



REPORT OF SUHAKAM
PUBLIC INQUIRY INTO THE 27TH OF MAY INCIDENT
AT PERSIARAN BANDAR MAHKOTA CHERAS 1,
BANDAR MAHKOTA CHERAS

LEVEL 29, MENARA TUN RAZAK, JALAN RAJA LAUT
50350 KUALA LUMPUR, MALAYSIA
603-2612 5600 (T)
603-2612 5620 (F)
humanrights@suhakam.org.my

Cetakan Pertama 2009 / *First Printing, 2009*

Hak Cipta Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM), 2009
Copyright Human Rights Commission of Malaysia (SUHAKAM), 2009

Diterbitkan di Malaysia oleh / Published in Malaysia by
SURUHANJAYA HAK ASASI MANUSIA MALAYSIA /
HUMAN RIGHTS COMMISSION OF MALAYSIA
E-mail: humanrights@suhakam.org.my
URL: [http:// www.suhakam.org.my](http://www.suhakam.org.my)

Dicetak di Malaysia oleh / *Printed in Malaysia by*
PERCETAKAN INFO MEDITASI SDN BHD
No. 44, Jalan Seri Aman, Taman Seri Aman,
43200 Cheras, Selangor Darul Ehsan.
Tel : 03-9074 9550, 9074 9545
Faks : 03-9074 9545

Hak cipta laporan ini adalah milik SUHAKAM. Laporan ini boleh disalin dengan syarat mendapat kebenaran daripada SUHAKAM. SUHAKAM menyangkal sebarang tanggungjawab, warranti dan liabiliti sama ada secara nyata atau tidak ke atas sebarang salinan penerbitan yang dibuat tanpa kebenaran SUHAKAM.

The copyright of this report belongs to SUHAKAM. This report may be reproduced with SUHAKAM's permission. SUHAKAM assumes no responsibility, warranty and liability expressed or implied by any other reproduction of this publication which is done without SUHAKAM's permission.

Perpustakaan Negara Malaysia
National Library of Malaysia

Data-Pengkatalogan-dalam-Penerbitan
Cataloguing-in-Publication-Data

REPORT OF SUHAKAM PUBLIC INQUIRY INTO THE ALLEGATION OF EXCESSIVE USE OF FORCE BY
LAW ENFORCEMENT PERSONNEL DURING THE INCIDENT OF 27TH MAY 2008 AT PERSIARAN BANDAR
MAHKOTA CHERAS 1, BANDAR MAHKOTA CHERAS
ISBN 978-983-2523-54-3

TABLE OF CONTENTS

Chapter 1	1
INTRODUCTION	
The Incident	1
Background Information	1-2
Terms of Reference	2-3
Powers of Inquiry of the Commission	3-5
Conduct of the Inquiry	5-6
Chapter 2	7
FINDING OF UNDISPUTED FACTS	
The location of the incidents	7
The car and its passengers	7-8
Chapter 3	9
QUESTIONS ARISING FROM EVIDENCE	
TRAFFIC CONDITION AT PERSIARAN BANDAR MAHKOTA CHERAS 1 AT THE MATERIAL TIME AND THE SPEED OF THE CAR	9-10
Panel's Observation	10
Condition of the Traffic	10
Speed of the Car	10
USE OF FORCE ON PERSONS IN THE CAR	10
Police move to surround the car	10-11
Allegation of Excessive use of force on Chang Jiun Haur	11-15
Allegation of Excessive use of force on Chan Siew Meng	15-17
Allegation of Excessive use of force on Chok Kem Hoo	17
Medical Assistance to W1 and W3	17-19
Evidence by the Police	19-22
Video Recording (Exhibit 19)	22
Panel's Observation	22
Police Evidence	22
Use of Force	22-23
PANEL'S RECOMMENDATIONS	23-26
CONCLUSION	27-28
ANNEXURES	29-35
EXHIBITS	37-65

CHAPTER 1 INTRODUCTION

THE INCIDENT

On the evening of 27 May 2008, there was an incident of an alleged use of excessive force against persons in the car by law enforcement personnel¹ when they stopped a car at Persiaran Bandar Mahkota Cheras 1, Bandar Mahkota Cheras (BMC).

BACKGROUND INFORMATION

1. BMC is a township located in the district of Hulu Langat, Selangor Darul Ehsan. The Grand Saga Highway (GSH) is adjacent to this township and the route to Kuala Lumpur for the residents of BMC is by GSH.
2. A barrier was erected by the highway concessionaire in 2006 to divert the residents to the longer route to the GSH. This barrier denied the residents the shorter route to Kuala Lumpur and in addition they had to pay RM1.90 instead of RM1.00.
3. On 21 April 2008, the residents removed the barrier to use the shorter route to the GSH to go to Kuala Lumpur. According to the concessionaire, Grand Saga Sdn Bhd (GSSB), the barrier was re-erected on 7 May 2008 due to the chaotic traffic condition in the area. However, on the same day the erected barrier was demolished by the residents.
4. On 27 May 2008, the GSSB used concrete blocks to re-erect the barrier at a spot two feet further out from the original barrier. Again the residents gathered to dismantle the barrier. About 7 p.m. a clash broke out between the residents and a group of men (whom the residents alleged to have been hired by GSSB) to prevent the barrier from being dismantled.
5. The residents continued to be present at the area and the FRU was called in. After repeated calls by the FRU to disperse, the residents began to move towards Persiaran Bandar Mahkota Cheras 1 around 10 p.m.
6. In the course of dispersing the crowd, there was an incident involving four individuals in a car and the law enforcement personnel. It happened when four individuals were stopped by the law enforcement personnel and were subsequently arrested by the Police.
7. It was alleged that the law enforcement personnel had used excessive force during the arrest.
8. Based on newspapers reports of the alleged incident SUHAKAM conducted a preliminary investigation into the incident.

¹ The term "law enforcement personnel" includes FRU personnel and Police officers (in uniform and plain-clothes).

9. At the 100th Commission Meeting on 9 June 2008, the Commission deliberated on the allegation of excessive use of force by law enforcement personnel during the said incident that took place at Persiaran Bandar Mahkota 1, at Bandar Mahkota Cheras on 27 May 2008 and the Commission appointed the Complaints and Investigations Working Group (CIWG) together with the Chairman of SUHAKAM to discuss the necessity of holding a public inquiry into the said incident.
10. On 14 June, the Chairman and CIWG met and after examining the evidence, it was agreed to hold a public inquiry into the said incident.
11. The Commission appointed the following Commissioners to form a Panel to conduct the Inquiry:
 - Datin Paduka Zaitoon Othman (Chairperson)
 - Datuk Dr. Chiam Heng Keng
 - Dato' Haji Khalid Haji Ibrahim
12. The Panel then formed a Secretariat to assist in the Inquiry comprising the following officers from the Commission:
 - Nurul Hasanah Ahamed Hassain Malim
 - Ameer Izyanif Hamzah
 - Shahizad Sulaiman
 - Adlin Samsudin
 - Mohd Azizi Azmi
 - Eda Mazuin Abdul Rahman
 - Lau Sor Pian
 - Ahmad Ramli Mat Piah
 - Nur Syahirah Muhammad Nizam
 - Noor Azizah Atdenan
 - Muhammad Helmy Dazman
 - Syairin Adirah Abdul Rahman
13. Of these officers, Nurul Hasanah Ahamed Hassain Malim and Nur Syahirah Muhammad Nizam were appointed to assist the Panel of Inquiry in adducing evidence during the Inquiry.
14. The Panel Secretariat continued investigations into the allegation which included the recording of statements from those who were at the scene and obtained further evidence relating to the allegation.

TERMS OF REFERENCE

15. The terms of reference for the Inquiry are:
 - To inquire whether or not there was any law enforcement personnel in performance of their duty to maintain law and order had used excessive force during the incident at Persiaran Bandar Mahkota Cheras 1 in Bandar

Mahkota Cheras on 27th May 2008;

- If there was excessive use of force;
 - i. whether there was any violation of human rights of any person or persons and;
 - ii. who were responsible for such violation.
 - To recommend what action to be taken against those responsible for the violation of human rights of such person or persons.
16. SUHAKAM sent letters to the Police and the FRU informing them of the Commission's decision to hold a Public Inquiry into the said incident and sought their co-operation to provide SUHAKAM with a list of the officers who were on-duty during the said incident.
17. The FRU agreed by way of letter dated 19 June 2008 to SUHAKAM's request to record statements of officers who were on duty on 27 May 2008.
18. On 3 July 2008, SUHAKAM issued a press statement giving the Terms of Reference and called for witnesses to the incident. The press statement also provided the dates of the Inquiry and the gist of the information on the preliminary investigations carried out by the Panel Secretariat. The press statement also made public the rules of practice and procedures of the Inquiry (See Annex 1).

POWERS OF INQUIRY OF THE COMMISSION

19. SUHAKAM's authority to conduct the Inquiry is stipulated in Section 12(1) of the Human Rights Commission of Malaysia Act 1999 (Act 597) ("Act") which reads:

The Commission may inquire on its own motion or on complaint

12. (1) *The Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, inquire into an allegation of the infringement of the human rights of such person or group of persons.*
- (2) *The Commission shall not inquire into any complaint relating to any allegation of the infringement of human rights which -*
- (a) *is the subject matter of any proceedings pending in any court, including any appeals; or*
 - (b) *has been finally determined by any court.*
- (3) *If the Commission inquires into an allegation under subsection 12(1) and during the pendency of such inquiry the allegation becomes the subject matter of any proceedings in any court, the Commission shall immediately cease to do the inquiry.*

20. The powers relating to inquiries under the Act are as shown in section 14, which states:

Powers relating to Inquiries

14. (1) *The Commission shall, for the purposes of an inquiry under this Act, have the power-*
- (a) *to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine;*
 - (b) *to require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Commission an oath or affirmation to every such witness;*
 - (c) *to summon any person residing in Malaysia to attend any meeting of the Commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;*
 - (d) *to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings; and*
 - (e) *to admit or exclude the public from such inquiry or any part thereof.*
- (2) *Notwithstanding paragraph (1)(c), where a person summoned is a person under detention under any other written law, such summons shall be issued in accordance with the laws applicable in relation to the place of detention.*
21. The Panel adopts what was formulated in the SUHAKAM Report on the Inquiry on Its Own Motion into the November 5 Incident at the Kesas Highway 2/2000: Part One (“the Kesas Highway Inquiry Report”)² with regard to its power to summon witnesses.
22. The Panel invited the Police, the Attorney-General Chambers, the Bar Council and civil society to send representatives to observe the Inquiry.

a. The Bar Council was represented by:-

- 23 July 2008 – Mr. Rangunath Kesavan, Mr. Andy Wong, Mr. Lai Chee Hoe, Ms. Siti Zabeddah Kassim and Ms. Syamsuriatina Ishak
- 24 July 2008 – Mr. Chan Weng Keng, Mr. Soosay Raj a/l Joseph Thamby Raj and Ms. Noor Arianti Osman
- 25 July 2008 – Mr. Chan Weng Keng, Ms. Syamsuriatina Ishak and Ms. Usha Kula
- 27 August 2008 – Ms. Syamsuriatina Ishak and Ms. Usha Kula

² SUHAKAM Report on the Kesas Highway Inquiry, p.4-5.

- 28 August 2008 – Ms. Syamsuriatina Ishak and Ms. Usha Kula
 - 29 August 2008 – Mr. Chan Weng Keng, Mr. Soosay Raj a/l Joseph Thamby Raj and Ms. Syamsuriatina Ishak
- b. The Police was represented from the second day of the Inquiry by:-
- 24 July 2008 - DSP Ali bin Ahmad and ASP Arifai bin Tarawe
 - 25 July 2008 – ASP Arifai bin Tarawe
 - 27 August 2008 – ASP Arifai bin Tarawe
 - 28 August 2008 – ASP Arifai bin Tarawe
 - 29 August 2008 – ASP Arifai bin Tarawe
- c. The following were Counsels representing the witnesses who had been allegedly assaulted:
- 23 July 2008 – Mr. Gan Ping Siew
 - 24 July 2008 – Mr. Gan Ping Siew and Mr. Ben Lee
 - 25 July 2008 – Mr. Gan Ping Siew and Mr. Ben Lee
 - 27 August 2008 – Mr. Gan Ping Siew
 - 28 August 2008 – Mr. Gan Ping Siew
 - 29 August 2008 – Mr. Ben Lee
- d. The following represented Suara Rakyat Malaysia (SUARAM)
- 23 July 2008 – Mr. Tah Moon Hooi
 - 24 July 2008 – Mr. Tah Moon Hooi
 - 25 July 2008 – Mr. Tah Moon Hooi
 - 27 July 2008 – Mr. Tah Moon Hooi
 - 28 July 2008 – Mr. Tah Moon Hooi

CONDUCT OF THE INQUIRY

23. The Inquiry commenced on 23 July 2008 and was adjourned on 25 July 2008. Subsequently the hearing resumed on 27 August 2008 and concluded on 29 August 2008.
24. The Panel of Inquiry called 26 witnesses and received 33 exhibits during the course of the proceedings. All the witnesses gave evidence on oath. The list of witnesses and list of exhibits are in Annexes 2 and 3 respectively.
25. All the witnesses were informed of their privileges and immunities as witness in respect of evidence to be given before the Commission as provided under Section 15 of the Act.

Evidence before the Commission

15. (1) *A person who gives evidence before the Commission shall, in respect*

of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

(2) No person shall, in respect of any evidence written or oral given by that person to or before the Commission, be liable to any action or proceeding, civil or criminal in any court except when the person is charged with giving or fabricating false evidence.

26. The Inquiry examined video recordings and photographs which were adduced as evidence.
27. In addition, the Inquiry examined medical evidence pertaining to injuries suffered by two witnesses.
28. At the conclusion of the Inquiry, the Panel of Inquiry invited the observers to present their observations pertaining to issues arising from the Terms of Reference of the Inquiry.
29. In November 2008 SUHAKAM received submissions from the Polis DiRaja Malaysia (Police Force), the Malaysian Bar Council and SUARAM³ on their observations pertaining thereto.

³ Submissions from the Police Force, Bar Council and SUARAM to the Panel of inquiry are available at SUHAKAM's website, www.suhakam.org.my



CHAPTER 2 FINDING OF UNDISPUTED FACTS

30. From evidence of the civilian witnesses and the law enforcement personnel the following facts were ascertained.

THE LOCATION OF THE INCIDENT

31. On 27 May 2008 at approximately 10.00 pm, the FRU personnel from Troop 4C were deployed to Bandar Mahkota Cheras to control the assembled crowd. The said Troop comprised ASP Kamal Ariffin bin Amman Shah, the FRU Commanding Officer, and 72 personnel. Also present were 50 in uniform and plain-clothes police officers from the IPD Kajang.
32. According to ASP Kamal Arrifin bin Amman Shah, the Commanding Officer for Troop 4C on 27 May 2008, the FRU personnel in the Left Section were carrying batons, shields and .38 Smith and Wesson revolvers, smoke grenade and were wearing Protective Body Armour (Perlindungan Anggota Badan). Some of the personnel were also carrying tear gas gun.
33. The Overall Ground Commanding Officer was the Kajang OCPD, ACP Shakaruddin bin Che Mood. During the incident he was on the Command Vehicle located at the junction of BMC.
34. The FRU personnel were divided into three sections to control the crowd who assembled at three different junctions. Each section comprised 12 to 13 FRU personnel. The section on the left was headed by Acting Corporal Fariz bin Abdul Samad and comprised 13 FRU personnel. The section moved across the barricade into Persiaran Bandar Mahkota Cheras 1 to control the crowd in that area.
35. Subsequently the section in the middle comprising 12 FRU personnel moved to Persiaran Bandar Mahkota Cheras 1 to assist the Left Section to control the crowd. In total there were 25 FRU personnel in the area.
36. The FRU personnel moved forward and stopped a few metres away from the U-turn junction at Persiaran Bandar Mahkota 1. The FRU personnel stood in a line across the road and instructed the crowd to disperse. The vehicles on the road were ordered to make a U-turn at the junction.
37. Besides the 25 FRU personnel, the Panel also acknowledged the presence of plain-clothes police officers at the said incident.

THE CAR AND ITS PASSENGERS

38. Around 11.30 p.m. a dark coloured car came from the direction of Persiaran Bandar Mahkota 1 heading towards the junction at the BMC intersection. In



the car there were a male driver, a female passenger in the front seat and two male passengers in the rear seats. They were identified as Chang Jiun Haur (the driver), Chang Jiun Mein (the front seat passenger), Chan Siew Meng and Chok Kem Hoo (the rear seat passengers). The evidence also established that Chan Siew Meng was seating directly behind the driver whilst Chok Kem Hoo was seating to the left of Chan Siew Meng.

CHAPTER 3
QUESTIONS ARISING FROM EVIDENCE

TRAFFIC CONDITION AT PERSIARAN BANDAR MAHKOTA CHERAS 1 AT THE MATERIAL TIME AND THE SPEED OF THE CAR

Traffic Condition and Speed of Car

39. The Panel heard evidence on the conditions of the traffic on the day of the incident. Chang Jiun Haur (W1) testified that he was driving his car, a Proton Wira with registration number WDP 1594, on the night of 27 May 2008 at Persiaran Bandar Mahkota Cheras 1. He stated that he was on his way to a late night supper. He stated that the traffic at Persiaran Bandar Mahkota Cheras 1 was heavy in particular when he was approaching the U-turn as there were cars in front of him.
40. Chong Yuan Chuan (W9) who was driving on the same road on the night of 27 May 2008 testified that the traffic there was heavy especially at the U-turn junction. This was collaborated by Lai Wai Chong (W8), who was a passenger in W9's car. W8 used the expression "bumper-to-bumper" when he was asked to describe the traffic condition at the material time.
41. The Panel also examined a video recording (Exhibit 13) adduced as evidence by Lai Weng Keat (W10) which showed a congestion at the U-turn junction of Persiaran Bandar Mahkota Cheras 1. W10 testified that the video was taken approximately five minutes ahead of the incident.
42. Lance Corporal Shahrizan Abdul Rashid (W15), a FRU personnel from Troop 4C who was on duty at Bandar Mahkota Cheras on 27 May 2008, in his testimony stated that the U-turn junction was "a bit busy".
43. The Panel also noted the evidence of Syed Jaymal Zahiid Syed Kamal (W12), a journalist on duty, who testified that he was near the Police and FRU personnel stationed at Persiaran Bandar Mahkota 1. He also testified that at the material time he heard a screeching sound made by the car near the corner of the U-turn junction. This evidence of W12 was collaborated by **Ng Kok Foong (W11)**, a journalist on duty, who stated that he heard "the sound of brake" from the car. Both witnesses further affirmed that they did not see the car hit any object.
44. The Panel noted the evidence of **Lance Corporal Fariz Abd Samad (W16)** who was the supervising officer for the Left Section on 27 May 2008. According to him, at the material time, there were 25 personnel under his command. He informed the Panel of Inquiry that the Section moved in a line of 25 personnel towards the Persiaran Bandar Mahkota Cheras 1 and stopped just a few metres away from the U-turn junction. At the material time he saw the car driven by W1 speeding and heading towards the law enforcement personnel in a dangerous manner. He also testified that the car hit two FRU personnel who were also called as witnesses at the Inquiry.

45. **Lance Corporal Aziri Mohamed (W25)** testified that he saw the car hit two FRU personnel. W25 stated that at the material time he was unsure who the two personnel were but later learned that they were **Constable Mohammad Firdaus (W24)** and **Constable Mohd Azniey (W20)**.
46. **Inspector Muhammad Hasmizal Hassan (W18)**, a Police officer from the Crime Investigation Department in the Kajang Police Headquarters, stated that he was on duty on 27 May 2008. He was in uniform and was amongst the FRU personnel positioned at Persiaran Bandar Mahkota 1 at the material time. He testified that he saw the car knocked a FRU personnel who fell.
47. **Constable Mohammad Firdaus (W24)** testified that the car came towards him and knocked him at his right thigh whilst **Constable Mohd Azniey (W20)** testified that the car knocked him at his right hand and his baton was broken. Both of them received outpatient treatment at the Kajang Hospital in the morning of 28 May 2008 and testified that they did not seek further treatment.

Panel's Observations

Condition of the Traffic

48. The Panel observed from evidence adduced by the witnesses that there was congestion at the U-turn junction of Persiaran Bandar Mahkota Cheras 1, the place of incident.

Speed of the Car

49. The Panel noted the contradiction in the witnesses' estimation of the speed of the car when making the U-turn. However bearing in mind that W1 has been charged with the offence of reckless driving and that the matter is pending trial in court, and guided by Section 12 (3) of the Act, the Panel agreed not to deliberate on the matter.

USE OF FORCE ON PERSONS IN THE CAR

The Police Reactions to the Incident

50. **ASP Kamal Ariffin Amman Shah (W14)**, **Lance Corporal Fariz Abd Samad (W16)**, **Inspector Muhammad Hasmizal Hassan (W18)** and **Constable Ezez Johari (W19)** testified that arising from the above incident, which they viewed as an act of provocation, the Police and FRU personnel moved towards the car and surrounded it in order to arrest the driver.
51. **ASP Kamal Ariffin Amman Shah (W14)**, **Lance Corporal Fariz Abd Samad (W16)**, **Inspector Muhammad Hasmizal Hassan (W18)** and **Constable Ezez Johari (W19)** testified that they did not see any act of violence on the part of the law enforcement personnel. In particular, **W16** testified that the FRU personnel and the Police who surrounded the car were persuading the driver and the passengers to get out of the car and surrender themselves to the Police. He

further testified that the driver however ignored their instruction and instead pressed the accelerator which led the Police and FRU personnel to believe that the driver was attempting to evade the arrest.

52. The Panel also heard evidence from **Chang Jiun Haur (W1), Chang Jiun Mein (W2), Lai Wai Chong (W8), Chong Yuan Chun (W9), Ng Kok Foong (W11) and Syed Jaymal Zahid (W12)** that the Police as well as the FRU personnel surrounded the car. They also stated that the driver and the passengers were dragged, beaten and kicked. They also testified that the law enforcement personnel were kicking and hitting the car with batons.

Allegation of Excessive Use of Force on Chang Jiun Haur (W1)

53. **Chang Jiun Har (W1)** testified that he stopped his car as there were cars in front of him. It was then that more than ten Policemen and FRU personnel surrounded his car. He stated that the Policemen and FRU personnel started kicking and hitting the car on his side. W1 said that his car window on his side was broken by the law enforcement personnel. He was unable to identify which officer broke the window. According to W1 when the window on his side was broken the law enforcement personnel began to hit him from the said broken window. His door was later unlatched and W1 testified that at least 5 FRU personnel dragged him out of the car. He affirmed that he did not struggle nor did he resist when he was dragged out of the car.

Nurul : *You mentioned that the FRU dragged you, how did they drag you, through the window or they opened the door?*

W1 : *They hit the window at my side and then they opened the car door and thereafter dragged me out.*

Datin Paduka Zaitoon : *They opened the car door from the outside of the handle, was your door locked or unlocked?*

W1 : *Yes, at that time my car was locked.*

Datin Paduka Zaitoon : *So, they can't open from the outside then?*

W1 : *They had broken my window at my side and thereafter they unlatched the door.*

Dato' Khalid : *Did they order you to come out from the car?*

W1 : *I was dragged out from my car.*

Datuk Dr.' Chiam : *You said they, how many (Policemen dragged you)?*

W1 : *At least 5 of them drag me out of my car.*

Datuk Dr. Chiam : *What was your state when they dragged you out of your car? Were you struggling or you just let them drag you out?*

W1 : *I was dragged out by them, I did not struggle.*

54. W1 further testified that he was made to lie down on the road. He affirmed that whilst he was lying on the road, he was hit and beaten on the head, face and arm. He further affirmed that his head was hit with something solid and hard; was bleeding from his nose and mouth; and sustained several wounds over his face as well as bruises on his body.

Nur Syahirah : *Can you tell us which part of your body was beaten up?*

W1 : *They had beaten up my head and also my arm.*

- Nur Syahirah : How many times were you hit on your head and your face?
- W1 : I am not so sure.
- Datuk Dr. Chiam : When you said hit on the head, were you standing up or lying down or what?
- W1 : They dragged me out of the car and then I was made to lie down on the floor.
- Datuk Dr. Chiam : Lie down or sit down?
- W1 : I was made to lie down on the road beside the car.
- Nurul : When exactly did the beating start?
- W1 : After I was pulled out of my car and then I was beaten up.
- Dato' Khalid : Whilst you lie down by the road side, were they still beating you?
- W1 : Yes.
- Nurul : When the FRU broke your wind screen of your window, did they beat you at that point of time?
- W1 : Yes. After they had broken the window of my car, they opened the car door, then they hit

55. Chang Jiun Mein (W2) a student of Universiti Tuanku Abdul Rahman (UNITAR), is the sister of W1 who was seated in the front passenger seat. W2 testified that W1 was not speeding. According to her, the Police and FRU personnel surrounded the car as soon as it stopped at the U-turn junction and the law enforcement personnel began to kick and hit the car with batons. She affirmed that the FRU personnel broke the window at the driver's side with a baton and unlatched the door. She testified that a FRU personnel opened the door on her side, then reached across her and started hitting her brother. She affirmed that she saw FRU personnel pulling her brother out of the car and simultaneously hitting him. She also confirmed that she saw FRU personnel kicking the brother whilst he was lying on the road. She was later instructed to alight from the car and was escorted by a female FRU personnel to the roadside. She was not however assaulted.

56. W2 also confirmed that she saw W1 was so weak that W1 fell twice while he was being led to the Black Maria and as such W3 had to support W1.

- Datuk Dr. Chiam : You said that your brother was also taken...
- W2 : Yes.
- Datuk Dr. Chiam : Was he before you or after you?
- W2 : My brother was in front of me and when he tried to climb the barricade he fell off.
- Dato' Khalid : Did anybody try to assist your brother to climb over?
- W2 : Yes, his friend, Chan Siew Meng assisted him.
- Dato' Khalid : Did your brother have problems walking underneath the bridge?
- W2 : He was not stable and fell off 2 times at the barricade.

57. Chan Siew Meng (W3) saw W1 being hit by plain-clothes policemen.

- Dato' Khalid : What he can tell us regarding Chang Jiun Haur?
- W3 : He was beaten up by many people.



Nurul : *By whom?*
W3 : *I saw the FRU people and those in plain-clothes beating him.*

Datin Paduka Zaitoon : *How did they beat him?*
W3 : *They use hands and leg.*
Datin Paduka Zaitoon : *After that what was his condition.*
W3 : *He was ... (demonstrated W1 tottering).*
Dato' Khalid : *At that time what was his condition?*
W3 : *At that time he was also pushed down but I could not see anything then as I could not raise my head, the moment I raised my head, they pushed it down.*

Datin Paduka Zaitoon : *But you manage to see Chang Jiun Haur tottering?*
W3 : *Yes.*
Nurul : *When you were at the X position (2nd X) were you standing or sitting?*

W3 : *I was standing.*
Nurul : *And Chang Jiun Haur, was he standing or...*
W3 : *He was standing and then they grabbed him and then they beat him and brought him to my place.*

Datuk Dr. Chiam : *And when they brought him to your place did they stop the beating?*
W3 : *Yes they continue beating him. They also continue beating me. They kicked me.*

58. W3 also saw W1 bleeding from his nose and mouth.

Nurul : *What was Chang Jiun Haur's physical condition?*
W3 : *He was using his hand to close his face and he was bleeding.*

Nur Syahirah : *Does the continuous beating of your friend contribute to your friend to sustain bleeding?*

W3 : *Yes.*
Nur Syahirah : *Which part of his body was bleeding?*
W3 : *Nose and mouth.*

59. W3 was handcuffed together with W1 and both were taken to the Kajang Police Station.

60. Lai Wai Chong (W8) affirmed that he saw 3 or 4 Police officers dragging out a person from the car and assaulted him. He later identified that person to be W1.

61. Lee Weng Keat (W10), a journalist on duty, testified that although he was at the place of incident, he was not able to see anything that took place near the car as his views were blocked by the FRU personnel and plain-clothes policemen who surrounded the car. He testified that he later went to the Kajang Hospital and took photos of W1. W10 adduced photographs of W1's injury which is marked Exhibit 17(a).





Exhibit 17(a)

62. Ng Kok Foong (W11), a journalist, was at the place of incident at the material time. W11 stated that he saw the Police and FRU personnel surrounding the car and shouting “Tangkap, tangkap” (*Arrest the person*). He saw FRU personnel hitting the car with batons and shields. Some were kicking at the car. W11 affirmed that he saw plain-clothes policemen punched W1 through the broken window. W11 also stated that W1 did not resist nor put up a fight.

Datin Paduka Zaitoon : When he said that one male was dragged out what happened to the rest of the passengers?

W11 : I saw them punched from the driver side door.

Datuk Dr. Chiam : When you said punched, was the door open or done through the window?

W11 : They punched because the window was broken – the driver was punched through the broken window.

Datuk Dr. Chiam : And at that time the door was still closed or opened?

W11 : Closed.

Datin Paduka Zaitoon : You did not see who broke the window?

W11 : No.

Nurul : Can you tell us who punched the driver – plain clothes personnel or FRU?

W11 : Plain clothes personnel. Then they dragged the driver out of the car and brought him out of the place marked with a circle.

63. **Syed Jaymal Syed Kamal (W12)** a journalist stated that he saw two plain-clothes policemen smashed the window at the driver’s side. He further stated that he saw the Police hitting the people inside the car.

Nur Syahirah : So what happened after that?

W12 : They started hitting the car.

Nur Syahirah : Who were hitting the car?

W12 : The FRU with batons and all that and I heard them shouting “get out, get out” and the driver did not want to move out and they keep hitting the car and then I saw them hitting the people inside the car. It was too fast and I did not pay attention to everything and then I saw two plain-

clothes policemen smashed the window and asked the passengers to come out. They did not come out, they were too afraid and they dragged them out and once they were dragged out, two plain-clothes policemen did something to the door.

64. **Dr. Suthananthini a/p Lankkasundram (W4)**, a medical officer at the Kajang Hospital examined W1 in the Emergency ward on 28 May 2008. She noted that W1 sustained a deep laceration wound of 1.1cm from the bridge of the nose which required wound suturing and stitches, a through-and-through injury over the upper lip and the loss of one upper jaw tooth. She confirmed that W1 suffered concussion and that he was unable to immediately recollect incidents leading to his injuries. She agreed that the wound on W1's nose is consistent with a blow from a hard object. She informed that she admitted W1 for observation and as for his dental injury she referred him to the Department of Dentistry.
65. **Dr. Kumaresan a/l Supramaniam (W5)** a medical officer at Seremban Hospital, examined W1 on 29 May 2008 after W1 had been discharged from the Kajang Hospital. On examination, W5 noted that W1 sustained head injury, swelling on his eyes and swelling in the chest measuring 4 by 5 cm. As W1 was complaining of persistent headache and nauseas, W5 ordered for a CT brain scan to be done. W5 testified that the CT scan detected a minor posterior injury to W1's head.

Allegation of Excessive Use of Force on Chan Siew Meng (W3)

66. **Chan Siew Meng (W3)**, a mechanic residing in Bandar Mahkota Cheras. He was the rear passenger in the car driven by W1 on 27 May 2008. He was seated directly behind the W1. He affirmed that the car came to a stop at the U-turn junction at Persiaran Bandar Mahkota Cheras 1. He subsequently saw at least 10 FRU personnel surrounding the car. They began kicking and hitting the car with their batons. He affirmed that a FRU personnel hit the window on his side. Being afraid that the window might be broken, W3 opened the door to get out of the car voluntarily but before he could get out he was immediately assaulted and dragged out of the car.

Dato' Khalid : Did you come out on your own or what?
W3 : I opened the door myself and get out of the car.
Datuk Dr. Chiam : At that time when you got out of the car, were you hit or weren't you hit;...?
W3 : As they kept on hitting and kicking the glass and I was worried that the glass would be shattered, I open the door and I got out of the car.

67. W3 testified that the FRU personnel and plain-clothes policemen continued to hit and kick him. He was beaten until he fell onto the road. W3 testified that when he was brought to the roadside, he was again hit. He affirmed that he was hit on his face, chest and legs. W3 suffered bruises and swelling on his head, nose and right eye. He was handcuffed with W1 and was brought to the Police station. W3 affirmed that he did not put up any resistance when he was beaten.

Nurul : So (when) you came out of the car what happened to you?
W3 : They pulled me and then hit me.
Datin Paduka Zaitoon : With what?
W3 : I am not sure.
Datin Paduka Zaitoon : You can see what hit you, was it something soft or what?
W3 : I suppose they used their fist, most of the time.
Datin Paduka Zaitoon : Anything else?
W3 : They also kicked me.
Datuk Dr. Chiam : Which part of your body were they hitting you?
W3 : My face, my chest and also my leg.
Nurul : ...Were you standing, lying down on the road or what position were you in when you were being hit?
W3 : They hit me until I fell on the road.

68. **Chok Kem Hoo (W7)** testified that he saw W3 at the side of the road being beaten by plain-clothes personnel.

69. **Ng Kok Foong (W11)** testified that he saw plain-clothes policemen dragging a passenger in the rear seat out of the car to the roadside. W11 also affirmed that the Policemen kicked and hit W3. He further said that he saw W3 covering his head with his hand when W3 was being beaten and later he saw W3 being handcuffed together with W1. W11 affirmed that W3 did not resist the Policemen.

Nurul : Can you tell us what happened after the kicking and hitting of the car?
W11 : I saw they dragged someone from the car.
Datin Paduka Zaitoon : They mean who, the FRU or police?
W11 : The Police.
Dato' Khalid : How do you know they are the police?
W11 : They were plain clothes police
Dato' Khalid : How do you know they were police?
W11 : Because before this they were moving together with the FRU at the same time.
Datuk Dr. Chiam : The person they pulled from the car, was it a male or female?
W11 : A male
Datin Paduka Zaitoon : What else did you see?
W11 : They dragged the male and brought him to the side.
Datin Paduka Zaitoon : You do not know the male is from the back/rear of the car?
W11 : The male was from the rear seat but I did not know whether he was from the left or right side
Datin Paduka Zaitoon : You actually saw him coming out from the rear seat?
W11 : Yes.
Nurul : What happened when he was brought to the other side of the road?
W11 : Then the police kicked the male and also hit him and I saw the victim covered his head with his hands
Nur Syahirah : Did he said anything to the FRU personnel when they were hitting and kicking him



W11 : Yes, he used the word "berhenti-berhenti, jangan pukul" (Stop hitting me).
 Datuk Dr. Chiam : Other than that did he react, did he try to fight back?
 W11 : No.
 Datin Paduka Zaitoon : So, in other words he didn't resist?
 W11 : No.

70. **Syed Jaymal (W12)** testified that he saw FRU personnel and plain-clothes policemen hitting and punching W3 when W3 was taken to the roadside. He also affirmed that W3 did not put up any resistance.

Dato' Khalid : When these two victims were taken to the side of the road, what did they say?
 W12 : They said not to beat them.
 Nurul : What did you see when the driver was being dragged to the roadside? Did you see what happened to him before that?
 W12 : Honestly, no, not the driver, the second passenger. The second passenger was hit and punched, not the driver, I saw that.
 Datin Paduka Zaitoon : Where were you at that point of time and the hitting started from the car or after he was pulled out of the car?
 W12 : The hitting started when he was still in the car and the police then pulled out and when he was dragged out they continued to punch and hit him.

71. **Dr. Nazirah Hamzah (W6)**, a medical officer at the Kajang Hospital, examined W3 on 28 May 2008 and noted that W3 suffered superficial injuries on his face and bruises on his right hand and right shoulder. W6 did not rule out the possibility that the injuries could have been caused by any kind of blows or by a hard object.

Allegation of Use of Force on Chok Kem Hoo (W7)

72. **Chok Kem Hoo (W7)** is a student at Sunway University. He was seated at the back of the car behind the front passenger. W7 testified that at the material time W1 was not driving fast as there was a traffic congestion. He affirmed that when the car stopped at the U-turn junction at Persiaran Bandar Mahkota Cheras 1, there were about 20 plain-clothes policemen and FRU personnel moving forward and surrounding the car. They started hitting and kicking the car. W7 confirmed that the door was opened by someone who hit him while he was still inside the car. He testified that he was dragged out of the car and was brought to the side of the road. He affirmed that plain-clothes policemen beat him up. He further testified that he did not resist when he was beaten. He was handcuffed and was brought to the Kajang Police Station.

Medical Assistance to W1 and W3

73. **Chang Juin Mein (W2)** confirmed that she saw W1 who was bleeding at the Police station and that the Police took W1 to the hospital about 15 minutes



later.

- Nurul : *How was your brother's condition when he reached the Police station?*
- W2 : *He was bleeding and he asked what happened.*
- Nur Syahirah : *Did anyone try to help your brother to stop the bleeding whilst he was taken to the Police station?*
- W2 : *Nobody assist him to stop the bleeding and at that time he was holding a piece of cloth and it was full of blood. When I saw I approached a Police personnel and ask if the Police personnel had tissue paper and the Police personnel gave me the tissue paper.*
- Nurul : *How soon, after your brother was brought to the Police station, was he taken to the hospital?*
- W2 : *About 15 minutes.*

74. **Chan Siew Meng (W3)** affirmed that W1 was bleeding from his nose and that no one at the Police station provided first aid assistance to W1. W1 was taken to the hospital 20 minutes later.

- Nurul : *When did the Police provide medical assistance to you, Jiun Haur and Kem Hoo?*
- W3 : *Upon reaching the Police station, Jiun Haur was brought to the hospital.*
- Datuk Dr. Chiam : *Was Jiun Haur brought to the hospital immediately after taking him to the Police station?*
- W3 : *Later.*
- Nur Syahirah : *How long?*
- W3 : *20 minutes later.*

75. **W3** further testified that he was not been provided with immediate medical assistance and he was only sent to the hospital at the request of an assemblyman.

- Nurul : *Did the Police take you to the hospital?*
- W3 : *A YB scolded the Policeman and thereafter the Policeman took me to the hospital.*

76. **Chang Juin Mein (W2)** also corroborated W3 evidence on the Police delay in taking W3 to the hospital for examination. W2 testified that W3 was sent to the hospital after some time following intervention of an assemblyman.

- Nurul : *Sorry, you mentioned that you were at the waiting area with Chan Siew Meng and also Cheok Kem Hoo but earlier you mentioned that Chan Siew Meng was taken to the hospital together with your brother?*
- W2 : *In fact my brother went to the hospital first and thereafter one assemblyman came and asked about our condition. Chan Siew Meng related to him which part of his body was injured. Thereafter the assemblyman asked the Police to take him to hospital.*

Datuk Dr. Chiam : At the time when he (W1) went to the hospital did he go alone or with Chan Siew Meng?
W2 : At first my brother went there alone.
Datuk Dr. Chiam : So, Chan Siew Meng only was given treatment when the assemblyman requested, is it?
W3 : Yes.

Evidence by the Police

77. The Panel subpoenaed four Police officers from the Kajang District of Police including the Officer-in-Charge of the District, ACP Shakaruddin Che Mood (W17), DSP Mohd Razali Mohd Idrus (W13), Inspector Muhammad Hasmizal Hassan (W18) and Constable Ezez Johari (W19).
78. The Panel noted that **ACP Shakaruddin Che Mood (W17)** was the Overall Commanding Officer on 27 May 2008. At the material time W17 was in the Command Vehicle which was stationed about 300 metres from the said incident. He was unable to provide credible evidence as to what had transpired during the material time as he could not see what was happening at the said place of incident.
79. As **DSP Mohd Razali Mohd Idrus (W13)**, the officer-in-charge of the Criminal Investigation Division of Kajang District Police Headquarters, He was transferred to the Kajang District Police Headquarters only on 2 June 2008. He claimed that he had no material knowledge of the incident that took place on 27 May 2008.
80. **Inspector Muhammad Hasmizal Hassan (W18)** stated that he instructed the Police and FRU personnel to arrest the persons in the car. He testified that he only heard the sound of broken glass. He further testified that when he approached the car, the door at the driver's side was already opened and he attempted to pull W1 out of the car. He affirmed that W1 was resisting and kicking him. He admitted that he again pulled the driver out of the car and stated that during that process the driver accidentally hit the car door and fell on to the road. He stated that the driver sustained injury on his nose from the fall.
81. **Constable Ezez Johari (W19)** of the Criminal Investigation Division, Kajang Police Headquarters was on duty on 27 May 2008 at Bandar Mahkota Cheras. He confirmed that at the material time, he was at Persiaran Bandar Mahkota Cheras 1 and was in plain-clothes. He confirmed that he was amongst the officers surrounding the car. He admitted that he saw W18 being kicked by W1 when W18 attempted to arrest W1. He testified that, upon seeing the same, FRU personnel moved forward and pulled W1 out of the car.
82. The Panel also heard evidence from nine FRU personnel, ASP Kamal Ariffin Amman Shah (W14), Lance Corporal Shahrizan Abd. Rashid (W15), Acting Corporal Fariz Abd. Samad (W16), Constable Mohd. Azniey Ahmad Suppian (W20), Lance Corporal Gilbert Chua Chian Siong (W22), Sergeant Abd Rahman Mohamad (W23), Constable Muhammad Firdaus Ab Rashid (W24), Lance Corporal Aziri Mohamed (W25) and Corporal Sharill Hj Ismail (W26).

83. **ASP Kamal Ariffin Amman Shah (W14)** who was the commanding officer for the FRU Troop testified that at the material time he was in the Command Vehicle which was stationed about 300 metres from the place of incident. Hence he did not see the incident in question. He further testified that any action taken by the FRU personnel must be pursuant to his instructions but also testified that at the time of the incident the Left Section took instruction from Inspector Muhammad Hasmizal Hassan (W18).
84. **Acting Corporal Fariz Abd. Samad (W16)** the supervising officer for the Left Section, testified that he was at the place of incident at the material time. He said that W1 refused to come out of the car and tried to escape by pressing the accelerator. He further testified that he only saw W1's feet on the paddle and nothing more. He said that because of this he concluded that W1 was resisting Police instructions.

- Nurul : *What happened when the FRU surrounded the car?*
W16 : *The FRU members and plain-clothes policemen tried to bring out the driver of the car.*
- Datin Paduka Zaitoon : *Then what happened?*
W16 : *The driver still refused to come out of the car and still tried to escape.*
- Datin Paduka Zaitoon : *If he refused to come out of the car, how can he escape?*
W16 : *He refused to leave the car and attempted to move the car forward.*
- Datin Paduka Zaitoon : *I don't remember when the driver came out of the car.*
Datuk Dr. Chiam : *When you said you can't remember but you were there at the scene when the driver was taken out?*
- W16 : *I was there but I did not see the driver being taken out.*
Nurul : *You mentioned that the driver tried to escape by moving forward his car, did you see the incident, what makes you think that he is trying to escape?*
- W16 : *I say that he tried to escape because I saw his foot was still on the paddle as the car door was opened.*
- Datuk Dr. Chiam : *You saw his feet still on the paddle but yet you did not see the driver being taken out?*
- W16 : *Yes.*
Datin Paduka Zaitoon : *Why was that?*
W16 : *Keadaan masa itu kalang kabut dan anggota ramai disitu, Datuk. (The situation there was chaotic and there were many personnel there).*
- Datuk Dr. Chiam : *How long was it between the time when you saw the driver's feet on the paddle and when you did not see?*
- W16 : *I am not sure.*
Datuk Dr. Chiam : *But when the person was taken out where were you that you did not see, although you say you saw his feet on the paddle but did not see the driver being taken out, did you move away?*
- W16 : *I was around the area.*
Dato' Khalid : *When the time you saw the feet on the accelerator and the place where you were standing, how far were you from the feet?*
- W16 : *From the place he is standing to the place where Datuk is sitting (about 1-2 metres).*



- Dato' Khalid : You can see his feet on the paddle?
W16 : Yes, the door was opened.
Dato' Khalid : At night you can see?
W16 : Boleh, Datuk (Yes, Dato').
Datin Paduka Zaitoon : Ada lampu dekat kereta (Was there any light nearby)?
W16 : Ada lampu jalan (There were street lights).
Dato' Khalid : With all those people surrounding the car you still can see his feet?
W16 : Yes.
Datuk Dr. Chiam : So, there was no one between you and the driver when his feet were on the paddle, there was no one blocking you?
W16 : No, but I saw there were people.
Datuk Dr. Chiam : You were from here (Dato' Khalid's place) to there (place where W16 is standing), and you could see people around the car and still see the feet on the paddle?
W16 : Yes.
Datin Paduka Zaitoon : Were there many people surrounding the car – the crowd from the public and the Police and FRU personnel?
W16 : There were many. At that time, Datuk, as my eyes were focused on the driver I saw it happened.
Datuk Dr. Chiam : So you focused on the driver and the feet but did not focus on any other thing?
W16 : Yes.
Nurul : You mentioned just now that the door was opened and you can see the driver and the feet were on the paddle. Can you also see his facial reaction?
W16 : Can't see.
Nurul : You only saw his feet?
W16 : Yes.
Nurul : Why?
W16 : At that time I only focused on the feet.
Nurul : Did you see the body of the driver?
W16 : No.
Datin Paduka Zaitoon : Ok, let's put it this way, how much of the body of the driver can you see?
W16 : I can only see the right hand side of his body.
Datin Paduka Zaitoon : Paddle dia tekan itu, kaki mana (Which feet were on the paddle)?
W16 : Right side.
Nurul : How long was the foot on the paddle?
W16 : I am not sure.
Datuk Dr. Chiam : When you saw his feet on the paddle, was his feet very steady or his feet were shaking?
W16 : Not sure.
Nur Syahirah : Pada masa kaki driver itu diletak atas paddle itu apakah reaksi anggota FRU dan anggota Police yang berpreman itu terhadap driver tersebut (What was the reaction of the FRU personnel and plain-clothes policemen upon seeing the driver's reaction placing feet on the paddle?)
W16 : Marah kepada driver itu supaya dia keluar (they were shouting at the driver to get out?)
Nur Syahirah : Bagaimana cara mereka marah – arahan kepada pemandu (How were they shouting?)



W16 : Dengan suara (Verbally).
 Nur Syahirah : Suara dia macam mana – lemah lembut atau keras ke, cuba describe to us? (Describe the tone of the voice?)
 W16 : Tegas (stern).

85. W16 was resolute that FRU personnel and the plain-clothes policemen were not violent; they did not use excessive force on anyone during the incident.
86. The Panel also noted the evidence of **Corporal Sharill Hj Ismail (W26)** who testified that he was near the car at the material time but affirmed that he did not see any FRU personnel or the plain-clothes policemen using excessive force on the people in the car.
87. **Lance Corporal Shahrizan Abd. Rashid (W15), Lance Corporal Gilbert Chua Chian Siong (W22) and Lance Corporal Aziri Mohamed (W25)** testified that although they were on duty at the place of incident they did not see anything at all. W15 claimed that his attention was directed to ensuring access to the place of incident is to be temporarily blocked. W22 and W25 affirmed that their views were blocked by other personnel (whom they could not identify) who were surrounding the car and hence W22 and W25 were not able to see what transpired during the commotion.

The Video Recording

88. The Panel examined a video tape recording (Exhibit 19)⁴ made by W11. The video recording showed a car being surrounded by at least ten FRU personnel and people in plain-clothes. The Panel observed that they were kicking and hitting the car with batons and shields. The Panel also noted sounds recorded in the video of persons hitting the car with hard objects. However, there was no act in the video that can be constituted as assault on W1, W3 and W7. The video recording did not fully record what took place after the car was surrounded by FRU personnel and people in plain-clothes.

Panel's Observations

Police Evidence

89. The Panel found that W16 is not a credible witness and that the evidence of W16 is unreliable as it is illogical for W16 to observe a foot on the paddle and yet was unaware of the larger picture such as the manner in which the driver was taken out of the car.
90. The Panel observed that despite being present at the place of incident, the law enforcement personnel insisted that they could not see what happened to the driver (W1) and the passengers (W3 and W7).

Use of Force

91. The Panel noted that the testimonies of W18 and W19 that W1 resisting arrest contradict the testimony given by W2 which was corroborated by W8, W9, W11

⁴ Exhibit 19 is available on SUHAKAM's website www.suhakam.org.my



and W12 that they did not see W1, W3 and W7 resisting arrest or displaying any aggression during the said incident. The Panel is inclined to accept the evidence of W2, W8, W9, W11 and W12 and is therefore of the view that the use of force against W1, W3 and W7 was unnecessary.

92. The medical reports indicate W1's injuries were caused by use of hard objects.

PANEL'S FINDINGS AND RECOMMENDATIONS

93. From the observations the Panel of Inquiry concludes that there was excessive use of force on W1, W3 and W7.

Principles of Necessity and Proportionality

94. It is pertinent to note the international standards or principles as regards the use of force and firearms by the Police when discharging their duties of law enforcement and maintenance of order in society. The use of force and firearms is permitted but only under 'clearly defined and controlled circumstances'⁵ and subject to the principles of necessity and proportionality and the respect of the human right to life. The key element in the execution of this duty is to strike a balance between preserving law and order and the respect for human rights and the inherent dignity of an individual.

Principle of Necessity

95. While it is acknowledged that Police officers may use force and firearms in the discharge of their duties, the use of force and firearms should only be employed where it is 'strictly necessary for law enforcement and maintaining Police order' and as a measure of last resort where non-violent means are employed before resorting to the use of force⁷. It should be stressed that the use of force should be an exception rather than the rule.
96. These principles are reflected in Article 3 of the Code of Conduct for Law Enforcement Officials where it is stated, "law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty".
97. Similarly, Principle 13 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that law enforcement officials should "avoid the use of force or where that it is not practicable, shall restrict the use of force to the minimum extent necessary" when dispersing assemblies that are unlawful but non-violent.

⁵ High Commissioner for Human Rights, Professional Training Series No. 5, *Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police* (1997) United Nations: New York and Geneva, at pg. 86.

⁶ Article 3 of the Code of Conduct for Law Enforcement Official; See also High Commissioner for Human Rights, Professional Training Series No. 5, *Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police* (1997) United Nations: New York and Geneva, at pg. 87; Principles 1, 4-6, 9 & 22 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.; See also P. Neyroud & A. Beckley, *Policing, Ethics and Human Rights* (2001) (UK: Willan Publishing), at pg. 68.

⁷ Principle 4 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.



Principle of Proportionality

98. In instances where the situation necessitates the use of force, the degree of force used must be in direct proportion and “only to the extent required for the legitimate ends of law enforcement and maintaining public order”⁸ .
99. To elucidate what is meant by force being used proportionally to the objectives of law enforcement and public order, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which have been adopted by other jurisdictions⁹ provide a practical guideline for law enforcement officials when the use of force and firearms is unavoidable. In summary, the guidelines are as follows:
- i. Human life should be respected and preserved¹⁰ ;
 - ii. Police officers should exercise restraint in the use of force¹¹ and minimise damage and injury¹² ;
 - iii. The progression of use of force should follow five stages, “verbal persuasion, unarmed physical force, force using non-lethal weapons, force using impact weapons and deadly force”;
 - iv. Police should ensure that assistance and medical aid are rendered to any injured persons¹³ and to notify relatives or close friends¹⁴ , both at the earliest possible moment;
 - v. Any injury or death caused by the use of force by Police officers shall be reported promptly to superior officers¹⁵. Upon receipt of these reports, there shall be an effective review process available with the exercise of jurisdiction of independent administrative or prosecutorial authorities and the report shall be subjected to administrative review and judicial control¹⁶ ; and
 - vi. The Police force should adopt and implement clear rules and regulations on the use of force by Police officers. Such rules and regulation should be based upon ethical issues with regard to the use of force and firearms. Further, there must be constant review of these rules and regulations.¹⁷
100. The Panel of Inquiry takes note that the use of force in affecting arrest is regulated by section 15(2) of the Criminal Procedure Code which provides that, “If such person forcibly resist the endeavour to arrest him or attempt to evade the arrest such officer or other person may use all means necessary to effect the arrest.” Quite clearly this provision should be interpreted in the light of the guideline above-mentioned. Any departure from the guidelines cannot be justified.
101. The Panel acknowledges that it is the duty of law enforcement personnel to maintain law and order. However in this particular incident, the Panel is of the

⁸ High Commissioner for Human Rights, Professional Training Series No. 5 *Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police* (1997) United Nations: New York and Geneva, at pg. 87.

⁹ For example New York Police Department Guideline.

¹⁰ Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials*, (30 April 1998).

¹¹ Principle 5(a) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹² Principle 5(b) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹³ Principle 5(c) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹⁴ Principle 5(d) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹⁵ Principle 6 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹⁶ Principle 22 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹⁷ Principle 1 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

view that it does not warrant the use of excessive force. As such, the Panel of Inquiry recommends that the Police and the FRU urgently implement the aforementioned international principles and standards in paragraph 99 herein above as guidelines for their personnel on the use of force and firearms.

102. At this juncture, it must be underscored that implementation of these principles is crucial and urgent. Similar recommendations made in SUHAKAM's Report of Public Inquiry into the incident at KLCC on 28 May 2006 and SUHAKAM's Report on Freedom of Assembly have remained unheeded by the Police. This is evident by the recurrence of excessive use of force and unprofessional Police conduct in the dispersal of peaceful assemblies in the past assemblies and the incidents of heavy-handedness action of FRU personnel as found in this Public Inquiry.
103. Although the evidence show that excessive force had been used on W1 and W3 who among the law enforcement personnel directly responsible for the assault could not be identified.
104. The Panel of Inquiry also strongly recommends that the Police conduct their own investigation to ascertain who among the law enforcement personnel used excessive force on the W1 and W3 with a view of taking disciplinary action against the said personnel and, where necessary, to recommend to the Public Prosecutor for further action.
105. The Panel of Inquiry notes that the Police did not attend to the injuries of W1 and W3 immediately and took time in making arrangements to send W1 and W3 to the hospital.
106. With regard to the identification of FRU personnel alleged to have inflicted injuries on W1, the Panel noted the evidence of W8 and W9 who said that they could identify one of the assailants. An identification parade was carried out on 29 August 2008. W8 and W9 both identified W15 as the FRU personnel who was purportedly alleged to have assaulted W1. When asked, W8 and W9 affirmed that they could identify W15 because they had seen him on duty before at Bandar Mahkota Cheras and of his physical stature, particularly his height. W15 however testified that he was on duty at BMC only on 27 May 2008 and no other dates. This evidence of W15 is corroborated by the evidence given by Sergeant Abdul Rahman Mohamad (W23); Constable Mohd Azniey Ahmad (W20); Constable Muhammad Firdaus Ab. Rashid (W24); Lance Corporal Aziri Mohamed (W25) and Corporal Shahril Haji Ismail (W26) who testified that the operation on 27 May 2008 was Troop 4C's first field deployment at Bandar Mahkota Cheras in 2008. Therefore the Panel of Inquiry cannot make a conclusive finding in respect of the personnel responsible for the injuries suffered by W1.
107. The Panel of Inquiry also observes that W1 and W3 were not able to identify either the Police or the FRU personnel who used excessive force on them. This was mainly because of the failure of the Police and FRU personnel to provide personal identification (either names or badge number) on the outer part of the body armour. When asked, the FRU personnel informed the Panel that they

wore a removable nametag on their uniform but not on the outer part of the protective body armour. The Panel of Inquiry strongly recommends that the Police and FRU personnel display their names and badge numbers visibly and clearly during field operations.

108. The Panel of Inquiry further observes that although no excessive force was used on W2 and W7, nevertheless their safety and security were threatened by the aggressive actions of the law enforcement personnel.

CHAPTER 4 CONCLUSION

109. The Panel arrived at its findings by weighing the evidence adduced at the Inquiry, the demeanour of the witnesses and the manner in which the witnesses answered the questions.
110. The Panel has reached in relation to the Terms of Reference the following conclusions:-

- a. To inquire whether or not there was any law enforcement personnel in performance of their duty to maintain law and order had used excessive force during the incident at Persiaran Bandar Mahkota Cheras 1 in Bandar Mahkota Cheras on 27th May 2008;

The Panel of Inquiry finds that there was excessive use of force by the law enforcement personnel against Chang Jiun Haur (W1) and Chan Siew Meng (W3) during the incident at Persiaran Bandar Mahkota Cheras 1.

- b. If there was excessive use of force:-
- i. whether there was any violation of human rights of any person or persons -

The Panel is of the opinion that the excessive use of force by the law enforcement personnel violated the safety and security of the following individuals: Chang Jiun Haur (W1) and Chan Siew Meng (W3).

- ii. who were responsible for such violation -

The evidence indicate that the Police and FRU personnel were responsible for the violation of human rights in this incident. However due to the contradicting as well as unclear evidence, the Panel is unable to identify who among the law enforcement personnel were responsible for such violation.

- c. To recommend what action to be taken against those responsible for the violation of human rights of such person or persons -

1. The Panel of Inquiry recommends that the FRU and the Police urgently implement the international standards as guidelines for their personnel on the use of force which are:
- i. Human life should be respected and preserved;
- ii. Police officers should exercise restraint in the use of force and minimise damage and injury;
- iii. The progression of use of force should follow five stages, “verbal persuasion, unarmed physical force, force using non-lethal weapons,

- force using impact weapons and deadly force”;
- iv. The Police should ensure that assistance and medical aid are rendered to any injured persons and to notify relatives or close friends, both at the earliest possible moment;
 - v. Any injury or death caused by the use of force by Police officers shall be reported promptly to superior officers. Upon receipt of these reports, there shall be an effective review process available with the exercise of jurisdiction of independent administrative or prosecutorial authorities and the report shall be subjected to administrative review and judicial control; and
 - vi. The Police force should adopt and implement clear rules and regulations on the use of force by police officers. Such rules and regulation should be based upon ethical issues with regard to the use of force and firearms. Further, there must be constant review of these rules and regulations.

2. The Panel of Inquiry recommends that the Police and FRU require all their personnel to display their names and badge numbers visibly and clearly during field operations.
3. Since it has been found that excessive force had been used on W1 and W3, the Panel of Inquiry strongly recommends that the Police conduct their own investigations to ascertain which personnel used excessive force on W1 and W3 with a view of taking disciplinary action against the said personnel and, where necessary, to recommend to the Public Prosecutor for further action.

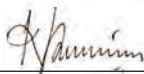
The findings and recommendations herein are the unanimous findings and recommendations of the following members of the Commission that formed the Panel of Inquiry:



DATIN PADUKA ZAITOON DATO' OTHMAN
COMMISSIONER, SUHAKAM



DATUK DR. CHIAM HENG KENG
COMMISSIONER, SUHAKAM



DATO' HAJI KHALID HAJI IBRAHIM
COMMISSIONER, SUHAKAM

DATED THE 30TH DECEMBER 2008



ANNEXURES





SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

ANNEX 1

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

MEDIA STATEMENT

PUBLIC INQUIRY INTO THE ALLEGATION OF EXCESSIVE USE OF FORCE DURING THE INCIDENT AT BANDAR MAHKOTA CHERAS ON 27TH MAY 2008.

The Human Rights Commission of Malaysia hereby announced that it will conduct a public inquiry into the allegation of excessive use of force during the incident at Bandar Mahkota Cheras on 27th May 2008. The public inquiry will be conducted by a panel of three Commissioners comprising Datin Paduka Zaitoon Dato' Othman (Chairperson), Datuk Dr. Chiam Heng Keng and Dato' Khalid Ibrahim.

The **terms of reference of the Public Inquiry** are as follows:

1. To inquire whether or not there was any law enforcement personnel in performance of their duty to maintain law and order has used excessive force during the incident at Persiaran Bandar Mahkota Cheras 1 in Bandar Mahkota Cheras on 27th May 2008.
2. If there was excessive use of force;
 - i. whether there was any violation of human rights of any person or persons and;
 - ii. who were responsible for such violation.
3. To recommend what action to be taken against those responsible for the violation of human rights of such person or persons.

The Panel of Inquiry has fixed the inquiry on 23-24 July 2008 at the SUHAKAM Inquiry Room, Level 29, Menara Tun Razak, 50350 Kuala Lumpur. The sittings of the Inquiry will begin at 9.30 a.m. and conclude at 5.30 p.m.

30

The Inquiry is open to members of the public and the press. It is to be noted that video or audio recording of the Inquiry by members of the public or the press will not be allowed. (See Annex A for a fuller version of the Rules of Procedure and Practice).

So far, the Inquiry's Secretariat has conducted investigations and had recorded statements from members of the public and FRU personnel witnesses.

As investigations are still on-going, the number of witnesses testifying during the Inquiry has yet to be confirmed. Subpoenas will be issued in due course to relevant witnesses including members of the public, the press and the Police. This power will be exercised pursuant to section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999 which empowers the Commission to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses as the Commission thinks necessary or desirable to procure or examine.

Members of the public who witnessed the incident, persons who believe that they may be able to give relevant information and/or documents and other evidence pertaining to any or all of the terms of reference set out above are invited to contact SUHAKAM as soon as possible. Kindly contact:

Puan Nurul Hasanah Ahamed or Encik Shahizad Sulaiman
SUHAKAM
Level 29, Menara Tun Razak
Jalan Raja Laut
50350 Kuala Lumpur
Tel: 03-2612 5669 / 5623
Fax: 03-26125620 / 5694
humanrights@suhakam.org.my

...END...

"HUMAN RIGHTS FOR ALL"



(DATIN PADUKA ZAITOON DATO' OTHMAN)
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
3 July 2008

SUHAKAM PUBLIC INQUIRY RULES OF PROCEDURE AND PRACTICE

I. CONDUCT OF THE INQUIRY

- a. The Panel of Inquiry is committed to a process of public hearing. However, the Panel of Inquiry, pursuant to section 14(1)(e) of the Human Rights Commission of Malaysia Act 1999 [Act 597] (the "1999 Act"), may at its discretion admit or exclude the public from the Inquiry or any part thereof.
- b. Pursuant to section 14(1)(a) of the 1999 Act, the Panel of Inquiry shall have the power to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Panel of Inquiry thinks necessary or desirable to procure or examine.
- c. Persons wishing to give evidence at the Inquiry may approach the Panel of Inquiry. The Panel of Inquiry shall have the discretion to call such persons to give evidence.
- d. Pursuant to section 14(1)(b) of the 1999 Act, the Panel of Inquiry may require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorised in that behalf by the Panel of Inquiry an oath or affirmation to every such witness.
- e. Pursuant to section 14(1)(d) of the 1999 Act, the Panel of Inquiry has the power to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings.
- f. Pursuant to section 15(1) of the 1999 Act, a person who gives evidence before the Panel of Inquiry shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.
- g. Pursuant to section 15(2) of the 1999 Act, no person shall, in respect of any evidence written or oral given by that person to or before the Panel of Inquiry, be liable to any action or proceeding, civil or criminal in any court except when the person is charged with giving or fabricating false evidence.
- h. No video or audio recording of the Inquiry shall be made throughout the Inquiry unless otherwise authorised by the Panel of Inquiry.
- i. All persons present at the Inquiry must keep silent during the proceedings. Any unruly behaviour will not be tolerated and the person will be asked to leave the Inquiry.
- j. Persons wishing to address the Panel of Inquiry or persons wishing to pose question(s) to any witness shall write down their question(s), which shall be passed to the Panel of Inquiry. The Panel of Inquiry shall decide the relevancy of the question(s) and whether to pose the said question(s).
- k. The Panel of Inquiry may at its discretion call upon observers and interested parties for their opinion. Unless otherwise called upon, question(s) by observers and interested parties shall be forwarded to the Panel of Inquiry in the manner provided in paragraph (j) above.
- l. The Panel of Inquiry may amend or dispense with these rules as the Panel sees fit to ensure fairness and respect for human rights.
- m. All persons present during the Inquiry shall be deemed to undertake to adhere to these rules. A breach of these rules by any person shall be dealt with by the Panel of Inquiry, as it sees fit.

II. CRITERIA FOR OBSERVER STATUS AND INTERESTED PARTIES

- a. In deciding application for observer status and as interested parties to the Inquiry, the Panel of Inquiry shall be guided by the following criteria:
 - The applicant is directly and substantially affected by the Inquiry;
 - The applicant represents interests and perspectives essential to the successful conduct of the Inquiry; or
 - The applicant has special experience or expertise with respect to matters within the Panel of Inquiry's terms of reference.

ANNEX 2**LIST OF WITNESSES**

No	Name	Date(s) Testimony Given
W1	CHANG JIUN HAUR	23.07.08
W2	CHANG JIUN MEIN	23.07.08
W3	CHAN SIEW MENG	23.07.08
W4	DR. SUTHANANTHINI A/P LANKASUNDRAM	23.07.08
W5	DR. KUMARESAN A/L SUPRAMANIAM	23.07.08
W6	DR. NAZIRAH BINTI HAMZAH	23.07.08
W7	CHOK KEM HOO	23.07.08
W8	LAI WAI CHONG	24.07.08
W9	CHONG YUAN CHUN	24.07.08
W10	LEE WENG KEAT	24.07.08
W11	NG KOK FOONG	24.07.08
W12	SYED JAYMAL ZAHIID BIN SYED KAMAL	24.07.08
W13	DSP MOHD RAZALI BIN MOHD IDRUS	25.07.08
W14	ASP KAMALARIFFIN BIN AMMAN SHAH	25.07.08
W15	L/KPL SHAHRIZAN BIN ABD. RASHID	25.07.08
W16	P/KPL FARIZ BIN ABD. SAMAD	25.07.08
W17	ACP MOHD SHAKARUDDIN BIN CHE MOOD	27.08.08
W18	INSP. MUHAMMAD HASMIZAL BIN HASSAN	27.08.08
W19	CONS. EZEZ BIN JOHARI	27.08.08
W20	KONSTABEL MOHD AZNIEY BIN AHMAD SUPPIAN	28.08.08
W21	C/INSP. MOHD MAIZATUL AZMAN BIN M SALLEH	28.08.08
W22	L/KPL GILBERT CHUA CHIAN SIONG	28.08.08
W23	SARJAN ABD RAHMAN BIN MOHAMAD	29.08.08
W24	KONSTABEL MUHAMMAD FIRDAUS BIN AB. RASID	29.08.08
W25	L/KPL AZIRI BIN MOHAMED	29.08.08
W26	KPL SHARILL BIN HJ. ISMAIL	29.08.08

ANNEX 3

LIST OF EXHIBITS

EXHIBIT NO.	DESCRIPTION	NAME OF WITNESS	DATE ENTERED
1	Sketch plan	Chang Jiun Haur	23/07/08
2	Sketch plan	Chang Jiun Mein	23/07/08
3	Sketch plan	Chan Siew Meng	23/07/08
4	Medical Report	Dr. Suthananthini a/p Lankasundram	23/07/08
5	Medical Report	Dr. Kumaresan a/l Supramaniam	23/07/08
6	Medical Report	Dr. Nazirah binti Hamzah	23/07/08
7	Sketch plan	Cheok Kem Hoo	23/07/08
8	Sketch plan	Lai Wai Chong	24/07/08
9	Sketch plan	Chong Yuan Chun	24/07/08
10	Sketch plan	Lee Weng Keat	24/07/08
11	Video P1080503	Lee Weng Keat	24/07/08
12	Video P1080504	Lee Weng Keat	24/07/08
13	Video P1080496	Lee Weng Keat	24/07/08
14	Video P1080506	Lee Weng Keat	24/07/08
15	Video P1080507	Lee Weng Keat	24/07/08
16	Photograph taken during the incident	Lee Weng Keat	24/07/08
17 (a)-(e)	Photograph of Chang Jiun Haur	Lee Weng Keat	24/07/08
18	Sketch plan	Ng Kok Foong	24/07/08
19	Video of incident	Ng Kok Foong	24/07/08
20	SUHAKAM picture of W2	Identified by Ng Kok Foong	24/07/08
21	SUHAKAM picture of W1	Identified by Ng Kok Foong	24/07/08
22	Sketch plan	Syed Jaymal Zahiid bin Syed Kamal	24/07/08



23	Sketch plan	ASP Kamalariffin bin Amman Shah	25/07/08
24	Sketch plan	L/Kpl Shahrizan bin Abd. Rashid	25/07/08
25	Sketch plan	P/Kpl Fariz bin Abd. Samad	25/07/08
26	Sketch plan	ACP Mohd Shakaruddin bin Che Mood	27/07/08
27	Sketch plan	Insp. Muhammad Hasmizal bin Hassan	27/07/08
28	Sketch plan	Konstabel Ezez bin Johari	27/07/08
29	Sketch plan	Konstabel Mohd Azniey bin Ahmad Suppian	28/08/08
30	Sketch plan	L/Kpl Gilbert Chua Chian Siong	28/08/08
31	Sketch plan	Konstabel Muhammad Firdaus bin Ab Rasid	29/08/08
32	Sketch plan	L/Kpl Aziri bin Mohamed	29/08/08
33	Sketch plan	Kpl Sharill bin Hj Ismail	29/08/08







EXHIBITS



Exhibit 1

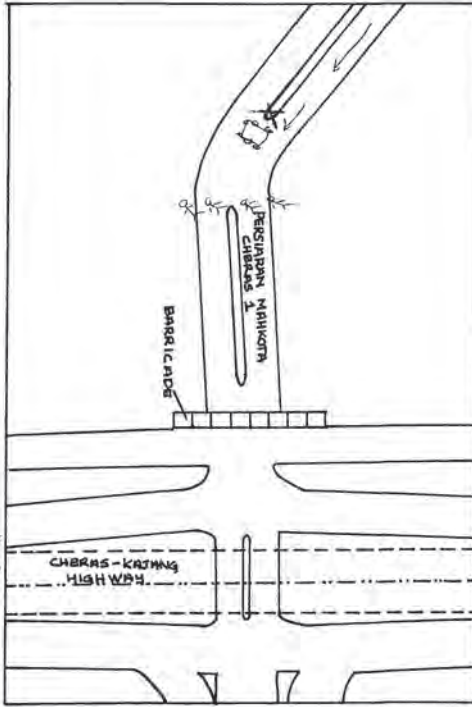


Exhibit 2

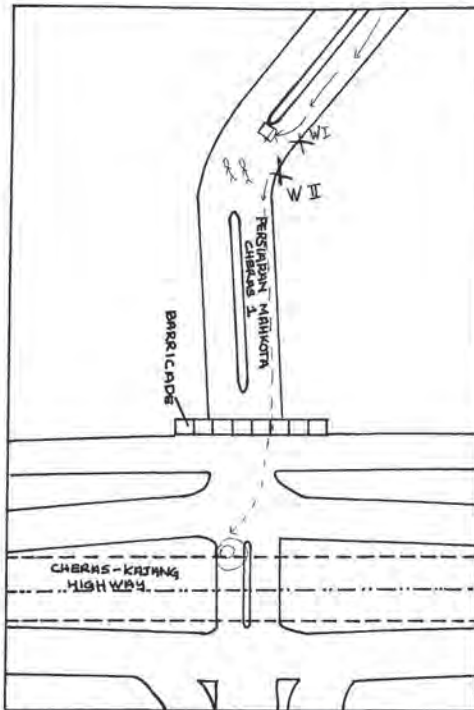




Exhibit 3

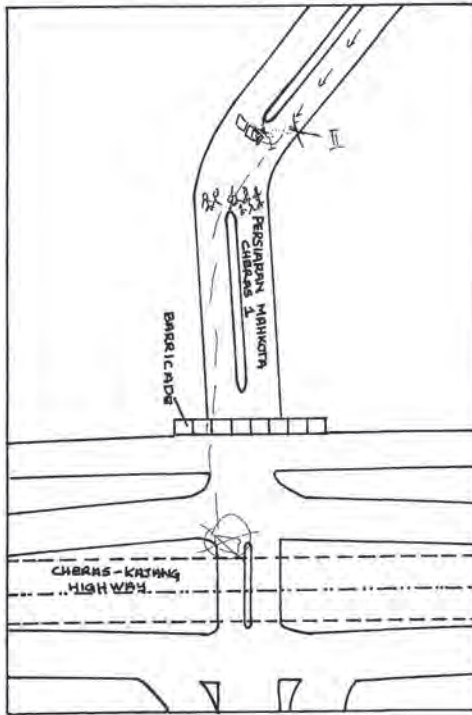


Exhibit 4



LAPORAN PERUBATAN (MEDICAL REPORT)

Jabatan Kecemasan, Hospital Kajang
KEMENTERIAN KESIHATAN MALAYSIA

RP-HKJ-3



Butiran Pesakit (Patient's Particular)

Nama pesakit (patient's name) : CHANG JIUN HAUR

No. KPT (New I/C No.) : 850729-05-5251

Lama (Old):

No. Pasport (Passport No.) : -

MRN : A & E 28652/08

Umur (Age) : 23

Jantina (Sex) : Lelaki (Male)

Perempuan (Female)?

Tarikh masuk wad atau rawatan kali pertama (Date of 1st admission or treatment): 28/05/2008

Tempat menerima rawatan (Place where patient received treatment): Emergency Dept. Hospital Kajang

Tarikh Discharge (Date discharged) : 28/05/2008

Sejarah (History):

Alleged ? Motor vehicle accident ? assault. Patient unable to recollect the incident, but claims was driving a car with his sister, from Port Dickson to his home.

Pemeriksaan Fizikal (Physical examination)

1. Noted 1x1 deep lacerated wound over the bridge of the nose which was bleeding.
2. Noted through and through wound over the upper lip with loss of the one upper incisor with bleeding from the upper lip.

Diagnosis (Diagnosis)

Alleged ? Motor vehicle accident ? Assault with deep lacerated wound over the bridge of the nose and upper lip with cerebral concussion.

Rawatan (Treatment)

IM Voltaren 75mg stat, Att injection,

dental referral for upper lip injury,

toilet and suturing of the deep lacerated wound over the nose,

Adrenaline pack to stop the bleeding and admitted to surgical ward for further management and observation.

Preskripsi ubat (Medications prescribed)

IM Voltaren 75mg stat, Att injection.

Perkembangan pesakit (Patient's last condition)

Patient was admitted to surgical ward for further management and observation.

Cuti sakit yang diberi (Medical leaves given)

Nil

Laporan disediakan oleh (*Medical Report prepared by*):

Name (<i>Name</i>):	Dr. L.Suthananthini	Jawatan (<i>Designation</i>):	PEGAWAI PERUBATAN UD41
Kelulusan (<i>Qualifications</i>):	MBBS	Tarikh (<i>Date</i>):	02.07.2008
Tandatangan dan Cop (<i>Signature & Chop</i>):	<i>L. Suthananthini</i>		

DR. L. SUTHANANTHINI
 PEGAWAI PERUBATAN UD41
 MBBS (BANGALORE)

Exhibit 5

PEJABAT REKOD PERUBATAN
HOSPITAL TUANKU JA'AFAR
JALAN RASAH
70300 SEREMBAN
NEGERI SEMBILAN DARUL KHUSUS
NO TEL: 06-7684000 SAMB. 4108/4140 FAX: 06-7625771



Ruj.Kami: Bil(3107/08)dIm.HTJ/REKOD/ML

LAPORAN PERUBATAN (MEDICAL REPORT) KEMENTERIAN KESIHATAN MALAYSIA

BUTIRAN PESAKIT (Patient Particulars):-

Nama pesakit (Name of patient): **CHANG JIUN HAUR**

No.K/P(I/C No):Baru(New): **850729-05-5251** Lama (Old) : -

NoPassort (Passport No): - MRN : **657138**

Umur (Age) : **22 Y/O** Jantina (Sex) : **MALE**

Tarikh masuk wad atau menerima rawatan buat kali pertama (Date of admission of receiving treatment for the first time) : **29/05/2008**

Tempat menerima rawatan (Place where patient received treatment) :

- Jabatan Kecemasan (Emergency Department)
- Klinik Pakar (Specialist Clinic) : -
- Wad (Ward) : **3 B**

Tarikh discaj dari wad / meninggal dunia (Date of discharge or death) : **30/05/2008**

DISIPLIN (Disciplin) : SURGERY

SEJARAH (History) :

(Including Presenting Complaints, History of Presenting Complaints, Past Medical History, Family History, Social History and Occupational History, Review of Systems, Medical Records reviewed).

Alleged assault by officers on 27/05/2008 at Cheras-Kajang Highway. Claims was hit by hard object over the face and head, subsequently admitted to Kajang Hospital for 1 day. Presented to HTJ due to persistent headache, nausea and unable to take orally.

No short of breath/abdominal pain
No ENT bleed

PEMERIKSAAN FIZIKAL (Physical Examination) :

(Including general assessment, Eye, ENT, Oral Cavity, Respiratory System, Cardiovascular System Abdomen, Genitourinary, Central Nervous System, Musculoskeletal, Mental Health, Status and Others).

Positive

GCS : E4V6M6

Pupil : 3mm equal reactive

Manus ~~Chart x-ray~~ : Negative

Pelvic x-ray : Negative

Lungs : Clear

P/A : Soft

Manus ~~Messy~~ all 4 limbs

Bilateral periorbital haematoma

Laceration wound

- Over nasal bridge ; 2cm

- Upper lip - 2cm

Abrasion wound left axilla

KEPUTUSAN UJIAN MAKMAL AND RADIOLOGY (Summary of investigations):

CT

~~Left~~ brain : Posterior interhemispheric bleed

: No skull fracture

CXR : No abnormalities

Cervical XR : No fracture

DIAGNOSIS MUKTAMAD (Final Diagnosis) :

Alleged assault with

- Multiple laceration wound

- Cerebral concussion with posterior interhemispheric bleed

RAWATAN (Treatment) :

Rumusan prosedur yang dijalankan ke atas pesakit (Summary of procedure carried out on patient) :

Routine observation

Analgesic

T&S done over laceration wound

Preskripsi ubat-ubat yang diberikan kepada pesakit (drugs and other medicaments prescribed to patients) :

IV Maxolan 10mg tds

Perkembangan keadaan pesakit sepanjang di bawah penjagaan doktor termasuk rawatan susulan (Progress of patient while under the care of the doctor including follow up):

Well

No signs of increasing ICP

Keadaan pesakit ketika berjumpa kali terakhir dengan doktor (Condition of the patient last seen by the doctor) :

Tarikh (Date) : 30/05/2008

Well

No specific complaint

Cuti sakit / Sekolah (Medical certificate / school leave) :

Dari (From) : -

Hingga (to) : -

Surat kerja ringan yang diberikan (Light duty given) :

Dari (From) : -

Hingga (to) : -

Laporan disediakan oleh (Report prepared by):

Nama (*Name*): **DR. KUMARESAN SUPRAMANIAM**

No.K/P (*I/C No*): **800808-08-5461**

Jawatan (*Designation*): **MEDICAL OFFICER**

Kelulusan (*Qualification*): **MBBS**

Jabatan(*Department*): **SURGICAL**

Tandatangan (*Signature*):



Tarikh (*Date*): 19/06/08 Masa (*Time*): 8am

Cop Rasmi Hospital (Official Hospital Stamp)

Mk/Dr/Amginal/01/2008

Exhibit 6



LAPORAN PERUBATAN (MEDICAL REPORT)
 Jabatan Ortopedik Hospital Kajang
 KEMENTERIAN KESIHATAN MALAYSIA

RP-HKJ-3



Butiran Pesakit (Patient's Particular)

Nama pesakit (*patient's name*) : CHAN SIEW MENG
 No. KPT (*New I/C No.*) : 770617-06-5893 Lama (*Old*): -
 No. Paspot (*Passport No.*) : MRN : A&E 28655/08
 Umur (*Age*) : 31 Jantina (*Sex*) : Lelaki (*Male*) Perempuan (*Female*)
 Tarikh masuk wad atau rawatan kali pertama (*Date of 1st admission or treatment*): 28.5.2008
 Tempat menerima rawatan (*Place where patient received treatment*): Zon Hijau Kecemasan
 Tarikh Discharge (*Date discharged*) : 28.5.2008

Sejarah (History):

Alleged assaulted by police officers while trying to make a U-turn at a road. Was in the car at the time and was dragged out and beaten.

Pemeriksaan Fizikal (Physical examination)

Fully conscious, GCS full. Bp 133/87, pulse rate 89. Abrasions over face and posterior part of right calf. Bruises over right shoulder and right lower chest.

Diagnosis (Diagnosis)

Abrasions secondary to assault.

Rawatan (Treatment)

Reassurance and analgesics.

Preskripsi ubat (Medications prescribed)

C. Ponstan 500mg tds

Perkembangan pesakit (patient's last condition)

Cuti sakit yang diberi (medical leaves given)

<u>Laporan disediakan oleh (Medical Report prepared by):</u>			
Name (<i>Name</i>) :	DR. NAZIRAH HAMZAH	Jawatan (<i>Designation</i>):	MEDICAL OFFICER
Kelulusan (<i>Qualifications</i>) :	MD (UKM)	Tarikh (<i>Date</i>):	23.06.2008
Tandatangan dan Cop (<i>Signature & Chop</i>) :	Dr. Nazirah Hamzah MD (UKM) Pegawai Perubatan UD41 Hospital Kajang		

MEDICO-LEGAL
KAD RAWATAN UNTUK ORANG SAKIT (LUAR)

ASSAULT
Perubatan 96 - Pin. 178

Nombor Pendaftaran: 28655
 Nama: CHAN SIEW MEN
 Alamat: 1A0 R09
 Nombor Kad Pengenalan: 770617065893
 108208

Jabatan Orang Sakit Luar
 Lelaki/Perempuan: Umur 31 Keturunan C
 Pekerjaan
 Membayar/Tidak membayar/Kakitangan Kerajaan.

TRIAGE ASSESSMENT FORM
 JABATAN KESEHATAN
 HOSPITAL KAJANG, SELANGOR

NON CRITICAL
 A7G1102

TIME: 13:50
 NAME: CHAN SIEW MEN
 SEX: MALE / FEMALE
 HISTORY: Assault

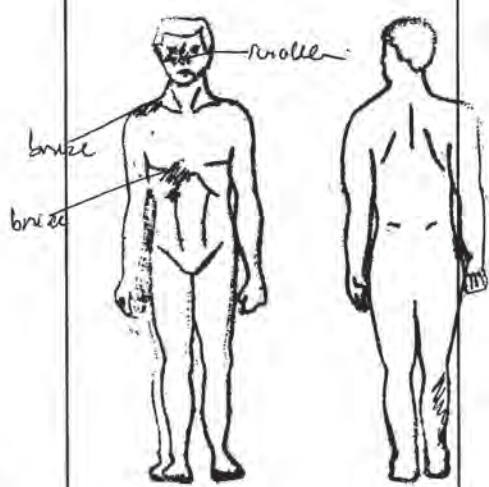
General Condition	Past Medical History	Vital Signs
<input type="checkbox"/> Alert	<input type="checkbox"/> Heart Disease	HR: 87/min
<input checked="" type="checkbox"/> Drowsy	<input type="checkbox"/> Hypertension	BP: 133/87 mmHg
<input type="checkbox"/> Unresponsive	<input checked="" type="checkbox"/> Diabetes	Temp: 36.2 C
<input type="checkbox"/> Breathless	<input type="checkbox"/> Epilepsy	Resp: /min
<input type="checkbox"/> Pale	<input type="checkbox"/> Others	SpO2: 96 %
<input checked="" type="checkbox"/> Weak		GCS: 15

Event: RTA / INJUST ACC / FALL / ASSAULT / MEDICAL /
 BURG / D & G / POISONING / PSY/ENT/ EYE/OTHERS

Sakit: 019614/08: 16/08
 Non Critical
 Rawatan

28 MAY 2008

135
 - Assaulted.
 - AB/wounds, on whole body.
 - Loc -
 - proximal.

Tarikh	Nota
	<p>any accident by police officer @ 11pm. was in the car when trying to make a U-turn at Meriad d. giddy : W.C. Luning. Golo : GCS 19/05</p> <div style="display: flex; justify-content: space-around; align-items: center;">  </div> <p style="text-align: center;">Pen</p> <p>Dr. Mazran Hamzah MAD (M) Perubatan Klinik Malend</p> <p>1/20/09 Doktor yang bertanggungjawab</p>

AD RAWATAN UNTUK

Pendaftaran

Jabatan

Alamat

Nomor



Handwritten notes:
 @
 11/11/09

(Perubatan 96—Pin. 1/78)

AD RAWATAN UNTUK ORANG SAKIT (LUAR)

Pendaftaran _____ Jabatan Orang Sakit Luar _____
 Lelaki/Perempuan. Umur _____ Keturunan _____
 Alamat _____ Pekerjaan _____
 Nombor Kad Pengenal _____ Membayar/Tidak membayar/Kakitangan Kerajaan. _____
 PNMB, K.L.

Nota Pesakit Dalam Rumah Sakit

Tarikh Masuk } _____ Haribulan } _____ Nombor } _____
 Rumah Sakit } _____ diketuarkan } Pendaftaran } _____
 Nama Pakar Perunding } _____ Doktor yang mengedarkan } _____
 atau Doktor } _____ pesakit } _____
 Penyakit Tetap _____ Rawatan _____
 (Diagnosis) (Treatment)

Tarikh	Nota	Rawatan
	JABATAN PENCENAIAN HOSPITAL KAJANG Pegawai: _____ _____ _____ Tarikh: _____ _____	
	SAR: NO # Imp: 87 Dr. Nazirah Hamzah MD (UKM) Pegawai Perubatan Hospital Kajang (Signature)	

REPORT OF SUHAKAM PUBLIC INQUIRY INTO THE 27TH OF MAY INCIDENT AT PERSIARAN BANDAR MAHKOTA CHERAS 1, BANDAR MAHKOTA CHERAS

POLIS DIRAJA MALAYSIA

(Pol. 59—Pin.)

PERMINTAAN UNTUK PEPERIKSAAN DOKTOR BAGI ORANG YANG TERLIBAT DALAM KES POLIS

Kepada PEGAWAI PERUBATAN YANG MENJAGA RUMAH SAKIT... KAJANG

Diminta tuan memeriksa... CHAN SIEW MENG

No. K.P.P.N. 2706170658

Umur... 31 TAHUN

Jenis... LELAKI

Keturunan... CINA

Sebab pemeriksaan dikehendaki:

(Potong mana-mana yang tiada dipakai)

(a) Orang salah

(b) Orang cedera

(c) Orang lain yang terlibat dalam suatu kes Polis

(d) Orang bangsat atau tidak berdaya upaya (di bawah seksyen 6, Bab 191)

(Lihat Borang Surat Akuan di bawah)

Tarikh dan jam dihantar... 0105 HRS 28/05/08

Diiringkan oleh... 016/KPL 132311

No. Aduan/Balai... B2905) 6168/08

Keadaan dan butiran ringkas kes yang berkenaan... KENA PUKUL

Sama ada surat akuan dikehendaki atau tidak... Di-HENDAKI

Sama ada yang berkenaan itu hendak dikawal atau tidak... Di-KAWAL

Tarikh... 28/05/08

Tandatangan...

Signature of the medical officer

K.P.D.

Ulasan Pegawai Perubatan jika surat akuan tidak dikehendaki...

Tarikh...

Pegawai Perubatan...

SURAT AKUAN DI BAWAH SEKSYEN 9 UNDANG-UNDANG ORANG BANGSAT DAN YANG TIDAK BERDAYA UPAYA (BAB 191)

Saya...

mengakui bahawa...

telah dibawa ke hadapan saya dalam kawalan Mata-Mata... didapati berdaya/tidak berdaya mencari sara hidup.

Tarikh...

Pegawai Perubatan...

Pegawai Perubatan dikehendaki melaporkan kepada Polis atau Majistret dengan segera dalam hal keadaan merbahaya yang membawa maut.

Apabila surat akuan dikehendaki maka Mata-Mata yang mengiring hendaklah diarahkan supaya menunggu surat itu dikeluarkan dan kemudian menyampaikannya terus kepada Ketua Polis Balai.

PNMB, K.L.



LAPORAN PERUBATAN (MEDICAL REPORT)
 Jabatan Ortopedik Hospital Kajang
 KEMENTERIAN KESIHATAN MALAYSIA

RP-HKJ-3

EG



Butiran Pesakit (Patient's Particular)

Nama pesakit (patient's name) : **CHAN SIEW MENG**
 No. KPT (New I/C No.) : **770617-06-5893** Lama (Old) : -
 No. Pasport (Passport No.) : MRN : **A&E 28655/08**
 Umur (Age) : **31** Jantina (Sex): Lelaki (Male) Perempuan (Female)
 Tarikh masuk wad atau rawatan kali pertama (Date of 1st admission or treatment): **28.5.2008**
 Tempat menerima rawatan (Place where patient received treatment): **Zon Hijau Kecemasan**
 Tarikh Discharge (Date discharged) : **28.5.2008**

Sejarah (History):

Alleged assaulted by police officers while trying to make a U-turn at a road. Was in the car at the time and was dragged out and beaten.

Pemeriksaan Fizikal (Physical examination)

Fully conscious, GCS full. Bp 133/87, pulse rate 89. Abrasions over face and posterior part of right calf. Bruises over right shoulder and right lower chest.

Diagnosis (Diagnosis)

Abrasions secondary to assault.

Rawatan (Treatment)

Reassurance and analgesics.

Preskripsi ubat (Medications prescribed)

C. Ponstan 500mg tds

Perkembangan pesakit (patient's last condition)

Cuti sakit yang diberi (medical leaves given)

Laporan disediakan oleh (Medical Report prepared by):

Name (Name) :	DR. NAZIRAH HAMZAH	Jawatan (Designation):	MEDICAL OFFICER
Kelulusan (Qualifications) :	MD (UKM)	Tarikh (Date):	23.06.2008
Tandatangan dan Cop (Signature & Chop) :	DR. NAZIRAH Hamzah MD (UKM) Pegawai Perubatan UD41 Hospital Kajang		

Exhibit 7

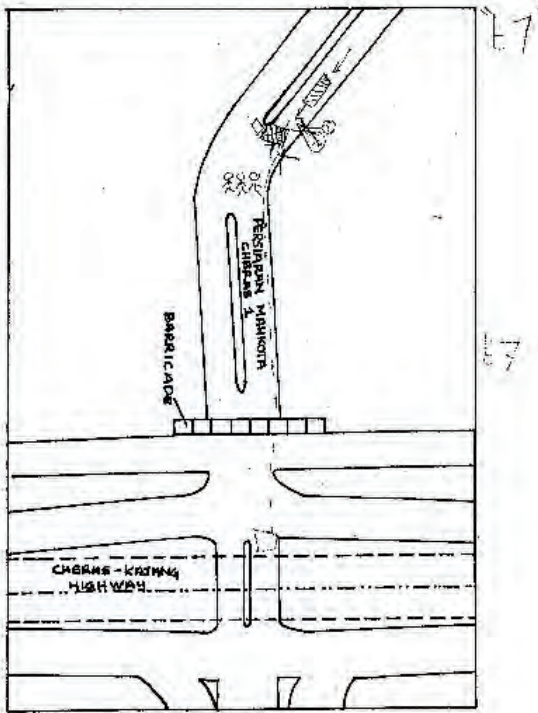


Exhibit 8

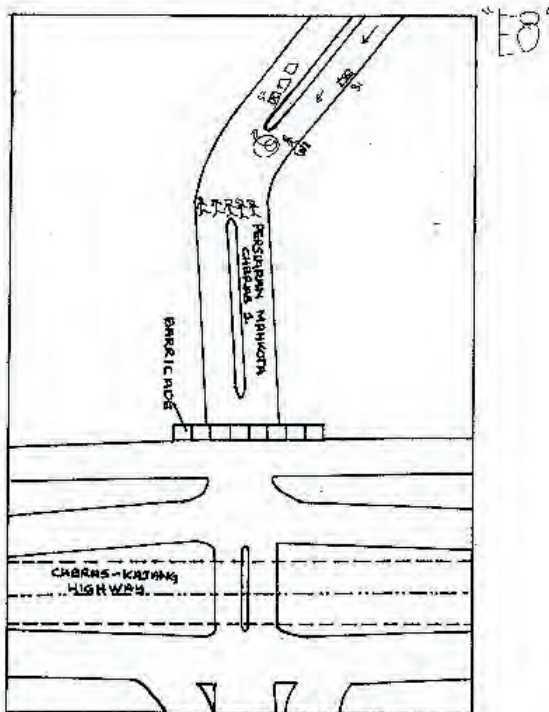




Exhibit 9

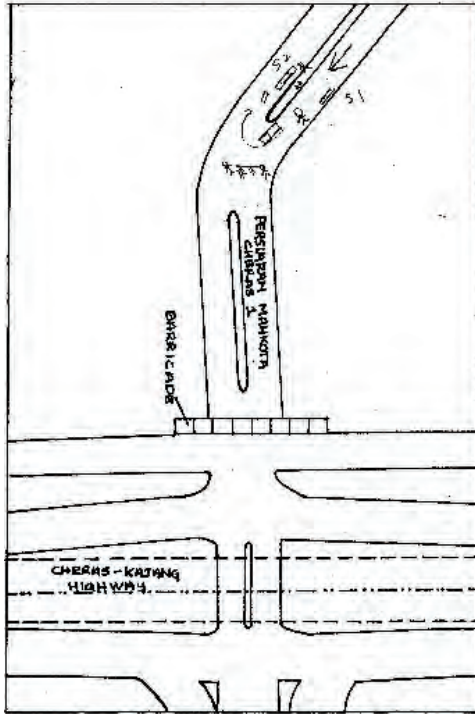


Exhibit 10

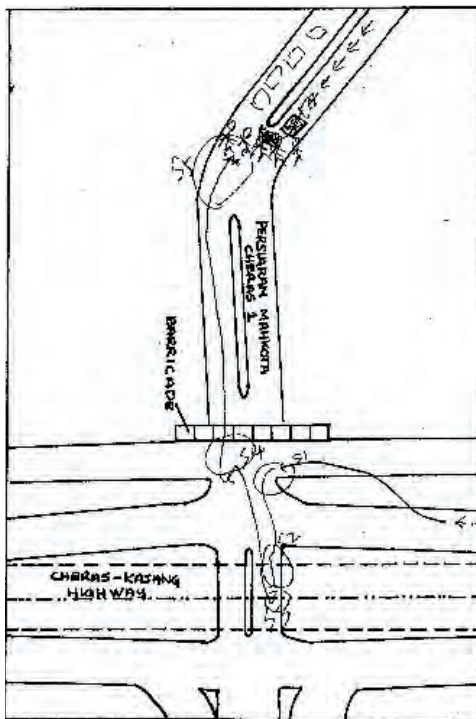


Exhibit 11 - 15 (Video)



Exhibit 16



Exhibit 17 (a)



Exhibit 17 (c)



Exhibit 17 (d)





Exhibit 17 (e)



REPORT OF **SUHAKAM** PUBLIC INQUIRY INTO THE 27TH OF MAY INCIDENT
AT PERSIARAN BANDAR MAHKOTA CHERAS 1, BANDAR MAHKOTA CHERAS



Exhibit 18

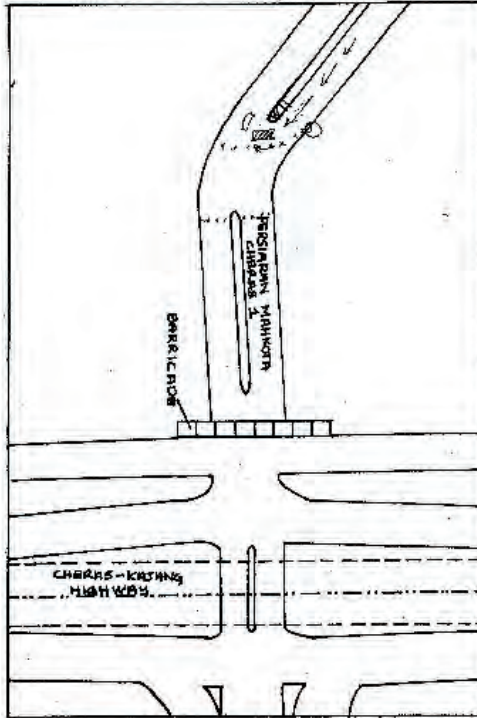


Exhibit 20





Exhibit 21



Exhibit 22

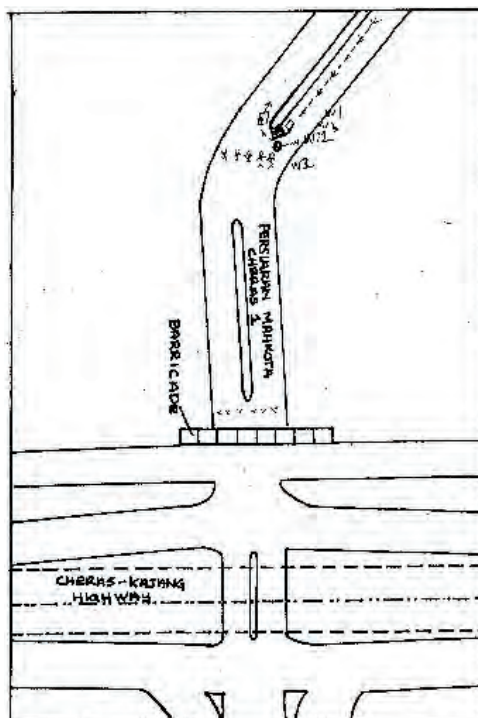


Exhibit 23

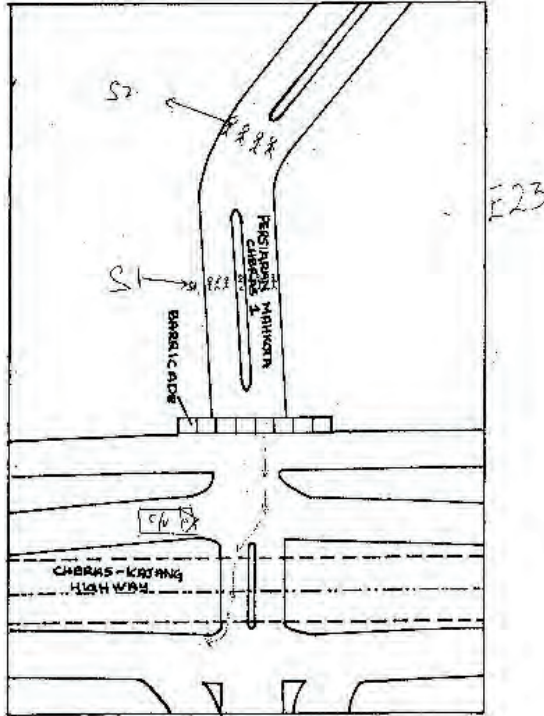


Exhibit 24

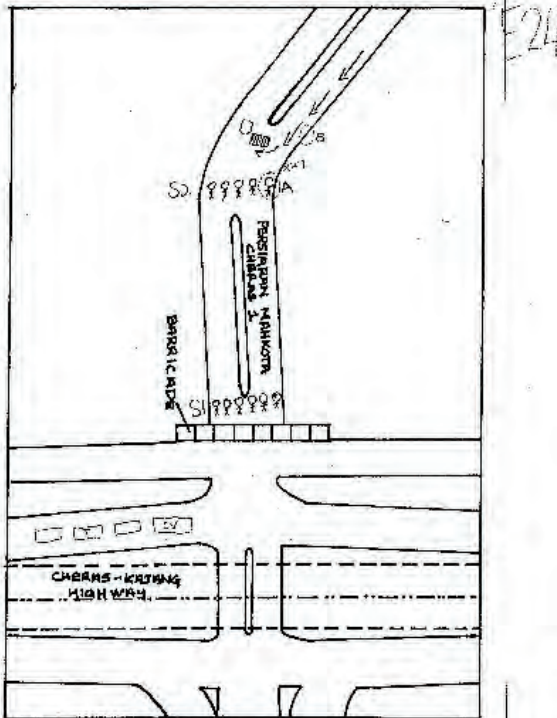


Exhibit 25

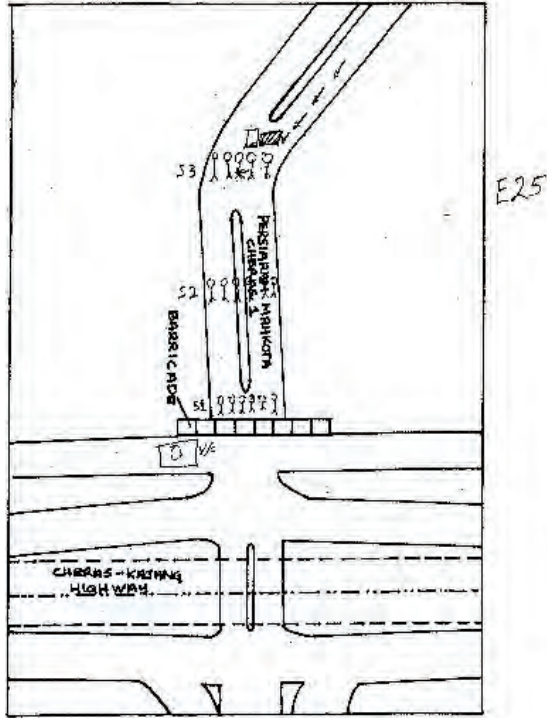


Exhibit 26

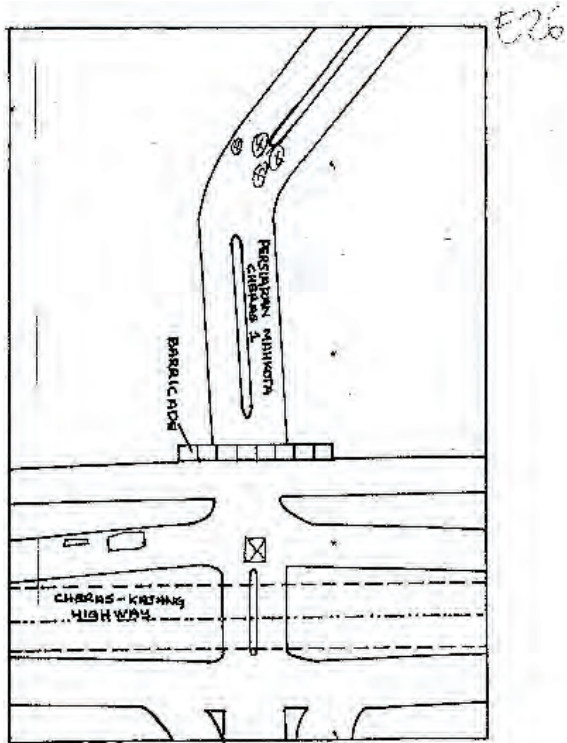


Exhibit 27

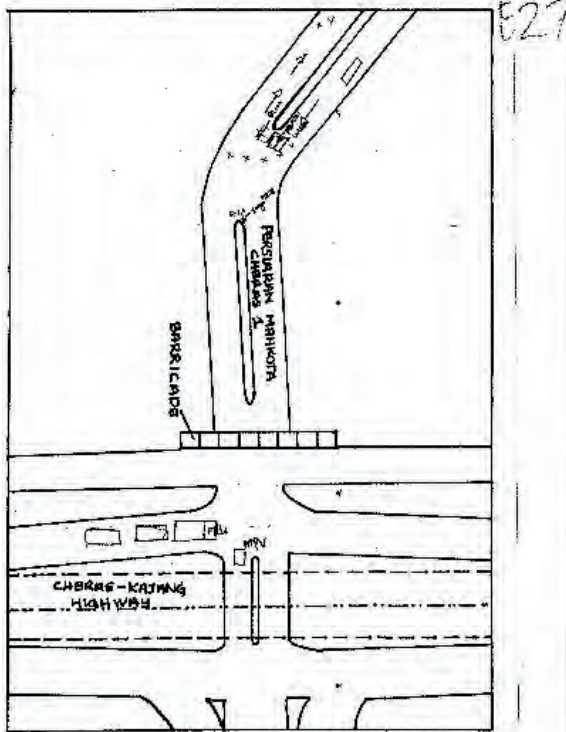


Exhibit 28

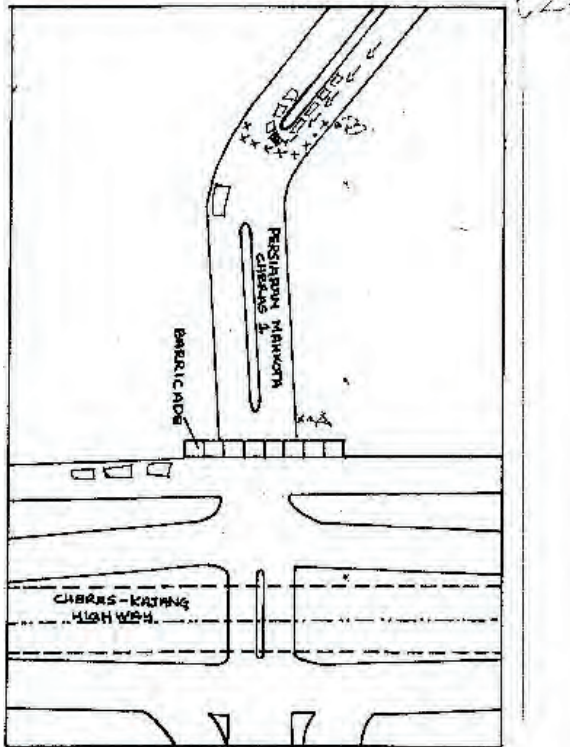


Exhibit 29

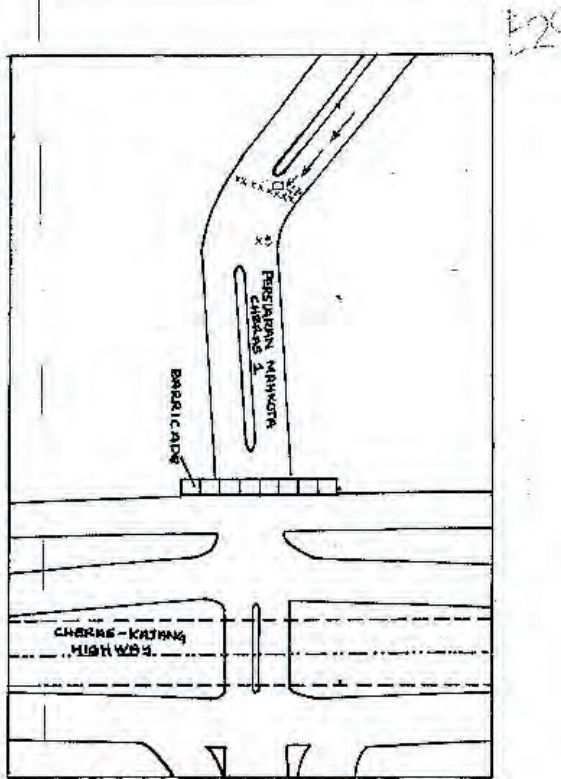


Exhibit 30

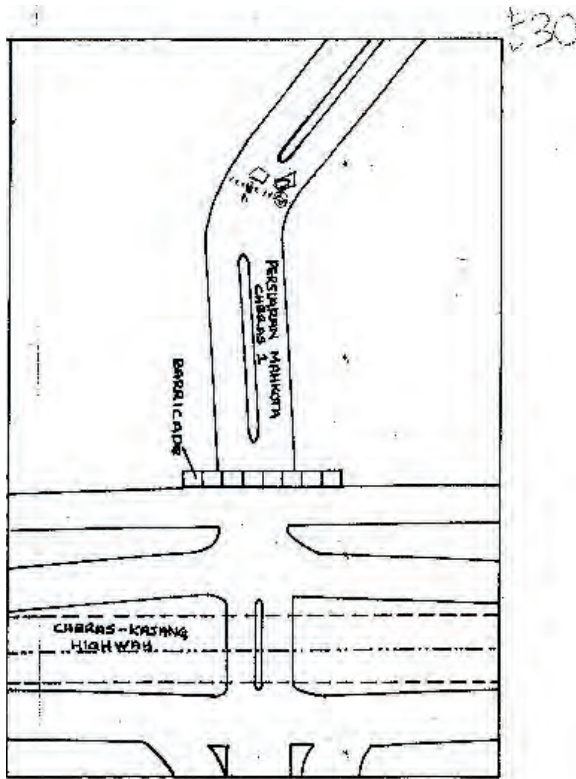


Exhibit 31

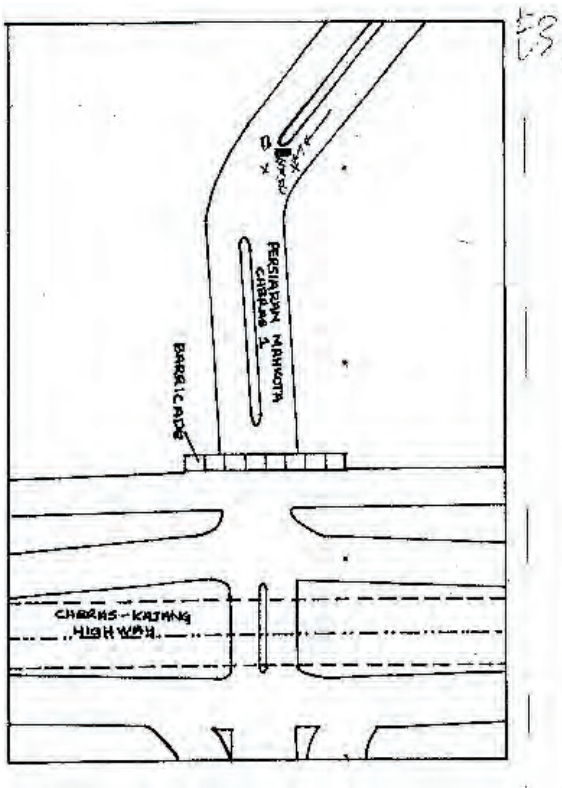


Exhibit 32

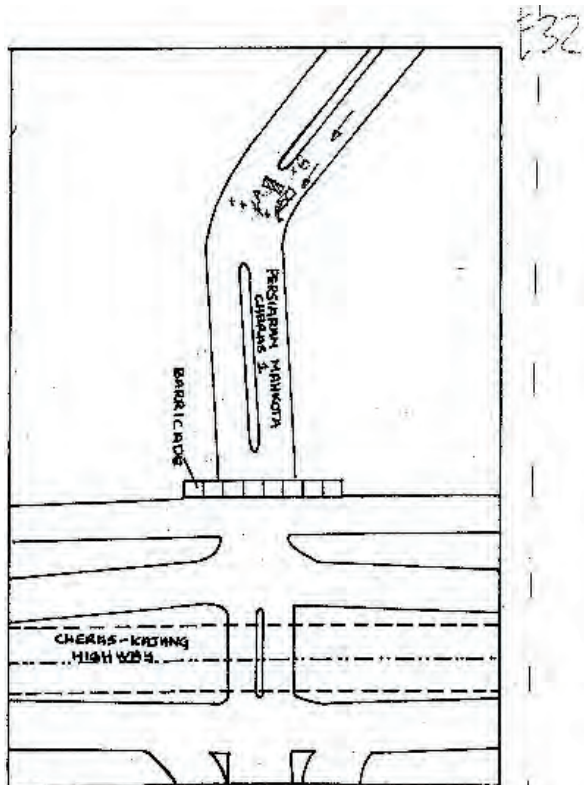
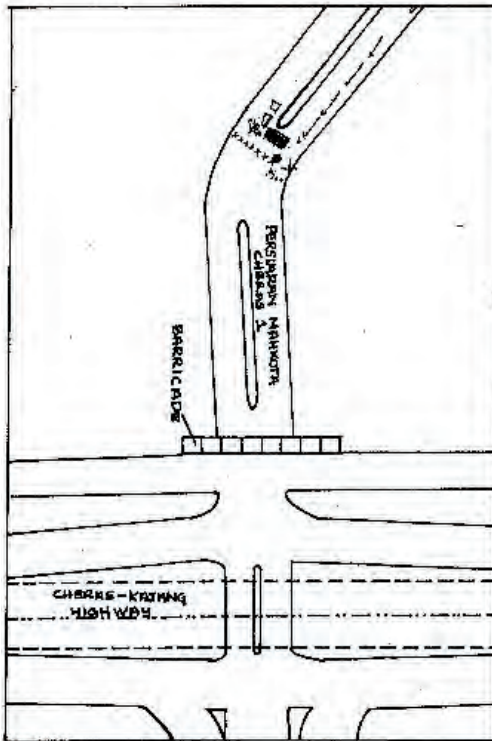




Exhibit 33



E33

