

Northern Territory Licensing Commission

Reasons for Decision

Respondent:	Mr James William Couzens 133 Forest Parade Roseberry, NT 0832
Proceedings:	Application for a Dual Security / Crowd Controller Licence
Heard Before:	Mr Richard O'Sullivan (Chairman) Ms Brenda Monaghan (Legal Member) Mr Wally Grimshaw
Date of Hearing:	27 May 2009
Appearances:	Mr James Couzens Inspector Shane McCorkell for the Director of Licensing

Background

- 1) Mr James Couzens had lodged an application on 19 December 2008 for a Dual Security / Crowd Controller Licence. Mr Couzens had previously been granted a licence in 2004 which had expired on 31 March 2007.
- 2) On 1 February 2007 there was an incident at the Top End Hotel where it is alleged Mr Couzens and licensed Security and Crowd Controller Mr Vanny Mann assaulted patrons departing the Anka Bar of the Top End Hotel.
- 3) The salient factors involved with this incident and which subsequently led to a complaint against Mr Mann are:
 - a) That a party of people (Ms Robyn Burton, Ms Ingrid Kontra, Ms Michelle Morgan and a male companion Brett) who had been drinking at the Anka Bar were departing at around 10.15pm. One of the party, Ms Robyn Burton, was stopped by Security (Mr Vanny Mann) and informed she could not leave the premises with the stubby of beer in her possession.
 - b) Following this, there was some verbal interchange between Ms Burton and Mr Mann culminating in Mr Mann knocking the stubby of beer from Ms Burton's hand. This escalated into an incident with another one of the party, Ms Ingrid Kontra, becoming involved and who was then pushed to the ground. At about this time Mr Couzens intervened resulting in his restraining Ms Burton against a wall with some force.
 - c) Also about this time another member of the party, Ms Michelle Morgan becomes alarmed at the level of force and violence being applied to Ms Burton and Ms Kontra and phoned the Police for assistance.
 - d) Mr Mann was on duty as a Crowd Controller that evening while Mr Couzens was a licensed Crowd Controller but not on duty and was therefore not acting in any official capacity, other than offering some support (and in his words some protection) to his friend Mr Mann.
- 4) Resulting from this incident, a complaint was made against Mr Mann. Mr Couzen's licence had expired and for this reason no complaint could be brought against him. On 16 May 2008, a decision regarding Mr Mann's behaviour on the night in question and his fitness to continue to hold a licence was handed down and the Commission found that complaint

proven. The Commission subsequently, in a further decision on penalty handed down on 23 July 2008, found *“that Mr Mann is not an appropriate person to hold a licence under the Act (Private Security Act)”*.

- 5) Evidence and material considered by that Commission in reaching its decision relates to the behaviour of both Mr Vanny Mann and Mr James Couzens during the incident of 1 February 2007 at the Top End Hotel.
- 6) In the decision of 16 May 2008, in which the Commission found the complaint laid was valid, the Commission’s decision included the following observations, of relevance to the application for a dual licence by Mr Couzens in relation to whether he is an appropriate person to hold a licence:
 - a) Paragraph 29: *“Further, he (Mr Mann) freely admits standing by whilst Mr Couzens, who although he was a licensed Crowd Controller was not on duty at the time and was for all intent and purposes a ‘patron’ of the hotel and a friend of Mr Mann, heavily manhandled a slightly built woman, twisting her arm up behind her back”*.
 - b) Paragraph 30: *“indeed it is fairly clear from the CCTV footage that there was excessive force used by Mr Couzens”*.
 - c) Paragraph 32: *“In addition the Commission finds that Mr Mann was negligent in his duty as a Crowd Controller when he stood by and allowed Mr Couzens to assault Ms Burton by throwing her against a wall and twisting her arm behind her back and then verbally abusing Ms Burton and MsKontro”*.
- 7) From the time the Complaint against Mr Mann was lodged with Licensing & Regulation and during the investigation it is evident that Mr Couzens had become a “Person of Interest”.
- 8) The application of Mr Couzens for a licence was lodged on 19 December 2008. While Mr Couzens was the holder of a Dual Security / Crowd Controller Licence at the time of the incident, he allowed his licence to lapse prior to the undertaking of investigations by Licensing Inspectors in 2007 and the matter being brought to Hearing in 2008. The complaint by Ms Burton and Ms Kontro was only lodged with the Inspectorate (of Licensing and Regulation) on 28 March 2007, just three (3) days in advance of Mr Couzen’s licence expiring on 31 March 2007.
- 9) On being presented with a precis of the events which occurred on 1 February 2007 and being presented with the details of the earlier hearing and Commission decision in relation to a complaint laid against Mr Vanny Mann, the Commission, by a decision of 20 March 2009, determined to conduct an Inquiry in the form of a Hearing to allow Mr Couzens to address the Licensing Commission and present supporting information to demonstrate his appropriateness and suitability to hold a Dual Security / Crowd Controller Licence.
- 10) Section 4 of the *Private Security Act* (the Act) states:
 - 4) *Subject to subsection (8), a person is entitled to be granted a crowd controller’s licence, a security officer’s licence, or a category of licence (other than a provisional licence) declared under section 8, if –*
 - (c) *the licensing authority is satisfied that the person is an appropriate person to hold the licence.*
 - 5) *In deciding whether a person is an appropriate person to hold a licence, the licensing authority is limited to considering the matters specified in subsections (6) and (7).*

Section 6 of the Act includes:

6) *In deciding whether a person is an appropriate person to hold a licence, the licensing authority may consider the following matters as indicating that the person may not be an appropriate person:*

(a) *that in dealings in which the person has been involved, the person has –*

(i) *shown dishonesty or lack of integrity; or*

(ii) *used harassing tactics.*

11) Under Section 16(1) of the Act the Commissioner of Police is to be notified of any Inquiry by the Commission in relation to a licence applicant. In this matter the representative of the NT Police Commissioner has made no comment on the appropriateness of Mr Couzens to hold a licence. The Commission therefore, in conducting this Inquiry, advised it would be guided by the evidence presented at Hearing, including material contained in the Hearing Brief, a copy of which was provided to Mr Couzens prior to the Hearing.

Inquiry

12) The Hearing proceeded with the Commission being shown the CCTV footage taken at the time of the 1 February 2007 incident. Both Inspector McCorkell and Mr Couzens provided coverage and comment on what was occurring at key junctures of the footage.

13) Unfortunately the CCTV footage was not of high quality and did not focus sharply on the people and events which took place on the evening of 1 February. Therefore the darkness and grainy footage did not fully support or refute statements made by opposing parties and therefore the Commission had to place some reliance on other evidence provided. The footage does establish that the three (3) women patrons together with a male companion were departing the Anka Bar at around 10.20pm.

14) Mr Mann is then seen speaking to Ms Burton before the parties move out of the range of security cameras when, for a time, there is no footage. Ms Kontro is then seen falling as a result of contact with Mr Mann. Soon after, the CCTV footage clearly shows Mr Couzens pushing Ms Burton against a wall and restraining her with some vigour. Ms Michelle Morgan is around this time seen talking on the phone at which time she is assumedly phoning Police. Ms Kontro is seen pushing at Mr Couzens and then falling again.

15) The footage then shows Mr Luke Overton, Duty Manager of the Top End Hotel, speaking to Couzens or in his direction. The Hearing was advised this exchange was Mr Overton asking Mr Couzens to let go of Ms Burton. At 10.24pm there is a verbal exchange between Mr Couzens and Ms Kontro which the Commission was advised contained the reference to Couzens stating *“you’re lucky I don’t open your face up”*.

16) Mr Couzens, in referring to the incident, said that *“Burton had attitude to begin with”*. He alleged that Ms Burton had contributed to the incident and the resultant actions of Mann. Mr Couzens repeated information contained in his taped statement to Licensing Inspectors that Ms Kontro had run to Burton’s aid and had hit Mann with a glass. Couzens states he intervened following Ms Kontro’s attack on Mr Mann, as Mann was now dealing with two (2) aggressive women. When he went to restrain Ms Burton he states he was then punched by Ms Kontro, after which she is seen falling to the ground in the footage viewed.

17) In Mr Couzen’s view Ms Kontro had rushed back seeking more physical engagement in the fracas and in the heat of the moment he admits making reference to that she had been lucky he had not opened up her face.

18) Inspector McCorkell advised the Commission of the following matters in relation to the incident.

a) The female patrons principally involved in the incident (Burton and Kronto) did not know Couzens was a licensed Crowd Controller, albeit off duty.

- b) To each of them it appeared that a person with no official status (Couzens) was assaulting a female friend when he pushed Ms Burton against the wall and again when he pushed Ms Kontro to the ground.
- c) The force applied by Couzens against Ms Burton was disproportionate to the event.
- d) Mr Couzens showed no skills in pacifying or talking to people and if a reasoned discussion or persuasion had ensued, rather than physical force, the result may have been a lesser escalation than that which occurred.
- e) When the Duty Manager, Mr Overton intervened in a reasonable manner, the anger subsided. It was Mr Overton who told Mr Couzens to let Ms Burton go.

Matter taken into consideration

- 19) Contrary evidence has been put to this Hearing of the Commission by Mr Couzens to that provided in statements of the three (3) female patrons (Burton, Kontro and Morgan) and other supporting material in the Hearing Brief.
- 20) At this Hearing the Commission has reached the same conclusion on the evidence and the sequence of events as that reached by the previous Commission when it determined that Mr Mann was not an appropriate person to hold a licence. That earlier Commission decision, based on evidence received on the viewing of the CCTV footage, determined that Mr Couzens had assaulted Ms Burton by throwing her against a wall and twisting her arm behind her back and then verbally abusing both Ms Burton and Ms Kontro. Following a review of all matters put before it, this Hearing Commission formed a similar view to that of the previous Commission, in that the response to a situation which started when a woman was exiting the licensed premises with a stubby of beer in her hand, had unnecessarily escalated due in part to the actions of Mr Mann and Mr Couzens. Subsequently both Mr Mann and Mr Couzens had used unnecessary or unreasonable force.
- 21) The Commission also gives scant support to the purported scratching or punching of Mr Couzens as a justification for the action taken. The Commission, similar to the previous Commission conclusion, determines that it is fairly clear there was excessive force used by Mr Couzens when he had no authority to be involved in the actions he carried out.
- 22) Mr Couzens has made great play of the fact that he was following the suggested approaches learned in his training including the Certificate II Security Operations document PRSS0222A Protect Self and Others using Basic Defensive Tactics.
- 23) The Commission is not convinced that these physically strong responses were appropriate to the situation, particularly as Mr Couzens was not employed as a Crowd Controller at the time and by that venue. The photographic and medical evidence of the bruising and skin grazing or laceration (to Ms Burton and Mr Kontro) is consistent with the trauma of someone forcibly hitting a hard surface.
- 24) At no time did Mr Couzens show any insight into alternative methods of dispute resolution he or Mr Mann could have employed to diffuse the situation and he has shown no contrition or remorse over the events of the evening of 1 February 2007 and the part he played in them. In his view, the female patrons brought the problems upon themselves by in some way challenging the authority of a security officer or showing Mr Mann disrespect.
- 25) During Hearing Mr Couzens made reference to the women being "*not lady like*" and "*unlady like*". The Presiding Commissioners were concerned with these and other similar statements made by Mr Couzens as they were somewhat deprecating and consistent with a dislike of the sexuality of two (2) of the women who were partners.

Decision

- 26) The Commission, on considering all of the evidence, reaches the same conclusion as the previous Commission did regarding the actions of Mr Couzens on the night of 1 February 2007. Mr Couzens, while a licensed Crowd Controller, was not on duty on the night and he did not make it known to the patrons involved in the incident that he was other than a fellow patron on the night.
- 27) This naturally gave rise to a concern from these female patrons that at best they were being badly treated or at worst assaulted by a person with no authority. Such a situation could be expected to give rise to distress and reaction, including the fact that one of the companion patrons called Police for assistance. Even if he had advised the patrons of his security status, the amount of physical force used by Mr Couzens in dealing with these patrons was unjustified. His verbal comments to them were inappropriate and his explanations to the Commission for his attitude shows a misunderstanding of the role of security on licensed premises but rather a belief that a "Rambo" style of operation and reaction was justifiable and even appropriate.
- 28) The Commission is satisfied that Mr Couzens, on the basis of these actions, is not an appropriate person to hold a licence. The application by Mr Couzens for a Dual Security / Crowd Controller Licence is denied.

Richard O'Sullivan
Chairman

10 July 2009