



Office of the Chief
Coroner

Bureau du coroner
en chef

SHAND, Patrick Inquest

February 23rd, 2004

Key Words: Accident, Asphyxia, Cocaine, Custody

2004 CanLII 72783 (ON OCCO)



Office of the
Chief Coroner
Bureau du
coroner en chef

Verdict of Coroner's Jury
Verdict du jury du coroner

The Coroners Act – Province of Ontario
Loi sur les coroners – Province de l'Ontario

2004 CanLII 72783 (ON OCCO)

We the undersigned / Nous soussignés,

_____ of / de _____
 _____ of / de _____

the jury serving on the inquest into the death(s) of / membres dûment assermentés du jury à l'enquête sur le décès de :

Surname / Nom de famille SHAND	Given Names / Prénoms Patrick
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aged 31 held at Coroner's Inquest Courts, 15 Grosvenor St., Toronto, Ontario
à l'âge de _____ tenue à _____

from the 23rd February to the 23rd April 20 04
du _____ Au _____

By Dr. / D^r David Eden Coroner for Ontario
Par _____ coroner pour l'Ontario

having been duly sworn/affirmed, have inquired into and determined the following:
avons fait enquête dans l'affaire et avons conclu ce qui suit :

Name of Deceased / Nom du défunt
Patrick SHAND

Date and Time of Death / Date et heure du décès
September 14th, 1999 at 12:59pm

Place of Death / Lieu du décès
Scarborough Grace Hospital, Toronto

Cause of Death / Cause du décès
Restraint asphyxia with the following contributing factors, chronic and acute effects of cocaine use

By what means / Circonstances du décès
Accident

Original signed by: Foreman / Original signé par : Président du jury _____

 Original signed by jurors / Original signé par les jurés _____

The verdict was received on the 23rd day of April 20 04
Ce verdict a été reçu le _____ (Day / Jour) _____ (Month / Mois)

Coroner's Name (Please print) / Nom du coroner (en lettres moulées) Dr. David Eden	Date Signed (yyyy/mm/dd) / Date de la signature (aaaa/mm/dd) 2004/04/23
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Coroner's Signature / Signature du coroner _____

We, the jury, wish to make the following recommendations: (see page 2)
Nous, membres du jury, formulons les recommandations suivantes : (voir page 2)



Office of the
Chief Coroner
Bureau du
coroner en chef

Verdict of Coroner's Jury Verdict du jury du coroner

The Coroners Act – Province of Ontario
Loi sur les coroners – Province de l'Ontario

Inquest into the death of:
Enquête sur le décès de :

Patrick SHAND

JURY RECOMMENDATIONS RECOMMANDATIONS DU JURY

1. Amendment to the Private Investigators and Security Guards Act (the "Act")

The Private Investigators and Security Guards Act (the "Act") should be amended to remove the licensing exemption that presently exists for "proprietary" or in-house security practitioners and members of the Corps of Commissionaires. This amendment will provide for mandatory licensing for all privately employed individuals who, for hire or reward, guard or patrol for the purpose of protecting persons or property in Ontario (security practitioners). This amendment is not intended to affect the regulation of armored car companies or armored car personnel.

Rationale: The current Act was passed in 1966. The world and the security industry have changed dramatically since that time. To illustrate, there are now some 50 000 persons employed in the security industry, half of whom are unregulated. Every person employed as a security professional should be licensed by the Province. In 1966 most security practitioners were watchmen, today they provide a wide variety of services with significant interaction with the public, especially in shopping malls, hospitals, entertainment venues and other locales.

2. The need for urgent change

We recommend that The Private Investigators and Security Guards Act (the "Act") be amended as soon as possible.

Rationale: While it is important that all the stakeholders are consulted, the Ministry has had many years to consult. When this Act was passed in 1966, John Robarts was the premier of the Province and since that time there have been seven more premiers. Any remaining consultation process should be expedited so that further delays in amendments to the act are avoided. It seems that the issues should already be well known and the Ministry should be able to proceed quickly.

If there are issues that cannot be resolved in the short term, a phased implementation may be appropriate.

It is important that the government act quickly, responsibly and diligently.

3. Mandatory training

The Ministry of Community Safety and Correctional Services (the "Ministry") should create a mandatory training program that all security practitioners must complete as a requirement for their licensing.

Rationale: Training is the key to providing the necessary skills and knowledge required by security practitioners especially in use of force instances and other areas of interaction with the public. The training is to protect both the security practitioners and the public. If the training is not mandatory for all, some security practitioners may not receive any training or receive substandard training and not have the necessary skills and training to reduce risks to the public.

4. Training program Curriculum

The Ministry should create a curriculum for the mandatory training program, through consultation with stakeholders to create industry standards based on best practices.

For those security practitioners whose duties may include making arrests or the lawful application of force, the minimum level of training should include First Aid, CPR and Use of Force training which identify the hazards of Restraint Asphyxia and Excited Delirium.

For a security practitioner to receive a license allowing them to carry or use handcuffs or expandable batons they must have received and completed relevant training.

Rationale: There should be multiple levels of training for security practitioners in the Province, depending upon job requirements, the expectation of the use of force and the use of hand cuffs and expandable batons. The system should be transparent in the interest and the safety of the public. The public should expect a high standard of professionalism by all security practitioners in the Province. The curriculum should provide the basis for the professional standards.

5. License classification system

The Act should be amended to provide for the creation of a licensing classification system in which each level or tier reflects the duties that the security practitioner is competent to perform based on the training he or she has received.

The licensing classification system should also reflect the degree to which the security practitioner would be expected to interact with the public.

The licensing classification system should ensure that no security practitioner may carry or use handcuffs or expandable batons without completing relevant training.

Rationale: One level of license or training will not meet the demands of all types of security requirements. For example the requirements for a night watchman are different from the requirements for shopping mall security in that the use of force may be called upon when dealing directly with the public.

6. Training programs and persons with disabilities

Any certified training program, by way of its physical requirement, should not prevent individuals with disabilities, or any persons incapable of completing physical training from pursuing gainful employment as a licensed security practitioner, if his or her duties do not include making arrests or the lawful application of force.

Rationale: Equal opportunity for all individuals is an Important factor in our society.

7. Re-certification

Those security practitioners whose duties may include making arrests or the lawful application of force should be re-certified annually with respect to Use of Force Training.

All security practitioners should be re-certified for CPR annually.

Rationale: The training regarding use of force is changing constantly and this ensures that security practitioners are up to date with modern training practices across the Industry.

Re-certification of CPR is currently a best practice in most industries where CPR training is required.

8. License Identification and renewal

Licenses should identify the classification of the security practitioner and what equipment he or she is authorized to use such as handcuffs and expandable batons.

Licenses should be renewed annually.

Rationale: Employers, the Ministry and the public will know the competency level of the employee.

9. Identification

Where a security practitioner is in uniform, licensing information should be visibly displayed on a badge including a photograph, license number, company name and classification.

When a security practitioner is not in uniform the identification must be readily available.

Rationale: This will provide recognition to the public, avoid confusion with the police and identify the person as a security practitioner.

10. Method of training delivery

The mode of delivery of the mandatory training regime for security practitioners shall be approved by the Ministry, after consultation with stakeholders. A manual or guide to training and requirements should be published and updated regularly by the Ministry.

There are many possible methods of training including community colleges, in-house training and computer assisted training. Training should be flexible and tailored to meet the needs of the industry throughout the Province without reducing quality.

11. Certified trainers

Mandatory training should be delivered by qualified trainers certified by the Ministry. There should be an established competency level defined by the Ministry.

Rationale: The quality and standards of training are vitally important. Trainers and those persons instructing the trainers must meet the highest standards relating to subject matter and adult educational techniques.

The Coroner's office should be consulted in the development of use of force training programs.

12. Record keeping and evaluation

The Ministry should develop a mode of evaluation and a system of record keeping for the delivery of mandatory training.

Rationale: To ensure that the training regime is effective, complete and accurate records of training should be kept and those records and other means used to evaluate the training programs on a regular basis.

This record could also be used to track the training of an individual security practitioner over the life of their employment as a security practitioner.

13. Enforcement System

The Ministry should implement an effective system of enforcement with powers of inspection and audit. Sufficient resources should be made available to ensure compliance with the licensing and training requirements of the Act.

Rationale: The amended act will only be as effective as the system of enforcement. This will be particularly true in the early stages of implementation.

14. Advisory Board

The Ministry should create an Advisory Board or Committee comprised of stakeholders to facilitate communication and the exchange of information between the stakeholders, and for the purposes of establishing the curriculum of the mandatory training program.

Rationale: The Advisory Board or Committee should be constituted as soon as possible to begin their work in conjunction with the Ministry prior to the passing of the amended legislation.

The purpose of the formation of an Advisory Board or Committee is to provide a breadth of experience and advice to the Ministry but the Ministry is ultimately responsible and should ensure that it is not used as a mechanism to delay or obstruct the process of implementation.

15. Oversight body

The Ministry should create an independent oversight body to deal with complaints by members of the public in relation to the provision of security services. Access to this body should be readily available and widely publicized.

Rationale: Security practitioners must be held accountable for their actions and the public trust ensured. Publicity should include a 1-800 number and other means of access.

16. Portability of licenses

The Act should be amended to provide for the portability of individual licences.

Rationale: Presently, licenses are obtained through the employer. Portability will allow the movement of personnel within the industry in Ontario and eliminate current delays in obtaining licenses for new employees who have been previously licensed.

17. Funding model

The funding model for the mandatory training program in British Columbia may be considered as a funding model for Ontario.

Rationale: Training programs should be funded from an annual licensing fee charged to companies and individuals and there should be no additional costs to the taxpayers.

18. Reporting use of force

Licensed security practitioners should be required to report any use of force to their employer. The employer's responsibility should be to report use of force statistics annually to the Ministry. The Ministry should report the statistics publicly on an annual basis.

Rationale: Record keeping and reporting will identify changing patterns of activity as well as the need for changes in the training, licensing and possibly the Act itself.

This may also identify abuses of the system.

The statistics should be reported by the Ministry to ensure that the public is informed.

19. Excited delirium memorandum

The Coroner's Office should update Memo #636, dated June 19, 1995, exhibit 4 at the Inquest, for distribution to the security industry.

Rationale: This is a document that contains vital and possibly lifesaving information. It is of the utmost importance that the security industry and all persons dealing with use of force and restraint are aware of its contents.

20. Training of persons authorized by an employer to make arrests

If an employer designates employees to make arrests for property related offences those employees should have the same license and training as is required of other security practitioners who are authorized to make arrests.

Rationale: Proper training may reduce the risk of injury to the employee or to the person being arrested.

21. Policy communication to employees

Explicit direction both verbal and written must be communicated to each employee. A sign off sheet must be filed in his or her personnel file as to their understanding of the expectations of the retailer with respect to the manner in which the apprehension of shop thieves is to be conducted. This communication and sign-off must be communicated on a regular basis, preferably annually.

Rationale: This ensures compliance and that the employee is aware of and understands the policy and their responsibilities.

22. Compliance

We recommend that failure to comply with the Act and its regulations may incur significant fines and other penalties including loss or suspension of licenses to the practitioner and or company.

Rationale: We feel strongly that the provisions of the act especially with respect to training must be adhered to by all parties.

Personal information contained on this form is collected under the authority of the *Coroners Act*, R.S.O. 1990, C. C.37, as amended. Questions about this collection should be directed to the Chief Coroner, 26 Grenville St., Toronto ON M7A 2G9, Tel.: 416 314-4000 or Toll Free: 1 877 991-9959.

Les renseignements personnels contenus dans cette formule sont recueillis en vertu de la *Loi sur les coroners*, L.R.O. 1990, chap. C.37, telle que modifiée. Si vous avez des questions sur la collecte de ces renseignements, veuillez les adresser au coronier en chef, 26, rue Grenville, Toronto ON M7A 2G9, tél. : 416 314-4000 ou, sans frais : 1 877 991-9959.

Verdict Explanation

Patrick SHAND
February 23rd – April 23rd, 2004
Coroner's Inquest Courts,
15 Grosvenor St., Toronto, ON

Opening Comment:

I intend to give a brief synopsis of the issues presented at this Inquest and explain in some detail the reasons for the Jury's recommendations. I would like to stress that much of this would be my interpretation of the evidence and also my interpretation of the Jury's reasons. The sole purpose of this is to assist the reader to more fully understand the Verdict and recommendations of the Jury and is not intended to be considered as actual evidence at the Inquest. It is in no way intended to replace the Jury's Verdict.

The Inquest began on February 23, 2003; Jury heard from 39 witnesses, and returned their Verdict and Recommendations on April 23, 2004.

Participants:

Counsel to the Coroner:	Mr. Robert Ash
Investigating Officers:	Det Sgt Robert Di Danielli Det Martin Woodhouse Toronto Police
Coroner's Constables:	Cst Ernie Drummond Cst James Swick Sgt Rick Evans Toronto Police
Court Reporters:	Ms. Ella Steinberg Ms. Wendy McHenry Network Reporting Services

Parties with Standing:

Represented by:

Brinks Canada:	Counsel Mr. Brad Berg
Wackenhut:	Counsel Mr. Dean Sgourimitis Counsel Mr. Mark Harrington
Loblaws employees Mr. Gentile & Mr. Moore:	Counsel Mr. George Strathy Counsel Dr. Anne Walker
Loblaws:	Counsel Mr. Wayne Morris Counsel Ms. Gillian Eckler
Ministry of Community Safety & Correctional Services:	Counsel Ms. Angela Jeffrey Counsel Mr. Indy Kandola
Family of Mr. Shand:	Counsel Mr. Julian Falconer Counsel Mr. Julian Roy

Summary of the Circumstances of the Death:

Just before noon on September 14, 1999, Mr. Patrick Shand, a 31-year-old male, was observed shoplifting by staff in a grocery store in suburban Toronto. A store employee initiated a "citizen's arrest" just outside the store. Mr. Shand resisted, and other persons (none of whom were police) became involved in restraining and handcuffing him. During the restraint, it was noted that Mr. Shand did not appear to be breathing. Despite bystander CPR and rapid arrival of paramedics, Mr. Shand succumbed. Other than handcuff training for the security guard involved, none of the persons involved in the restraint had taken formal use-of-force training, and it appears that they were unaware of the risks that attend physical restraint of a vigorously resisting person. It was not known to them that Mr. Shand had numerous risk factors which substantially increased the risk of sudden death during restraint.

The Events of September 14

The jury heard from a number of eyewitnesses, including persons directly involved in the events, and bystanders.

Mr. Shand was arrested by Mr. G outside the store, after he had been observed by staff to exit the store with goods for which he had not paid. Witnesses differed about the details of the subsequent events, but all agreed that there was a struggle during which a second Loblaws employee, Mr. M arrived, and which ended with Mr. Shand restrained prone (face-down) on the ground. At some point, Mr. Shand stated "I can't breathe", to which Mr. M responded that he would relax his grip if Mr. Shand stopped struggling. The mall security guard applied handcuffs. An armoured car guard assisted briefly with the restraint. No witness described any person kicking or punching Mr. Shand, but there was conflicting evidence as to whether or not Mr. Shand was in a headlock at some point (with consequent pressure to the neck). It was learned during the inquest that the store's General Manager had been present briefly during the altercation, but had not intervened. The extent to which Loblaws' use-of-force policies were communicated to and understood by managers and staff, at the time of the incident, was contested in evidence. Loblaws has since changed its strategy for communicating the policy to employees.

Mr. Shand resisted handcuffing, but ceased struggling afterwards. It was thought that he had stopped resisting and was now compliant. At some point, he was incontinent of urine. After his girlfriend and some bystanders indicated concern about his wellbeing, Mr. Shand was turned over, and found to be vital signs absent. CPR was immediately initiated by one of the Loblaws employees and a bystander, until the arrival of paramedics. The handcuffs were not removed until the arrival of the paramedics; this may have reduced the efficacy of the CPR. Mr. Shand was transferred to hospital, and was pronounced dead at 12:59 p.m., about 1¼ hours after the incident began.

The jury heard evidence that baby formula is selected by shop thieves because it is compact and has a ready resale value for cash. Mr. Shand and his girlfriend were not obtaining it for an infant, nor is the formula used for any other purpose, such as 'cutting' drugs.

Regulation and Training of Security Practitioners, and Use-of-Force Training

For the sake of clarity, the following terms will be used in this narrative:

- The Act means the Private Investigators and Security Guards Act
- Security functions are difficult to define in detail, but generally include the protection of life and property by persons other than police officers.
- A Security Practitioner is a person who performs security functions, whether or not licensed under the Act. This group includes licensed Security Guards, in-house security, and groups such as "bouncers" and "concert security".
- A Security Guard is a security practitioner licensed under the Act.

The jury heard that there are about 27, 000 licensed security guards, and roughly the same number of unlicensed security practitioners in Ontario. The number has increased steadily, particularly over the last two decades, and there is a trend for security practitioners to take on some roles previously managed by police officers.

The Act, which is essentially unchanged since its proclamation in 1966, is currently under review, and there is a lack of consensus among stakeholders concerning the kind and extent of changes required.

Under the current Act, the Registrar licenses both security agencies, and the security guards they employ. The licensing of a security guard is specific to an agency: If a security guard moves to a different employer, his or her license is void, and a new application must be initiated, which may take several weeks. Licensure of individuals mainly involves a CPIC (i.e. federal) background check; provincial offences and offences from other jurisdictions (e.g. the U.S.) are not routinely examined. A photograph is required. The Act contains broad exemptions from requirement for licensure, including the Corps of Commissionaires, and 'in-house' security practitioners, i.e. those performing their duties exclusively for and on the property of their employer. A retail mall, hospital or factory, for example, could lawfully either contract with a licensed security agency, or hire and deploy their own unlicensed staff to perform security functions. The agencies which employ security practitioners provide varying amounts of training; the Act contains no requirements or minimum standards for training or skills.

A security guard must not identify him or herself as a police officer and, in law, a security guard has no more legal authority than any citizen; security practitioners do not have "police powers".

The jury heard that other jurisdictions have taken a more comprehensive approach to licensing and training of security practitioners. British Columbia, for instance, requires mandatory universal training for security guards, the standards for which are set by a provincial agency, delivered by certified instructors, and tested to objective standards. B.C. is moving towards mandating a basic level of training for all security practitioners, with specific additional training (such as use-of-force) to be provided to practitioners who work in roles in which the additional training would be appropriate, including those who regularly deal with the public and whose duties

may include intervention or arrest. The system is self-funded. This model was recommended as a template for Ontario.

The jury heard that use-of-force always involves risks, to both the restrainer and the restrained person. The first strategy taught is the use of verbal and body language to de-escalate a situation without resorting to physical contact. If force is necessary - and withdrawal is an option in many circumstances, particularly when the risk is to property rather than persons - then it requires specific training, which includes complex psychomotor skills, awareness of risks, and monitoring of the restrained person. The training must be 'hands-on', with formal, practical testing. The jury also heard that use-of-force training would be appropriate for some, but not all security practitioners; specifically, it is relevant and important for those who regularly deal with the public and whose duties may include interventions and/or citizen's arrest. It would not be appropriate for security practitioners whose sole duty was to identify and report to police any suspicious activity, but not to become physically involved (e.g. persons watching remote security monitors).

The jury also heard that if standards of training for licensed security guards were increased, there would be associated costs; and, if the broad exemptions under the current Act were not eliminated, the effect would be to encourage circumvention of minimum mandatory training requirements by greater use of exempted and untrained 'in-house' security staff, who, for instance, could continue to use force on members of the public without training, with possible risks to public safety.

The jury saw demonstrations of use-of-force. If a person is vigorously resisting arrest, moving that person to the prone (face-down) position is justifiable, as it maximizes control and minimizes risk to all. However, once the person is compliant, and, if necessary, handcuffed, then the person should immediately be rolled onto his side, and moved to a seated or standing position if feasible, because of the risks associated with prolonged restraint in the prone position.

The jury heard about the phenomenon of restraint asphyxia, in which a person dies suddenly during restraint. The risk of restraint asphyxia is increased by:

- Vigorous physical activity immediately preceding or during the restraint (typically by running from or struggling with pursuers)
- Restraint in the prone position, particularly if the person has a protuberant abdomen
- Handcuffing behind the back
- Restriction or compression of the chest, for instance by the application of weight to the back during prone restraint
- Certain drugs, including cocaine; and,
- Any medical condition which would reduce tolerance of low oxygen levels

All of the above risk factors were identified with regard to Mr. Shand's restraint: He had been involved in a chase, and continued to struggle after he was restrained; he was in the prone position, and had a protuberant abdomen; his hands were handcuffed behind his back; Mr. M's arms circled Mr. Shand's chest; Mr. Shand was a regular cocaine user, and it is possible that he had intoxicating blood levels at the time of his death; and, Mr. Shand also had small patches of cocaine-related myocarditis (inflammation of heart cells) which, while unlikely to be lethal on its own, might have decreased his tolerance of a low-oxygen situation.

The security guard had been trained to use handcuffs. His training contained only a brief reference to restraint asphyxia issues; it does not appear that he was taught that a person handcuffed in the prone position should be rolled onto his side at the earliest possible opportunity.

It was clear in evidence that, after Mr. Shand was restrained and handcuffed, and thought to be compliant (although he may in fact have been unconscious), he was maintained in the prone position pending arrival of police, rather than rolled immediately onto his side; and, the degree to which his wellbeing was monitored during the restraint was unclear.

Shoplifting

"Shoplifting" is not a specific crime under the Criminal Code; charges are laid for theft, under or over \$5000. The Criminal Code authorizes a store worker, who personally witnesses a crime, to arrest and detain the suspect, and also authorizes the use of force (within specific limits), and the assistance of others in order to detain the person. Such an arrest must be reported to police immediately, and the suspect turned over to police forthwith.

The jury heard that shoplifting is widespread, difficult to manage, and very costly to retailers, who, of course, must pass the costs of both the material losses and loss prevention staffing to consumers. The bulk of shop theft, by dollar value, is not for personal use, but rather taken by "professional" criminals who plan to resell the goods for cash. At grocery stores, for instance, theft for personal use of staples, such as milk and bread, is uncommon and rarely prosecuted; theft of small, high value items is the rule. Stores tend to deal with offenders by banning the thief from that store in future under trespassing legislation, because criminal charges are time-consuming for staff, not a priority for the courts, and have questionable value in deterrence.

With respect to use-of-force during arrests, Loblaws now has a strict policy that its employees, other than loss-prevention personnel, may identify and report but not confront a shop thief; and, that loss-prevention personnel are not to use force during an apprehension. It was recommended that, if loss prevention personnel or any store employee were authorized to use force, they should be trained in use-of-force to the same level as that proposed for security guards.

Mr. Shand's Personal History

Mr. Shand was healthy, performing well at school and had a promising future until he became cocaine-addicted 7 years before his death. With the addiction came serious emotional, social and financial problems, and criminal behaviour and convictions. Like many other addicts, Mr. Shand stole items from stores not for his personal use, but for resale to obtain cash to support his habit. During previous shoplifting incidents, Mr. Shand had been identified and confronted by retail store personnel on a number of occasions, and the jury heard that there were no instances in which he had surrendered without attempting to flee or resist arrest. The jury also heard that, 5 years previously, when confronted by police in a drug-related matter, Mr. Shand had fled, been apprehended and initially restrained in the prone position. During the restraint he had complained that he was having difficulty breathing. The arresting officer testified that he had advised Mr. Shand that, as soon as he ceased struggling, he would ease the restraint.

Mr. Shand had made a number of sincerely motivated attempts to overcome his habit, with the support and assistance of his family and health care professionals, and had been successful for several months at a time, but had relapsed. The jury heard that this is a very common pattern. Cocaine addiction is a difficult habit to break, and a long-term 'cure' usually does not occur, if at all, until the addict has made a number of attempts at rehabilitation over several years.

Mr. Shand was seen in the emergency room many times after he became addicted, mostly for cocaine intoxication and related psychological problems, also for chest pain which was investigated and did not appear to be due to heart disease.

Mr. Shand's autopsy showed signs of asphyxia, specifically consistent with death due to restriction and possible compression of the chest. Microscopic patches of myocarditis - inflammation of heart cells - were seen, in a pattern often found in cocaine users, the clinical significance of which was unclear. A fresh, deep bruise was noted over his right shoulder blade. Some bleeding in the deep structures of his neck was noted, but there was no evidence of injury to the shallower soft tissues; the evidence from pathologists was that some compressive injury to the neck could not be excluded, but they disagreed about its likelihood.

Toxicology showed that Mr. Shand had taken a large amount of cocaine at some point in the last day of his life, but it was not possible to determine when he had taken his last dose, or what his cocaine blood level was at the time of his death - it could have ranged from clinically insignificant to recreational or toxic. However, while it was recognised that the risk of sudden death increases with cocaine ingestion, neither toxicology nor autopsy was consistent with death from acute cocaine poisoning.

The jury reached the following verdict:

Verdict:

Name of Deceased:	Patrick SHAND
Date and Time of Death:	September 14th, 1999 at 12:59pm
Place of Death:	Scarborough Grace Hospital, Toronto
Cause of Death:	Restraint asphyxia with the following contributing factors, chronic and acute effects of cocaine use
By what means:	Accident

Recommendation #1:

Amendment to the Private Investigators and Security Guards Act (the "Act")

The Private Investigators and Security Guards Act (the "Act") should be amended to remove the licensing exemption that presently exists for "proprietary" or in-house security practitioners and members of the Corps of Commissionaires. This amendment will provide for mandatory licensing for all privately employed individuals who, for hire or reward, guard or patrol for the purpose of protecting persons or property in Ontario (security practitioners). This amendment is not intended to affect the regulation of armored car companies or armored car personnel.

Rationale: The current Act was passed in 1966. The world and the security industry have changed dramatically since that time. To illustrate, there are now some 50 000 persons employed in the security industry, half of whom are unregulated. Every person employed as a security professional should be licensed by the Province. In 1966 most security practitioners were watchmen, today they provide a wide variety of services with significant interaction with the public, especially in shopping malls, hospitals, entertainment venues and other locales.

Recommendation #2:

The need for urgent change

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If there are issues that cannot be resolved in the short term, a phased implementation may be appropriate.

It is important that the government act quickly, responsibly and diligently.

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Mandatory training

The Ministry of Community Safety and Correctional Services (the "Ministry") should create a mandatory training program that all security practitioners must complete as a requirement for their licensing.

Rationale: Training is the key to providing the necessary skills and knowledge required by security practitioners especially in use of force instances and other areas of interaction with the public. The training is to protect both the security practitioners and the public. If the training is not mandatory for all, some security practitioners may not receive any training or receive substandard training and not have the necessary skills and training to reduce risks to the public.

Recommendation #4:

Training program Curriculum

The Ministry should create a curriculum for the mandatory training program, through consultation with stakeholders to create industry standards based on best practices.

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The Act should be amended to provide for the creation of a licensing classification system in which each level or tier reflects the duties that the security practitioner is competent to perform based on the training he or she has received.

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Rationale: One level of license or training will not meet the demands of all types of security requirements. For example the requirements for a night watchman are different from the requirements for shopping mall security in that the use of force may be called upon when dealing directly with the public.

Recommendation #6:

Training programs and persons with disabilities

Any certified training program, by way of its physical requirement, should not prevent individuals with disabilities, or any persons incapable of completing physical training from pursuing gainful employment as a licensed security practitioner, if his or her duties do not include making arrests or the lawful application of force.

Rationale: Equal opportunity for all individuals is an important factor in our society.

Recommendation #7:

Re-certification

Those security practitioners whose duties may include making arrests or the lawful application of force should be re-certified annually with respect to Use of Force Training.

All security practitioners should be re-certified for CPR annually.

Rationale: The training regarding use of force is changing constantly and this ensures that security practitioners are up to date with modern training practices across the Industry.

Re-certification of CPR is currently a best practice in most industries where CPR training is required.

Recommendation #8

License Identification and renewal

Licenses should identify the classification of the security practitioner and what equipment he or she is authorized to use such as handcuffs and expandable batons.

Licenses should be renewed annually.

Rationale: Employers, the Ministry and the public will know the competency level of the employee.

Recommendation #9:

Identification

Where a security practitioner is in uniform, licensing information should be visibly displayed on a badge including a photograph, license number, company name and classification.

When a security practitioner is not in uniform the identification must be readily available.

Rationale: This will provide recognition to the public, avoid confusion with the police and identify the person as a security practitioner.

Recommendation #10:

Method of training delivery

The mode of delivery of the mandatory training regime for security practitioners shall be approved by the Ministry, after consultation with stakeholders. A manual or guide to training and requirements should be published and updated regularly by the Ministry.

There are many possible methods of training including community colleges, in-house training and computer assisted training. Training should be flexible and tailored to meet the needs of the industry throughout the Province without reducing quality.

Recommendation #11:

Certified trainers

Mandatory training should be delivered by qualified trainers certified by the Ministry. There should be an established competency level defined by the Ministry.

Rationale: The quality and standards of training are vitally important. Trainers and those persons instructing the trainers must meet the highest standards relating to subject matter and adult educational techniques.

The Coroner's office should be consulted in the development of use of force training programs.

Recommendation #12:**Record keeping and evaluation**

The Ministry should develop a mode of evaluation and a system of record keeping for the delivery of mandatory training.

Rationale: To ensure that the training regime is effective, complete and accurate records of training should be kept and those records and other means used to evaluate the training programs on a regular basis.

This record could also be used to track the training of an individual security practitioner over the life of their employment as a security practitioner.

Recommendation #13:**Enforcement System**

The Ministry should implement an effective system of enforcement with powers of inspection and audit. Sufficient resources should be made available to ensure compliance with the licensing and training requirements of the Act.

Rationale: The amended act will only be as effective as the system of enforcement. This will be particularly true in the early stages of implementation.

Recommendation #14:**Advisory Board**

The Ministry should create an Advisory Board or Committee comprised of stakeholders to facilitate communication and the exchange of information between the stakeholders, and for the purposes of establishing the curriculum of the mandatory training program.

Rationale: The Advisory Board or Committee should be constituted as soon as possible to begin their work in conjunction with the Ministry prior to the passing of the amended legislation.

The purpose of the formation of an Advisory Board or Committee is to provide a breadth of experience and advice to the Ministry but the Ministry is ultimately responsible and should ensure that it is not used as a mechanism to delay or obstruct the process of implementation.

Recommendation #15:**Oversight body**

The Ministry should create an independent oversight body to deal with complaints by members of the public in relation to the provision of security services. Access to this body should be readily available and widely publicized.

Rationale: Security practitioners must be held accountable for their actions and the public trust ensured. Publicity should include a 1-800 number and other means of access.

Recommendation #16:**Portability of licenses**

The Act should be amended to provide for the portability of individual licences.

Rationale: Presently, licenses are obtained through the employer. Portability will allow the movement of personnel within the industry in Ontario and eliminate current delays in obtaining licenses for new employees who have been previously licensed.

Recommendation #17:**Funding model**

The funding model for the mandatory training program in British Columbia may be considered as a funding model for Ontario.

Rationale: Training programs should be funded from an annual licensing fee charged to companies and individuals and there should be no additional costs to the taxpayers.

Recommendation #18:**Reporting use of force**

Licensed security practitioners should be required to report any use of force to their employer. The employer's responsibility should be to report use of force statistics annually to the Ministry. The Ministry should report the statistics publicly on an annual basis.

Rationale: Record keeping and reporting will identify changing patterns of activity as well as the need for changes in the training, licensing and possibly the Act itself.

This may also identify abuses of the system.

The statistics should be reported by the Ministry to ensure that the public is informed.

Recommendation #19:**Excited delirium memorandum**

The Coroner's Office should update Memo #636, dated June 19, 1995, exhibit 4 at the Inquest, for distribution to the security industry.

Rationale: This is a document that contains vital and possibly lifesaving information. It is of the utmost importance that the security industry and all persons dealing with use of force and restraint are aware of its contents.

Recommendation #20:**Training of persons authorized by an employer to make arrests**

If an employer designates employees to make arrests for property related offences those employees should have the same license and training as is required of other security practitioners who are authorized to make arrests.

Rationale: Proper training may reduce the risk of injury to the employee or to the person being arrested.

Recommendation #21:**Policy communication to employees**

Explicit direction both verbal and written must be communicated to each employee. A sign off sheet must be filed in his or her personnel file as to their understanding of the expectations of the retailer with respect to the manner in which the apprehension of shop thieves is to be conducted. This communication and sign-off must be communicated on a regular basis, preferably annually.

Rationale: This ensures compliance and that the employee is aware of and understands the policy and their responsibilities.

Recommendation #22:**Compliance**

We recommend that failure to comply with the Act and its regulations may incur significant fines and other penalties including loss or suspension of licenses to the practitioner and or company.

Rationale: We feel strongly that the provisions of the act especially with respect to training must be adhered to by all parties.

Closing Comment:

In closing, I would like to stress once again that this document was prepared solely for the purpose of assisting interested parties and understanding the Jury's Verdict. It is worth repeating that it is not Verdict. Likewise, many of the comments regarding the evidence are my personal recollection of the same and are not put forth as actual evidence. If any party feels that I have made a gross error in my recollection of the evidence or conclusion of the Jury, it would be greatly appreciated if it could be brought to my attention and I will gladly correct the error.

David S. Eden, MD
Regional Supervising Coroner