



**REGULAR MEETING MINUTES**  
for  
**Wednesday, October 22, 2008**  
**4:00 P.M. – Case Review**  
**5:30 P.M. – Regular Meeting**  
**5<sup>th</sup> Floor Large Conference Room**  
**3900 Main Street, Riverside, CA**

**CASE REVIEW – 4:00 P.M.**

**Case Review Roll Call**

Rotker	Soubirous	Hubbard	Brandriff	Ward	Pearcy	Corral	Santore	Beeman
✓	A	✓	✓	✓	✓	A	✓	A

✓ = Present    A = Absent    L = Late    LE = Left Early

**STAFF:** Kevin Rogan, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

**Public Comment**

There was no public comment.

**Closed Session – Case Reviews**

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 4:03 p.m. to discuss issues pertaining to PUBLIC EMPLOYEE PERSONNEL MATTERS.

	<b>CPRC CASE NO.</b>	<b>RPD CASE NO.</b>
1)	08-022	PC-08-06036
2)	08-016	PC-08-05031
3)	07-058	PC-07-09066
4)	07-044	PC-07-07054

The Commission recessed at 4:45 PM, reconvening in Open Session at 5:30 PM.

## REGULAR MEETING – 5:30 P.M.

Audio for the open portion of this meeting is available on the CPRC website:

[www.riversideca.gov/cprc](http://www.riversideca.gov/cprc)

Copies can also be obtained by calling the CPRC office at (951) 826-5509.

Chairman Percy asked Ms. Sherron to confirm commissioner attendance.

### Regular Meeting Roll Call

Rotker	Soubirous	Hubbard	Brandriff	Ward	Percy	Corral	Santore	Beeman
✓	A	✓	✓	✓	✓	A	✓	L

✓ = Present    A = Absent    L = Late    LE = Left Early

**STAFF:** Kevin Rogan, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

### Public Comments

Mary Shelton commented on the possible change of the public comment timeframe. She noted her attendance at a recent meeting of “The Group.” She commented on the RPOA’s attending representative’s comments regarding their filing of complaints against the city. She stated there should be a way to deal with length of complaint cases. She also said she was disturbed by the arrest of an RPD officer last week.

4A) Commissioner asked that it be tabled for today.

### Approval of Minutes

Minutes for Approval	Motion	Second	Approve	Oppose	Abstain
A) September 24, 2008 Regular Meeting	Rotker	Santore	<b>Unanimous</b>	0	0
B) October 8 Meeting	Rotker	Santore	<b>Held to address modifications / corrections</b>		
1) Outreach Committee Meeting					
2) Special Meeting					

Regarding the October 8 Minutes, Commissioner Beeman asked:

- for amended verbiage to note that police at the scene did not witness a chase, Pg 4, second paragraph from bottom.
- that her discussion and dispute concerning Mr. Rogan’s statement regarding patrol logs be articulated, Pg. 7, last two paragraphs.
- that “a flippant...” be changed to “the flippant...” in her comment in the Commissioner Comment section, Pg. 8, second sentence.

Chairman Percy advised that staff would make the requested modifications and present the revised minutes for approval at a future meeting.

## **Staff Report**

### **A) Update on IT Project**

Mr. Rogan reported that he was informed that Mac's would not be supported by IT, so two additional laptops were ordered. He noted that the delay with the laptops didn't delay the program as RPD is not yet ready with Laserfiche, but that Lt. Johnson had said they are close to being ready.

### **B) Update on return of Hill and Cloud reports**

Mr. Rogan advised that the Hill casebook was still not available, but that the RPD records manager, Roz Vinson, was still working on it. He noted that the review of the Cloud casebook had not yet started.

Commissioner Beeman asked if there was public access to either casebook. Mr. Rogan said that was not. When questions by Commissioner Beeman why that was the case, Mr. Rogan said that making the casebooks available to the public has given a higher level of awareness regarding what the books contain and that it has been learned that they contain information that should not be available to the public. He said that RPD would not have a problem providing the casebook for use by the Commission, but that the main concern is the casebook in digital format in a public forum. Commissioner Beeman noted that information that is supposed to be publicly accessible is being withheld.

Chairman Percy asked if the casebook could be returned for just the Commission's use prior to it being finalized in a version that is available to the public.

After continued discussion, Commissioner Beeman requested that staff communicate the extreme interest in having the books returned for community access, if it has not already been communicated. Commissioner Ward seconded.

Chairman Percy noted that a motion and second had been made for the notification of the police department that the Commission would like the review and processing of the casebooks to proceed with all due haste.

In additional discussion, Chairman Percy noted that only one person is working on the casebook review. He noted that there should be some portions of the casebook that are public record and that maybe those could be given to the Commission. Asst. Chief DeLaRosa said an incomplete casebook would not be given to the Commission.

Chairman Percy asked Commissioner Beeman if she felt it was necessary to go through with her motion since RPD's 2<sup>nd</sup>-in-command, AC DeLaRosa, had heard the concern. Commissioners Beeman and Ward withdrew their motion and second as long as the issue remains on the agenda for status updates.

### **C) Report on Berkeley case**

Mr. Rogan stated that he wanted to clarify some points in the Berkley case, which had been commented on by Ms. Mary Shelton at a previous meeting. He said that the case originated in 2002 when the Berkley Police Officers' Assoc. (BPOA) sued the Berkley Police Review Commission (BPRC) to stop the Commission's release of information contained in personnel files. The trial court ruled in favor of the BPOA; the BPRC appealed. The California Court of Appeals upheld the trial court's finding in that the laws protect confidentiality on the whole and there could not be partial exceptions.

## **Cloud Officer-Involved Death (OID) Evaluation Process**

Discussion of the Commission's public report regarding the officer-involved death of Douglas Steven Cloud on October 8, 2006:

Chairman Percy opened the item for public comment.

Mr. Salvador Santana expressed his support of the RPD. He also expressed doubt regarding the finding made by the Commission in the Cloud case based on statements contained the Cloud Fact Sheet. He noted that it is the duty of the Commission to review the officers' actions during the 20 seconds prior to the shooting. He said that Item 31 says that Mr. Cloud complied with orders to put his hands up and asked if this was a sign of resistance or compliance. He also asked why Mr. Cloud was shot four to five times by Officer Vazquez and only once by the other officer. He asked that the Commission reconsider its decision.

Ms. Mary Shelton commented on the incident summary which she said was almost a de facto version of officers' versions of events. She also spoke regarding the discussion at the last meeting concerning the definition of "reasonable" in RPD Policy 4.30. She questioned the type of training the Commission has had regarding use of force. She commented on other policies and what the officers' did that led to their actions. She noted that she didn't expect a finding to take place that day and thought it was an abrupt and unfair end.

Ms. Teresa Cloud said she was not surprised by the finding. She said that when her son left the area, he was not being chased. She commented that he was stuck on a tree and disagrees that the officers had only 20 seconds to act. She maintains that they were responsible and that her son didn't have to die because the officers didn't have control of the situation. She said that the Commission serves no real purpose and that everyone serving on it is related to law enforcement or officers. She said she just wants the City to be accountable and make the promised changes.

Chairman Percy asked for comments or suggestions on the initial draft of the public report provided by staff.

Commissioner Ward:

- said that he was absent from the previous meeting and was surprised to learn that a motion had been made and voted on regarding a finding;
- expressed dissatisfaction with the "new method" of OID review;
- said that Item 40 noted that a civilian witness said he never saw Mr. Cloud grab the steering wheel or saw it move;
- noted that Witness Cagle stated that officer statements in the newspaper were inaccurate;
- said that only one or two notices in the fact sheet that are from civilians;
- said that one witness said he thought officers over-reacted;
- said that another witness said he saw no justification for shooting;
- asked how the relationship with RPD would be improved if the community is ignored;
- stated that he, has had a civilian, asks for the case to be reopened.

Commissioner Rotker:

- suggested that the word 'however', in the "Closing" section, be replaced by 'furthermore' or 'additionally.'

Commissioner Beeman requested that deliberation be re-engaged for further discussion.

Chairman Percy noted that there were two commissioner absences at the previous meeting and that none of the recent Commission meetings have had full commissioner attendance. He said business can't wait for full attendance and has to move forward. He also said that Commissioner Ward was present during the entire deliberation of the fact sheet and when it was finalized. He noted that a call was made for additional items or comments and none were requested. He said that if there are any new or significant facts, they can be brought forward.

Commissioner Beeman said all commissioners should be included. She also expressed concern regarding no meeting audio. Chairman Percy said there was nothing that could be done regarding the lack of meeting audio. He also said he had asked Commissioner Brandriff, who was absent from the previous meeting, for his thoughts.

Commissioner Brandriff noted that absences should not impede Commission business. He said he didn't believe it should be redone.

After some additional discussion, Chairman Percy suggested that the Commission review the draft report and be prepared for discussion at the next meeting.

Commissioner Beeman:

- noted on Pg. 2 that Witness Cagle's comment regarding Mr. Cloud being dazed should include his conversation with Mr. Cloud;
- said that the report needs to acknowledge the span of 20 seconds from time officers said they had the car and the notice that a shooting had occurred;
- said to note that no weapon was recovered from car or Mr. Cloud;
- said the report needs to cite both officer and civilian statements.

After more discussion, the following motion was made:

Motion	Motion	Second	Approve	Oppose	Abstain
To continue this matter for one more meeting so that the Commission has the ability to look at the report that has been prepared by staff	Hubbard	Santore	Rotker Hubbard Brandriff Percy Santore Beeman	0	Ward

**Hill Officer-Involved Death (OID) Evaluation Process**

Discussion of the Commission's public report regarding the officer-involved death of Joseph Hill on October 19, 2006, Stage II, Fact Certification Process.

Chairman Percy opened the item for public comment.

Mary Shelton said that the Commission should request the audio recordings of Officer Adcox, saying that there were two contacts prior to the final contact. She said that the audio during incident was incomplete.

She also stated that patrol logs have been made available in criminal cases and was "mystified" that they were not available as part of the public record. She said it would be prudent to look at all contacts between Officer Adcox and Mr. Hill, not just the contact that ended in Mr. Hill's death. She also questioned how the incident escalated so quickly.

Maria Herrera spoke to the witness of the incident. She said he was very scared, that he thought Mr. Hill was murdered, and that he thought the police officers were attacking Mr. Hill. She said the witness told her that Mr. Hill was calling for someone to help him, but no one would. She also noted that the neighbors were saying they were afraid of the police. She said the witness told her he would rather go to Mexico than be a witness.

Commissioner Beeman suggested that if the witness is to be interviewed, it should be by someone who is fluent in Spanish. Chairman Percy asked staff to contact Baker Street Group regarding interviews of Spanish-speaking witnesses.

Leslie Braden said that Ms. Herrera's information is in direct conflict to what the officers say. She also asked that photos of the car be included, noting that she though Mr. Warnberg would have included photos of the car in his report.

Chairman Percy asked Ms. Braden if she had her brother's car; she said she did. He noted that the investigator would not be given access to the vehicle if it was impounded. Ms. Braden asked if RPD had taken pictures of the car. Chairman Percy said he would determine if photos had been taken by RPD.

Ms. Braden requested the inclusion of the officer's history. She also reiterated her desire to review the casebook and asked that casebook be returned.

Chairman Percy noted that if there are any other witnesses that have not been contacted by the investigator, that that information should be given to staff.

Commissioner Ward asked if the witness was interviewed by investigator. When told that he was, Commissioner Ward said that the information just given was contrary to what the Commission has.

**A) Commission Discussion of Underlying Facts**

Chairman Percy advised that staff had provided a revised fact sheet and asked if there were any additional facts to add to list. He also asked AC DeLaRosa about the Hill casebook. (Asks jdI for partial)

Mr. Rogan said it might be possible to make arrangements for commissioners to view the casebook at IA or possibly make a copy from which the Commission could work.

Commissioner Beeman made a motion to hold further discussion until the Hill casebook is returned to the Commission with a second by Commission Ward.

After further discussion, the following vote occurred:

Motion	Motion	Second	Approve	Oppose	Abstain
That the Commission table the process of the consideration of Hill until the casebook is returned to the CPRC office.	Beeman	Ward	Brandriff Ward Beeman	<b>Rotker Hubbard Percy Santore</b>	0

Commissioner Santore asked what dictates probable cause for a police officer.

Commissioner Beeman asked for the length of time for the medical response and asked when the Commission would get the information. Mr. Rogan said they would get the requested information prior to the next meeting.

Chairman Percy asked that all meeting documentation be included when agendas are sent to commissioners.

**Meeting Schedules**

**A) November and December meeting schedules**

Ms. Sherron advised that, due to the holidays, the November and December schedules would part from the norm:

- November meetings would be held on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday: November 5<sup>th</sup> and 19<sup>th</sup>.
- December's only meeting would be held on December 10<sup>th</sup>.

**B) 2009 Meeting Schedule**

Ms. Sherron advised that the 2009 meeting schedule was prepared and basically followed the standard

format of 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays. She noted that November and December would, as always, be exceptions.

Chairman Percy noted that the suggested meeting date for the sole November meeting appeared to conflict with Veterans' Day. Ms. Sherron said she would verify that and change the schedule should there be a conflict.

**C) Meeting Timeframes, consideration of setting a fixed meeting end time**

Chairman Percy noted that, historically, the Commission meetings continue until all agenda items have been addressed. He asked if the Commission would consider agendizing meetings with an end time. He suggested it could be handled by proceeding to whatever point was reached on the agenda by the specified meeting end time and that what was not addressed be rolled over to the next meeting's agenda.

Commissioner Beeman said that making times definite when dealing with OIDs would be helpful to family members and members of the community. She suggested that one case be noted as being handled from 6:00 – 7:00; the next case from 7:00 – 8:00 and that other Commission business is deferred.

Chairman Percy recommended keeping regular schedules and suggested that, as OIDs are not frequent and continuing, separate meetings in a two-hour block of time be scheduled to specifically handle OIDs. Once the OIDs are complete, the separate meetings cease.

Commissioner Rotker expressed concern regarding the Chair's first suggestion, noting there would be a snowballing effect with tabled, left-over agenda items. He agreed with the second suggestion, saying it would be better to hold special meetings for OIDs and have end times.

Commissioner Brandriff noted that there is no problem with end time. Chairman Percy agreed that when the OIDs are concluded, there will be no time problem.

Chairman Percy asked City Attorney Priamos about a public comment section and time notice. Mr. Priamos said a public comment section can be placed anywhere on the agenda, but noted that with a special meeting where OIDs are the only items, a separate public comment section wasn't required as public comment would be just on the OIDs. Mr. Priamos said each OID needed to be shown as starting at 5:30 so that if work on one case ended before the hour was up, the Commission could start on the next case. He also said that time estimates could be noted on the agenda.

Chairman Percy called for a motion.

Motion	Motion	Second	Approve	Oppose	Abstain
That the Commission handle the OIDs on alternating, non-regularly scheduled Wednesdays beginning at 5:30 for a two hour timeslot and that these OID special meetings would be held only when there are OID cases to consider.	Rotker	Santore	<b>Rotker</b> <b>Hubbard</b> <b>Brandriff</b> <b>Ward</b> <b>Percy</b> <b>Santore</b> <b>Beeman</b>	0	0

Chairman Percy noted that the new OID meeting schedule would start after the first of the year.

## **Notification of Family regarding OID Incidents**

### **A) Training on Government Code dealing with notification of family**

### **B) Discussion of RPD policy and possible recommendation**

Mr. Rogan asked if the provided information had been reviewed. Commissioner Beeman said she had wanted to discuss a possible recommendation to RPD policy, but didn't know if it could be discussed at this meeting.

City Attorney Priamos advised that notification of family in the event of an OID was a non-delegable duty; that the coroner could not delegate to RPD the duty to notify families regarding officer-involved deaths.

Chairman Percy noted that, based on that information, the Commission could make no recommendation.

## **Communication between CPRC and City Council**

### **A) Status of requested information sent to the City Council for majority vote**

### **B) Discussion of September 29, 2008 letter from Mayor and Mayor Pro-tem to CPRC Chair**

Chairman Percy said he had thought he would have additional information to present to the Commission, but didn't. He said he had been in contact with a couple councilmembers regarding the issue and had also heard that a few councilmembers considered taking it to a subcommittee. He said there was discussion between two subcommittees as to which should handle the issue and the one that believed it should, would not consider it. He then raised the point to Staff that he hadn't seen a letter to Council regarding the Commission's concerns and asked how the motion was conveyed to Council. Mr. Rogan advised that the motion had been communicated to Council by ACM DeSantis.

Chairman Percy expressed concern that the motion was communicated by ACM DeSantis to Council, noting it was an informal method of communication. He said it should be communicated in a formal letter by the Commission to Council, noting that the method of conveyance raised questions regarding the Brown Act. He also noted that some councilmembers he had spoken with had asked him if there about the motion.

Commissioner Brandriff suggested that Chairman Percy speak before Council during public comment. Commissioner Beeman didn't believe everything that three minutes didn't allow enough time to articulate the Commission's question, the nature of the situation, and the history which could fill in gaps of understanding.

Commissioner Rotker said that the City Manager's directive was clear as to what staff can do regarding investigations. He also noted that the op/ed articles by three councilmembers, then the letter from the Mayor and Mayor Pro-tem, were enough to give the Commission the opinion of the Council.

Chairman Percy argued that one of the councilmembers in the op/ed article suggested, in a later news article, meeting to discuss the issue. He said it shows there needs to be clarification of the issue.

Commissioner Ward noted that three councilmembers opinions in an op/ed piece can't be accepted as Council majority. He said that a formal letter requesting direction and a vote regarding these issues be sent to Council.

Commissioner Hubbard voiced his agreement with Commissioner Rotker's opinion that the Commission serves at the pleasure of the Council. He said that Council is aware of the issue and feels they should address it as they see fit.

Additional discussion included mention of the Long Beach Commission. While the CPRC was modeled after the Long Beach commission, Commissioner Santore noted that investigations of officer-involved deaths were not included in the list of activities handled by the Long Beach commission.

Commissioner Hubbard suggested that, in the interest of time and due to the gravity of the issue, it be tabled until the next meeting when there was full commissioner attendance. Chairman Percy noted that motions had been made and voted on in previous meetings without full attendance.

Commissioner Rotker said he would endorse the letter as long as it noted that it didn't necessarily reflect the opinion of the entire Commission.

Chairman Percy then verified that the Commission wanted the him, as Chair, to write a letter to the Mayor and City Council indicating to them that the Commission has concerns regarding the directive that was put forth by the City Manager and that the Commission's concerns were that the directive impairs the Commission's ability to conduct its investigations as it's required to do under the Charter; that the Commission believes that the directive, by trying to isolate a specific type of case that rarely comes before the Commission, which is an officer-involved death not arising out of the use of a firearm, is to be handled and is the protocol for the handling of all officer-involved deaths, including those that were caused by the use of a firearm.

Commissioner Beeman recommended that the letter also include the history of investigations on the part of the Commission.

Commissioner Rotker asked if his earlier request would be noted in the letter. Chairman Percy said that he would note today's vote of the Commission members by this number to this number along with members names regarding their vote for or against.

Motion	Motion	Second	Approve	Oppose	Abstain
That the Chair write a letter to the Mayor and City Council expressing the Commission's concerns about the City Manager's protocol directive regarding CPRC investigations of officer-involved deaths	Beeman	Ward	<b>Beeman Brandriff Percy Ward</b>	Hubbard Rotker Santore	0

**Commissioner Comments**

There were no commissioner comments.

**Items for Future Commission Consideration**

Commissioner Rotker asked that the ad-hoc committee meet again, unless it would be best to wait. Chairman Percy recommended waiting

Commissioner Beeman asked that the Sanchez OID be agendized so the Commission could vote on conducting an investigation. She also asked that the Commission consideration the situation of Jose Nazario, a former RPD officer, who was acquitted of war crimes alleged against him while serving in the Marines. She said that the Commission should be concerned about any public comment by an RPD officer. Chairman Percy said he didn't believe this situation was relative to the duties of the Commission.

**Adjournment**

The Commission adjourned at 10:00 PM.

Respectfully submitted,



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PHOEBE SHERRON  
Sr. Office Specialist