



# Report to the Minister of Justice and Solicitor General Public Fatality Inquiry

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the \_\_\_\_\_ Law Courts (North) \_\_\_\_\_  
in the \_\_\_\_\_ City \_\_\_\_\_ of \_\_\_\_\_ Edmonton \_\_\_\_\_, in the Province of Alberta,  
(City, Town or Village) (Name of City, Town, Village)  
on the 4<sup>th</sup>, 5<sup>th</sup> and 16<sup>th</sup> days of \_\_\_\_\_ November \_\_\_\_\_, 2015 \_\_\_\_\_, (and by adjournment  
year  
on the \_\_\_\_\_ 19<sup>th</sup> \_\_\_\_\_ day of \_\_\_\_\_ July \_\_\_\_\_, 2016 \_\_\_\_\_),  
year  
before \_\_\_\_\_ Lloyd E Malin \_\_\_\_\_, a Provincial Court Judge,  
into the death of \_\_\_\_\_ Simon CHUNG \_\_\_\_\_ 39 \_\_\_\_\_  
(Name in Full) (Age)  
of \_\_\_\_\_ 12927-63 Avenue, Edmonton, Alberta \_\_\_\_\_ and the following findings were made:  
(Residence)

**Date and Time of Death:** \_\_\_\_\_ 2013/10/30 at 12:19 p.m. \_\_\_\_\_

**Place:** \_\_\_\_\_ Royal Alexandra Hospital, Edmonton, Alberta \_\_\_\_\_

### Medical Cause of Death:

("cause of death" means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – *The Fatality Inquiries Act*, Section 1(d)).

Hypoxic/Ischemic Encephalopathy by the antecedent cause of excited delirium syndrome due to the underlying cause of methamphetamine toxicity

### Manner of Death:

("manner of death" means the mode or method of death whether natural, homicidal, suicidal, accidental, unclassifiable or undeterminable – *The Fatality Inquiries Act*, Section 1(h)).

Unclassified - See Appendix "1" attached

**Circumstances under which Death occurred:**

See Appendix “2” attached.

**Recommendations for the prevention of similar deaths:**

See Appendix “3” attached.

DATED September 30, 2016,

at Edmonton, Alberta.

*Original signed by*

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L.E. Malin, a Judge of the Provincial Court  
of Alberta

REPORT TO THE MINISTER of JUSTICE  
and SOLICITOR GENERAL  
PUBLIC FATALITY INQUIRY  
SIMON CHUNG

Appendix “1”

Manner of Death

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The examination of Chung and his autopsy revealed injuries consistent with the actions of police officers in trying to restrain and control Chung and in his being electro-shocked by the employment of a conducted energy weapon, and although there was 50-60% atherosclerotic narrowing in Chung’s right coronary artery, it is the Medical Examiner’s opinion that none of these were significant factors in his death. The manner of death in the Medical Examiner’s Certificate of Death is stated as “unclassified” which the Medical Examiner explained is the term often used when a deceased exhibits acute drug toxicity as Chung’s toxicology report revealed.

REPORT TO THE MINISTER of JUSTICE

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PUBLIC FATALITY INQUIRY

SIMON CHUNG

Appendix “2”

Circumstances under which death occurred

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The following circumstances are based entirely on the exhibits filed and the testimony heard from physicians, police officers, investigators and civilian witnesses in the public fatality inquiry into the death of Simon CHUNG (hereafter “Chung”). (All times are reported on the basis of a 24 hour clock and because no time recording instruments were synchronized, the times stated are approximate. Time intervals, however, are presumed exact when determined from the same instrument but are subject to recording/reporting error.)

On October 24, 2013 at approximately 23:05, two experienced Edmonton Police Service Patrol Officers, C and S, were conducting proactive policing in a marked police vehicle in the area of 96 Street and 106A Avenue. As they approached that intersection, they came across a group of two females and a male, who they knew to be Simon Chung. The officers observed Chung push one of the females to the ground, then stand over top of her and prevent her from standing up. Both of them knew Chung from previous encounters as recently as earlier that day and the day before as someone involved with drugs.

The officers exited their police vehicle and, as they approached the trio, Chung switched his focus from the female on the ground to them. The female got up from the ground and immediately left the area with the other female. S attempted to talk to Chung, but he clenched his fists and paced back and forth between the officers. Chung was covered in sweat despite the cold October evening and being lightly clad in a T-shirt and jeans, he was grinding his teeth, spoke rapidly (unintelligibly) and bounced on his feet. His pupils were large and he seemed to stare through and beyond them. Both officers believed that Chung might be intoxicated by drugs or alcohol at that time. S also began to believe that Chung was in a state of excited delirium.

C and S attempted to detain Chung for investigative purposes. Chung verbally advised the police officers that he would not submit to their detention. The officers then approached Chung following which he took a pugilistic stance, clenching and unclenching his fists. Chung then approached S who punched Chung in the face. C and then S grabbed a hold of Chung’s upper body unsuccessfully trying to get his arms behind his back so they could handcuff him. S then stated that Chung was under arrest

and managed to wrestle him to the ground but Chung regained his stance. C then punched Chung in the head but to no effect. C and S both held Chung but he shrugged them off and again took a fighting stance. C then punched Chung twice more, again to no effect. Once again, C and S grabbed at Chung and forced him to the ground and again, Chung was able to regain his stance and shrug them off. S then kned Chung in the shoulder and head area and tried to tip him by kicking at his legs but all to no effect. C tried to administer a chokehold on Chung but Chung attempted a reverse head butt of C and threw him off, laughing in the process.

Both C and S reported and testified that throughout their engagement with Chung in attempting to detain and then arrest him, Chung exhibited extraordinary strength. Chung's size (5'6") and weight (205 pounds) was inferior to the taller size of C and S and weight advantages of C and S (combined weight of 450 pounds) but those advantages proved irrelevant and ineffective in restraining and controlling Chung.

S believed he had moments to end the fight before being outmuscled and injured. He considered drawing his pistol and shooting but his partner, C, was still wrestling with Chung. S thought about using his utility knife to stab CHUNG, in the hopes that the loss of blood would weaken him. In the end, S decided to deploy his conducted energy weapon ("CEW") as he believed it was the least harmful of all the options.

Drawing his CEW, S pressed it against Chung's lower right abdomen and discharged it for five seconds whereupon Chung went to the ground. However, he then broke off the CEW probes and regained his stance. Chung attempted to walk away from the scene and towards the Mustard Seed Church area half a block away. S, now concerned that Chung might engage others at that Church area, reloaded and fired his CEW at Chung in a sustained blast that struck Chung in the back whereupon he fell to the ground. This time C and S were finally able to get Chung into handcuffs behind his back while lying on his stomach. S used only one hand in trying to secure one of Chung's hands because S's other hand was still operating the CEW. In total, this blast of the CEW lasted 28 seconds.

Notwithstanding Chung's temporary disability, lying on his stomach and with his hands cuffed behind his back, he continued to struggle and wriggle and attempt to stand up.

By his radio, S requested additional police assistance and three Edmonton Police Service officers, Constables B1, K and B2 arrived in a few minutes and took control of Chung while C and S stood aside, somewhat exhausted from the struggle with Chung and attempting to regain their breaths.

Because the CEW was engaged in the arrest of Chung, a supervising police officer, Sergeant D was also radioed. He arrived about a minute after the other three police officers. Emergency Medical Services (EMS) was also called –at 23:11 according to EMS records - to assist in removing the CEW darts from Chung.

While on the ground, face down, and under the control of Constables B1, K and B2, Chung was turned slightly so he was on his side and able to breathe more easily. At that time, Chung's eyes appeared to flutter, he gasped and aspirated fluid. Constable B1 cleared Chung's mouth and detected his breath, now rapid but shallow. His handcuffs were removed, his arms positioned to the front of his body, he was turned

over so now lying on his back and his hands were then handcuffed on his front. At that time, Chung appeared to stop breathing altogether. Constable K immediately started CPR/chest compressions. EMS was then called again to urge their expedition in view of Chung's lack of breathing.

EMS arrived a few minutes later, quickly assessed the situation, moved Chung to a spine board and put him into their ambulance. Constable K accompanied Chung in the ambulance and continued chest compressions in the ambulance. At some point in time –perhaps at arrival at the Royal Alexandra Hospital - an EMS para-medical took over the chest compressions. It was noted that Chung was essentially resuscitated during the times that CPR compressions were administered but that he exhibited no spontaneous breathing without them.

Chung received immediate medical attention at the Royal Alexandra Hospital and was treated throughout in the intensive care unit. Despite all interventions, tests established to the belief of the attending physicians that he was essentially "brain dead". The interventions and procedures were suspended on October 30 and Chung died almost immediately thereafter. He was pronounced dead at 12:19 on October 30, 2013, approximately six and a half days after his interaction with police officers, C and S.

Toxicology tests on Chung's blood taken on his admission to the hospital on October 23-24, 2013 revealed a concentration of methamphetamine, which in the opinion of the medical examiner was sufficient to put Chung in a state of excited delirium and, independent of that syndrome, sufficient to result in his death.

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PUBLIC FATALITY INQUIRY

SIMON CHUNG

Appendix “3”

Recommendations for the prevention of similar deaths

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In order to consider what recommendations might be made arising out of the circumstances surrounding Chung’s death, the Inquiry heard *viva voce* testimony from Dr. Christine Hall, an emergency medical practitioner, who was accepted as an expert in the area of arrest-related deaths and excited delirium. Prior to testifying Dr. Hall had read the transcripts of the *viva voce* testimony of officers C and S and had reviewed Edmonton Police Service policies and procedures concerning the use of force.

Her research and that of others reviewed by her indicates that incidence of death following the use of force in the restraint of persons exhibiting symptoms of excited delirium syndrome is rare, perhaps as little of 2%. Her research in this area continues. Although the death of Chung ultimately followed the use of force in his restraint, it could not be concluded that the use of such force was the cause of his death and statistically it is not likely that it was.

A person in a state of excited delirium requires urgent medical attention and the attempt to obtain such attention must be a priority subject to the maintenance of public safety, including the safety of attending medical personnel.

Recommendation 1: Police who will interact with the public must be trained to recognize persons exhibiting excited delirium syndrome symptoms. It is acknowledged that identification of the syndrome is found in Edmonton Police Service Policy and Procedure Manual on the Use of Force (Part 1, Chapter B, section 8). It is recommended that procedures for identifying and dealing with individuals exhibiting symptoms of excited delirium be set out in policies and procedures dealing with the police interaction with all individuals and not limited to those policies and procedures dealing with the use of force.

Recommendation 2: Excited delirium syndrome is a medical matter that requires immediate medical attention. Police should be trained to call for emergency medical services as soon as excited delirium syndrome is suspected regardless of the need for restraint or other police action. It is acknowledged that to ensure safety to medical interveners, police restraint measures –including by use of force-might be required before medical intervention is attempted.