



**CASE REVIEW / SPECIAL MEETING
MINUTES**

**Wednesday, August 13, 2008 at 4:00 PM
5th Floor Large Conference Room
3900 Main Street, Riverside, CA**

Chairman Percy called the meeting to order at 4:00 PM.

Roll Call

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

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

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

Public Comments

There was no public comment.

Closed Session

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 4:05 p.m. to review the following case(s) involving PUBLIC EMPLOYEE PERSONNEL MATTERS:

	CPRC CASE NO.	RPD CASE NO.
1)	07-058	PC-07-09066
2)	07-073	PC-07-11086
3)	07-078	PC-07-12091

The Commission recessed briefly at 5:25 PM, reconvening in Open Session at 5:30 PM.

OPEN SESSION

Audio for the following proceedings is available on the CPRC website:

www.riversideca.gov/cprc

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

Roll Call

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

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

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

Public Comment

Mary Shelton spoke regarding citizens who have complaints, but those complaints are not going to the CPRC because people don't know about the Commission or its function; because citizens are afraid of retaliation; because "they're not sure it will do any good." She said that the national average of sustained complaints in internal affairs divisions is around 14%, but believes the Commission's average is much lower. Ms. Shelton also noted that Councilman Melendrez is taking citizen concerns regarding the Pablo Incident to the Public Safety Committee.

Salvador Santana commented on the news article he read that said the City Attorney threatened the CPRC if it investigates the Pablo case. He said he sees a contradiction "between what the law says and what the City Attorney says." He also said that he received no replies to the e-mails he sent to various city personnel in his attempt to get further information regarding the case.

Linda Dunn thanked the Commission for providing meeting audio, noting its value.

Investigative Protocol

Chairman Percy introduced this item noting that it resulted from the last meeting when staff briefed the Commission regarding the death of a citizen after officers had contact with him. The question was raised as to whether the Commission was able to send out its investigator, at least to preserve evidence such as witness information. The City Attorney had advised that the Commission needed to wait until the coroner determined whether or not the man's death was connected to or arising from his contact with the officers.

Chairman Percy opened for public comment.

Michael Dunn noted that the Commission has a responsibility to find out what happened in incidents involving the Police Department and the public regarding allegations of abuse of force and OIDs and to advise the city as to what can be done to prevent future incidents. He noted that witness information should give the Commission knowledge as to whether or not a full investigation should take place.

Mary Shelton said she was disturbed that a month had gone by without an investigation. She said the city was putting up obstacles to fulfilling one of the Commission's most important functions. She reminded of the Rabb case, saying that case wasn't treated different than any other OID. She also commented on RPD's lack of response to the Chair's invitation to brief the Commission.

Peter Bibring, an ACLU staff attorney who works on police practices, read about the Pablo incident and listened to the audio of the previous meeting. He expressed concern regarding the stance of the City Attorney and his interpretation of the charter stating that, under California law, the authority to determine jurisdiction rests with the Commission alone because it is an administrative agency. He also stated that the Commission is a quasi-judicial entity because it holds hearings and makes determinations regarding incidents.

As Mr. Bibring exceeded his five-minute comment time frame, yet had more information to impart, Chairman Percy asked for a concurrence of commissioners for an exception to the five-minute rule. Commissioner Beeman moved for the exception with a second by Commissioner Brandriff. There was a unanimous concurrence to let Mr. Bibring continue.

Mr. Bibring stated that there is no basis that the Commission's jurisdiction depends on or requires the coroner's finding. He also commented on potential criminal liability under the charter. He said that California law immunizes policy makers from discretionary decisions so that these people don't make their decisions based on fear of liability.

Commissioner Brandriff asked for a definition of administrative agency. Mr. Bibring said he believes the Commission is an administrative agency because it has authority delegated to it by the charter.

Commissioner Beeman suggested a special meeting at end of this meeting to take up the investigation issue. Chairman Percy said that Item 5 was agendaized to specifically cover the Pablo case.

Deborah Wong stated that the Commission has the right to proceed with an investigation of the Pablo case and urged it to do so.

Following public comment, commissioners engaged in discussion regarding a possible investigation into the Pablo case. This discussion resulted in two motions:

Motion	Motion	Second	Approve	Oppose	Abstain
To extend a written invitation to Chief Leach to address the Commission regarding the Pablo case, with a request for an explanation if the invitation is declined	Beeman	Brandriff	5	3	0

Motion	Motion	Second	Approve	Oppose	Abstain
To conduct a preliminary investigation regarding the death of Martin Pablo	Beeman	Brandriff	5	3	0

Following the vote regarding the investigation, the following motion was made:

Motion	Motion	Second	Approve	Oppose	Abstain
To use Dr. Martinelli to conduct the preliminary investigation for the Pablo case	Ward	Brandriff	6	2	0

A) Staff report on other agency standards

Mr. Rogan, per Chairman Percy's request, assessed other oversight agencies in California to learn of their responses to OIDs. Mr. Rogan learned that:

- the Los Angeles Police Department and the San Francisco Police Department send independent investigators to the scene of officer-involved deaths.
- Riverside's Commission is the only other over-sight agency in California that has roll-out ability.
- San Jose has an auditor who is notified when critical incidents occur and decides whether or not to go to the scene. The auditor has no independent investigator and relies on the San Jose Police Department for incident information.
- Los Angeles County has five independent staff attorneys who rely completely on the investigations conducted by the Los Angeles County Sherriff's Dept.
- Some agencies have independent investigators, but they aren't sent out to the scene. The investigators may be used in complaint cases to respond to the police investigation.

Discussion regarding investigation protocol occurred, resulting in the following motion:

Motion	Motion	Second	Approve	Oppose	Abstain
To create an ad-hoc sub-committee to review and recommend changes to existing officer-involved death investigation protocol or to establish protocol if none exists	Beeman	Ward	5	3	0

Commissioner Beeman volunteered to chair the sub-committee with Commissioners Ward, Brandriff, and Rotker volunteering as sub-committee members.

Based on the creation of the ad-hoc sub-committee, Chairman Percy tabled Items 5B and 5C.

Hill Officer-Involved Death (OID)

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

Mr. Rogan advised that Baker Street Group had been contacted and that Mr. Warnberg would provide sketches and a fact list. Mr. Rogan also said he would update the Commission regarding the date Mr. Warnberg would be presenting the requested information.

Chairman Percy opened the item for public comment.

Leslie Braden thanked Chairman Percy for requesting the Baker Street Group to conduct further investigation on her brother's case. She also gave thanks for inviting the Police Chief to address the Commission. She asked the Commission to investigate the background of officers prior to their employment with the RPD.

Mary Shelton thanked the Commission for having the Baker Street Group do additional work on the Hill case. She expressed concern about officer contacts with Mr. Hill and asked if the recorder turned on at each contact. She said there are still many questions in the case.

When asked by Chairman Percy, commissioners had no comments, questions, or direction to staff on items prior to the next meeting.

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:

- A) Complete Stage II, Fact Certification Process
- B) Initiate discussion of Stage III, Policy & Procedure Certification Process

Mr. Rogan advised that Items 45 – 48, containing information regarding the coroner's findings, had been added to the Fact Sheet (attached to digital version of minutes). He also advised, in response to Commissioner Rotker's question, that diphenhydramine is an antihistamine and that Mr. Cloud had about one tablet's worth of the over-the-counter medicine in his system.

Teresa Cloud stated that her son took Benadryl on daily basis. She also commented on items on the Fact Sheet:

- #16 – never heard it said that James Taliaferro was knocked down by car;
- #31 – heard several things that said he wasn't complying;
- #34 – the car was damaged and the doors wouldn't open; her son was stuck in the car;
- #37 – whether or not the car was running is a mute point;
- #41 – Officer Vazquez said he thought the car would hit other officers and that's why he shot;
- #42 – maybe her son was trying to put car in gear when reaching toward center console; it isn't a reason to shoot him;

She questioned why less-than-lethal weapons weren't used. She noted there are many good officers, but there are some people who shouldn't be officers. She also thanked the commissioners for volunteering for this commission. She said her family believes they were lied to in order to get them to sign a settlement agreement. She hopes the Commission will investigate and do what it's charged to do.

The Commission then reviewed the Cloud OID Fact Sheet:

Disputed facts:

3) Commissioner Beeman – shouldn't say "chase," but "follow"

5) Commissioner Beeman – the word "chase"

6) Commissioner Beeman – "assist in chase"

8) Commissioner Beeman – Loss Prevention employees were gone

10*) Chairman Percy – relevant to policy? Commissioner Beeman anticipates raising discussion regarding what the Commission considers, but doesn't want to limit facts just to relevancy to Policies & Procedures (*further discussion to take place at later date)

12) Commissioner Beeman – was done as closing door

15, 17) italics = conflicting information

21) Commissioner Beeman – obtain information regarding what Officer Putnam broadcast on his radio call

26) Commissioner Beeman – expand to note the brief conversation between Mr. Cagle and Mr. Cloud

30) Chairman Percy – add "When Stennet first approached the passenger side, his weapon was not drawn."

34) Commissioner Beeman – question about whether or not Mr. Cloud was stuck due to damage to car

35) Commissioner Beeman – conflicting reports

36) Chairman Percy

Chairman Percy asked if there were any other facts to include. As there were not, Stage II was tentatively closed. The Evaluation Process moved now to Stage III, Policy and Procedure Certification Process. He asked that commissioners communicate with staff any RPD policy and procedure questions or concerns they might have.

The Commission adjourned at 9:00 PM.

Respectfully submitted,



PHOEBE SHERRON
Sr. Office Specialist