



D20 Custody-Related, Excited Delirium Deaths Following Intermediate Weapons Use in Ontario

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After attending this presentation, attendees will have an understanding of the Ontario experience with a review of three Excited Delirium (ED) in custody deaths that were investigated and subsequently examined in public inquests. In all cases intermediate weapons (either baton or conducted energy device (CED)) were deployed on the subject during apprehension by police. The inquests recommended legislative changes to allow CED access to all front line officers.

This presentation will impact the forensic community by examining the relationship between the intermediate weapons and the cause of death, highlighting how concerns regarding the often-controversial use of CEDs are likely not justified, while a non-controversial intermediate weapon may be lethal.

The Province of Ontario, population of 13.5 million, has a medical coroners' system. Under the Coroners Act, all deaths that occur while a subject is in police custody must be investigated and then examined at inquest, a public hearing that assures citizens that the circumstances of the death of no one of its members will be overlooked, concealed, or ignored. Three cases of individuals with Excited Delirium (ED) that evolved into custody deaths occurred in Ontario between August 2000 and July 2004. In all cases, there was a violent, prolonged struggle between the subject and officers before sufficient restraint and arrest could be affected.

The first case involved a male, age 55, with a long history of bipolar disorder and numerous hospital admissions for psychosis. Police were dispatched to a convenience store for an "unwanted guest" causing a disturbance. On their arrival, officers found the male to be agitated, but compliant. While obtaining routine information from him, he suddenly struck out at one officer. A violent struggle ensued as officers attempted to take control of him. In an attempt to curtail his flailing and kicking, he was forcefully struck multiple times by an extendible metal baton, but seemed to be impervious to pain and exhibited extraordinary strength. Four officers eventually succeeded in restraining him in handcuffs in the prone position. Within seconds he went vital signs absent (VSA) and could not be resuscitated. The forensic pathologist found cause of death due to fat embolism complicating multiple blunt force soft tissue injuries. At inquest, the jury concluded the underlying cause to be Excited Delirium complicating Bipolar Disorder, and amongst its recommendations suggested that the prolonged struggle might have been avoided or shortened had officers been able to deploy a CED.

The second case involved a male, age 33, with a history of crack cocaine abuse and multiple prior episodes of ED. Police were summoned because of aggressive and violent behavior, and during prolonged attempts to apprehend him, used pepper spray with no apparent effect, and eventually three drive-stun mode CED deployments. The struggle lasted several more minutes before he was successfully restrained in wrist and ankle cuffs, then transported for medical assessment. At the hospital, he struggled again for several minutes before becoming VSA. Postmortem examination found no anatomic cause of death, with cocaine levels suggestive of binge use and consistent with those found to cause ED. The inquest jury found cause of death to be Cocaine-induced Excited Delirium, with prolonged struggle followed by restraint a significant contributing factor. They recommended that front line officers be authorized for CED use in the expectation that it might shorten the time to successful apprehension.

The third case involved another male, age 29, with a history of cocaine abuse and violent behavior. Police entered into a violent struggle with him when he tried to resist arrest. After several minutes, a tactical officer arrived and delivered a two-second long drive-stun mode CED deployment to his back. As with the previous case, the struggle to restrain the subject continued for several more minutes before he was successfully subdued in a hog-tied position. Shortly thereafter he went VSA. The pathologist attributed cause of death to Restraint Asphyxia, due to Cocaine-induced Excited Delirium. The inquest jury agreed with this conclusion, and again recommended that front line officers be authorized to use CEDs.

These three custody deaths are typical of cases of Excited Delirium, where subjects exhibit aggressive behavior, super-human strength, insensitivity to pain, and ineffectiveness of pepper spray during prolonged struggles with police officers. "Less lethal" use of force options, such as the extendible baton, may cause injuries that lead to death, while experiences to date in Ontario has shown no direct link between CED use and serious injury or death. Inquest juries have consistently recommended expansion of CED use to include front line officers, expecting that early deployment in cases of Excited Delirium will lead to faster control and apprehension and prevent deaths that result following prolonged struggles and prone restraint.

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