Winnipeg in the Province of Manitoba. His death occurred following an incident where he was forcibly restrained by bystanders and staff of a private business.

An autopsy determined the cause of death was arteromatous coronary artery disease. A significant condition contributing to the death but not casually related to the immediate cause of death was hyper-excitabile state with agitation.

The Chief Medical Examiner called for an inquest on November 22, 2007 pursuant to Section 19(3) of *The Fatality Inquiries Act*. The inquest report was released on December 1, 2009.

As you are aware, it is the practice of my office to follow up on inquest recommendations when they relate to a provincial department, agency or municipality. In this case, Judge Giesbrecht made recommendations directed at the Department of Justice and Manitoba Liquor Control Commission (MLCC). The following are the recommendations and the responses received:

## **RECOMMENDATION ONE**

I recommend that the Manitoba Department of Justice reconsider whether security guards employed in licensed premises should be subject to the licensing and training requirements of *The Private Investigators and Security Guards Act*.

## **RESPONSE FROM MB JUSTICE**

*I can advise you that the original licensing exemption for employees working in licensed premises was established during the developmental stage of amending the PISGA [The Private Investigators and Security Guards Act] to include mandatory training for security guards.*

*At that time industry stakeholders, including the Manitoba Liquor Control Commission (MLCC) and the Manitoba Hotel Association (MHA), argued that because of the unique hospitality environment within which employees working in licensed premises operate, the MLCC would be the appropriate regulatory body for this group.*

*To address Judge Giesbrecht's recommendation, the MLCC arranged a working group meeting that included Manitoba Justice, the RCMP, Brandon Police Service, Winnipeg Police Service, Manitoba Food and Restaurant Association, Manitoba Hotel Association, and Manitoba Tourism and Education Council. Discussions at that meeting reconfirmed the Department's position that individuals performing security duties within licensed premises are best regulated by the MLCC.*

*The meeting concluded with agreement that the mandatory security guard training program required under the PISGA does not provide the specific training necessary to perform security duties within licensed premises. The group also argued that enhanced MLCC training should provide information for conducting security duties within licensed premises, and that enhancements to the "It's Good Business" training program, developed and administered by the MLCC, could best address any training deficiencies.*

*Manitoba Justice agrees with the working group's decision to enhance MLCC training, and that individuals providing security services within licensed premises, who are direct employees of the owner of the licensed premises, should not be licensed by the Department. Instead, they should be subject to the enhanced training requirements of the MLCC. The Department has committed to work with the MLCC during the development of the new, enhanced MLCC training program.*

## **RECOMMENDATION TWO**

I recommend that the Manitoba Liquor Control Commission amend the “It’s Good Business” manual to include some basic information about reasonable methods of restraint and the dangers associated with restraining a person inappropriately. A statement similar to what is included in The Manitoba Security Guard Training Program or information similar to what is included in the Behavioural Emergencies EMS Continuing Education Manual should be included in the MLCC manual.

## **MLCC RESPONSE**

*The MLCC amended the It's Good Business manual to include some basic information about restraint and the dangers associated with restraining a person. This was completed on January 12, 2010.*

## **RECOMMENDATION THREE**

If security guards employed in licensed premises are not made subject to *The Private Investigators and Security Guards Act* I recommend that *The Liquor Control Act* or regulations made pursuant to that Act, be amended to require that licensees of licensed premises insure that persons involved in providing security in their premises have successfully completed a security guard training course approved by the MLCC.

## **MLCC RESPONSE**

*The MLCC formed a working group made up of a broad cross-section of industry, stakeholders, and partner organizations. This working group met on January 13, 2010.*

*Based on feedback and input from the working group, MLCC staff is currently working on developing actions to remedy the gaps identified by Judge Giesbrecht in her report.*

The MLCC sent a letter dated August 10, 2010 to my office which provided the following update:

*With respect to Judge Giesbrecht's recommendation, the MLCC has completed an action plan that is supported by all parties in the working group.*

*Briefly, action items include completing a gap analysis between the provincial security course and IGB program; capital investment to increase accessibility to online program; and regulatory changes to make certification mandatory for all security, servers, bartenders, and managers before they begin working in a licensed premises.*

*MLCC staff are proceeding to initiate these changes. As you can appreciate, regulatory changes proceed through an approved process and once complete, operational initiatives to support these changes will take place.*

The MLCC sent a further update by way of a letter dated March 18, 2011 which states:

*The MLCC and Manitoba Tourism Education Council (MTEC) have upgraded the It's Good Business program and have changed its name to Serving It Safe. Changes to The Liquor Licensing Regulation relevant to these changes were gazetted February 26, 2011 and come into force April 1, 2011. As a result, program certification will become mandatory for anyone entering the industry as of April 1, 2011.*

*Specific changes to the program are noted below:*

- 1. Upgrading and enhancing the IGB training course content including specific training for security guards.*
- 2. Certification mandatory for all server/security upon entry into the industry.*
- 3. Re-branding of the current IGB training course to be more reflective of the service and safety components (Serving It Safe).*
- 4. Upgrading online delivery of the training program to ensure accessibility, convenience, and timely results are provided to users.*
- 5. Establishing a formal process with stakeholders to regularly review contents of the training program.*

*These changes have been communicated to all licensees through the Licensee Newsletter and informational poster to be displayed for staff, as well as the posting of information on the MLCC website.*

Further information regarding these changes can be found at: <http://www.mlcc.mb.ca> or <http://www.mtec.mb.ca>

Based on our review of this matter, it would appear that Manitoba Justice and the Manitoba Liquor Control Commission have given reasonable consideration to the inquest report recommendations. As such, our files concerning the Russell Cook inquest have been closed.

Yours truly,

Original signed by

Irene A. Hamilton

Manitoba Ombudsman

cc: Mr. Jeffrey Schnoor QC, Deputy Minister of Justice and Deputy Attorney General

Mr. Ken Hildahl, President and CEO of the MLCC

Dr. Thambirajah Balachandra, Chief Medical Examiner