

**STATE CORONER'S COURT
OF NEW SOUTH WALES**



Inquest:	Inquest into the death of Amir Chouman
Hearing dates:	11 June 2014
Date of findings:	30 October 2014
Place of findings:	State Coroners Court, Glebe
Findings of:	Deputy State Coroner C. Forbes
Catchwords:	Coronial Law-Death in police operation
File number:	2013/8375
Representation:	Dr P Dwyer, Counsel Assisting instructed by Ms L Collyer, Crown Solicitors Office Mr B Haverfield instructed by Mr Robinson representing NSW Commissioner of Police and NSW Police Force
Findings:	I find that Amir Chouman died on 10 January 2013 at the Parramatta River, Ermington, NSW. He died as a consequence of drowning while he was swimming in the river in an attempt to evade police who were pursuing him.
Recommendations:	

IN THE STATE CORONER'S COURT
GLEBE
SECTION 81 CORONERS ACT 2009

REASONS FOR DECISION

INTRODUCTION

1. This is an Inquest into the tragic death of Amir Chouman in the early hours of the morning of 10 January 2013. He died as result of drowning in the Parramatta River while he was trying to swim away from police.
2. Mr Chouman was only 28 years old when he died. He is a much loved son and brother.
3. The role of a Coroner as set out in s.81 of the *Coroner's Act 2009* ("the Act") is to make findings as to:
 - (a) the identity of the deceased;
 - (b) the date and place of the person's death;
 - (c) the physical or medical cause of death; and
 - (d) the manner of death, in other words, the circumstances surrounding the death.
4. The Act also requires a Coroner to conduct an inquest where the death appears to have occurred "*in the course of police operations*". (s.23, s.27).

"The purposes of a s.23 Inquest are to fully examine the circumstances of any death in which Police have been involved, in order that the public, the relatives and the relevant agency can become aware of the circumstances. In the majority of cases there will be no grounds for

criticism, but in all cases the conduct of involved officers and/or the relevant department will be thoroughly reviewed, including the quality of the post-death investigation. If appropriate and warranted in a particular case, the State or Deputy State Coroner will make recommendations pursuant to s.82.”¹

5. It should always be borne in mind that inquests are not criminal investigations, nor are they civil liability proceedings intended to determine fault or lay blame on persons involved in the incident. This Inquest has been a close examination of the police actions on the morning of Mr Chouman’s death and pursuant to s.37 of the Coroner’s Act a summary of the details of this case will be reported to Parliament.

FACTS IN OUTLINE

6. Shortly before 4am on the morning of 10 January 2013, Constable Rachel Edgar-Moore, and Probationary Constable Matthew Stewart were patrolling an area around Ermington in police car “Rosehill 18”. They saw a white BMW sedan (NXR-555H) stopped on Spurway Street with its lights on and 2 passengers on board. The police officers decided to conduct a random breath test and did a U-turn to approach the vehicle.
7. During the process of completing the U-turn , the BMW drove off at a slow speed. Police were about 10-15 metres behind and activated their warning lights. The BMW then accelerated rapidly. The Police called for assistance and lost sight of the BMW.
8. Sergeant Jayson Beaton, was driving Rosehill 14, and he was the mobile supervisor on that morning. He attended the scene and both he and the other two officers continued on to Nordica St where they located the abandoned BMW. As the three police officers were conducting enquiries at the scene, including

¹ Waller’s Coronial Law & Practice in New South Wales 4th Edition, page 106

searching the vehicle, they saw a taxi drive past their location with two passengers on board. Sergeant Beaton then followed the taxi, pulled it over and directed it to return to the location on Nordica Street.

9. The driver of the taxi, Mr Mohamed Sankari, complied with the police request. Sergeant Beaton, the most senior officer, directed Probationary Constable Stewart to ask the passengers in the taxi to exit for the purposes of being searched.
10. Probationary Constable Stewart said that Mr Chouman alighted from the taxi unassisted. Probationary Constable Stewart asked him to face the taxi and put his hands on his head and said “I’m going to do a quick search”. Probationary Constable Stewart noticed Mr Chouman had a bum bag on his shoulder and said “I’m going to have to come and get your bum bag off you”. Mr Chouman then immediately fled in the direction of the Parramatta River.² He ran to the end of Nordica Street then through a small reserve and jumped into the Parramatta River. Probationary Constable Stewart ran after Mr Chouman until he reached the water’s edge.
11. Constable Edgar-Moore ran after them both. From the water’s edge Constable Stewart and Edgar-Moore could see Mr Chouman in the river.
12. The following action was then taken by police;
 - At 4:20am Sergeant Beaton radioed for police assistance and attended the water edge³
 - At 4:21am Constable Moore called on her radio for assistance⁴.
 - At 4:21am Inspector Hyde, the senior duty officer monitoring the radio, requested a police helicopter and announced on the radio that he was making his way to the scene. He also requested a police dog.⁵
 - At 4:23am Inspector Hyde requested police radio contact water police.⁶

² Ex 2, Tab 7, p 6

³ Incident Log 4377483, Ex 6, p 3

⁴ Incident Log 4377483-Ex 6, p 3

⁵ Incident Log 4377483-Ex 6, p 3; Ex 2, tab 43, p 8

- At 4:25am Constable Edgar Moore announced on the police radio that Mr Chouman was still in the water and that he was swimming towards a gap in the trees and that he was making funny sounds.⁷
 - At 4:26 am Senior Constable Melville of the NSW Marine Area Command at Balmain received a call on police radio requesting Water Police assistance.⁸
 - At 4:30am Constable Edgar Moore announced that they couldn't hear him in the water anymore and that they thought he might have run through the park.⁹
 - Two members of the dog squad arrived and commenced searching in the park.
 - At about 4:30 am Water Police vessel 33 proceeded with lights and sirens to the Parramatta River near Silverwater Bridge.
 - At about 5:04am Water police arrived near the location where Mr Chouman entered the water and commenced their search.¹⁰
 - At about 5.10am, Senior Constable Gibson of the Marine Area Command located Mr Choumans's body on the Parramatta River Bank, and removed him from the water and into a police vessel¹¹. NSW Ambulance officers attended, but sadly, there were no signs of life.
13. Police obtained CCTV footage from a block of units nearby to where Mr Chouman had left the taxi. This footage corroborates Constable Stewart and Constable Edgar-Moores description of events after Mr Chouman ran from the taxi. At 4.07.57, the footage depicts Mr Chouman running along Nordica Street in the direction of the river. Probationary Constable Stewart is running about ten metres behind and Constable Edgar-Moore a further twenty metres behind. I have been informed that the clock on the CCTV is eleven minutes slow. Accordingly, Mr Chouman was running towards the river bank at 4:18am.

⁶ Incident Log 4377483-Ex 6, p 3.

⁷ Incident Log 4377483-Ex 6, p 4

⁸ Ex 2 Tab20 page 1

⁹ Incident Log 4377483-Ex 6

¹⁰ Incident Log 4377483-Ex 6, p 8

¹¹ Incident Log 4377483-Ex 6, p 8

14. The female passenger in the taxi was taken to the police station to be interviewed. She initially gave police a false name, but was eventually identified as Sheena Dobson, 21 years of age. She said that she had taken Xanax earlier that day and was too drug affected to give police a statement. Ms Dobson returned to Bankstown Police Station on 5 February 2013 and participated in a record of interview. She admitted to being in the taxi and in the BMW with Mr Chouman, who she said was her boyfriend. She confirmed that they left the BMW and got into the taxi before it was pulled over by Police.
15. The driver of the taxi, Mr Sankari, also gave a statement and confirmed that Mr Chouman exited his taxi and ran towards the river.
16. There were a number of factors that may have been operating on Mr Chouman's mind when he decided to run from police. Police inquiries revealed that the BMW was a stolen car. Police located an ice pipe used for smoking Methylamphetamine in a bag in the vehicle and Mr Chouman had outstanding warrants for a number of offences.
17. This case is not about laying blame. The only relevance of that information is to explain why Mr Chouman may have run from police. Similarly, the toxicology results that detected Methylamphetamine, Amphetamine, Codeine and Morphine in his blood are relevant as possible contributory factors to the difficulties he may have faced whilst he was swimming.

FURTHER SUBMISSIONS

18. Since the Inquest concluded on 11 June 2014 Mr Chouman's brother has sent correspondence on behalf of his family. I have carefully read that material and have considered all of the matters he has raised.
19. As to the allegation that Constable Edgar Moore and Constable Stewart failed to perform the basic lifesaving task of contacting the water police, I note that Mr Chouman was depicted on CCTV footage running past the units near to where the

taxi stopped at 4:18am and that Constable Edgar-Moore called for radio assistance at 4:21 am when she announced he had entered the water. I also note that the Water Police received a request to attend at 4:26am. At this time Mr Chouman was still swimming in the water. I am not of the view that the officers should be criticised in that regard. The Water Police are based in Balmain and cannot provide a lifesaving service in the nature of the surf life savers at a patrolled beach.

20. In relation to the allegation that it was unacceptable that it took the water police 45 minutes to reach the location I note that the water police were contacted at 4:26am and left Balmain in a vessel at about 4:30am and arrived at the location at 5:04am. I am not persuaded that the timing of their response was unacceptable or that there was any practical way the water police could have attended any sooner.

CONCLUSION

21. Police immediately adapted the critical incident guidelines. The Manager of Professional Standards was notified and Detective Inspector Bernie was appointed the Critical Incident Investigation Review Officer.
22. I am satisfied that the police actions did not contribute to the events in the sense that they were in any way the cause of what happened. Each of them carried out their duty in an appropriate manner.

NOTE: I note that the Coroner was not notified of this critical incident by the Duty Operations Inspector until later in the morning at 6:30am. This has revealed that there may be a lack of clarity around when the coroner is to be advised of a critical incident. I am informed that the Professional Standards Command of the NSW Police Force is in the process of reviewing the Critical Incident Guidelines and Duty Operations Inspectors checklist and an amendment is to be made to ensure that notification is made to a Coroner as a matter of priority for matters involving deaths in custody or police operations.

FINDINGS:

I find that Amir Chouman died on 10 January 2013 at the Parramatta River, Ermington, NSW. He died as a consequence of drowning while he was swimming in the river in an attempt to evade police who were pursuing him.

C Forbes

Deputy State Coroner

30 October 2014