



**ISABEL PABLO
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

CPRC Case No. 12-017

RPD Case No. P12067271

Approved on
June 12, 2013

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Date of Incident: May 13, 2012

Location: Intersection of Madison Street and Emerald Street

Decedent: Isabel Pablo

Involved Officer(s): Officer Michael Boulerice

I. Preamble:

The finding of the Community Police Review Commission ("CPRC" or "Commission"), as stated in this report, is based solely on the information presented to the Commission by the Riverside Police Department (RPD) Accident Investigation Report and criminal case files, and a follow-up investigative report submitted by CPRC Independent Traffic Reconstruction Expert, Steven J. Bellino, California Traffic Specialists, Huntington Beach, California. The Commission reserves the ability to render a separate, modified, or additional finding based on its review of the Administrative Investigation conducted by the Office of Internal Affairs. Since the Administrative Investigation contains peace officer personnel information, it is confidential under State law, pursuant to CPC §832.7. Any additional finding made by the Commission that is based on the Administrative Investigation is also deemed confidential, and therefore cannot be made public.

II. Finding:

On April 24, 2013, by a vote of 6 to 0 (2 vacancies, 1 abstention), the Commission found that Officer Boulerice's actions on the morning of May 13, 2012, were not the proximate cause of Ms. Isabel Pablo's death when he struck Isabel Pablo with his marked police vehicle. The Commission based their findings on the objective facts and circumstances determined through the Commission's review and investigation.

Rotker	Smith	VACANT	VACANT	Ortiz	Jackson	Roberts	Maciel	Adams
✓	✓	■	■	✓	✓	✓	Abstain	✓

III. Standard of Proof for Finding:

In coming to a finding, the Commission applies a standard of proof known as the "Preponderance of Evidence." Preponderance generally means "more likely than not," or may be considered as just the amount necessary to tip the scale. The Commission need not have certainty in their findings, nor do they need to support their finding "beyond a reasonable doubt."

The Preponderance of Evidence standard of proof is the same standard applied in most civil court proceedings.

IV. Incident Summary:

At approximately 7:49 AM on Sunday, May 13, 2012, Officer Boulerville was driving his patrol car northbound on Madison Street when pedestrian Isabel Pablo walked from the southeast corner of the intersection westbound onto the roadway and into the path of the approaching police vehicle. Ms. Isabel Pablo was struck by the police vehicle and sustained fatal injuries.

V. CPRC Follow-Up:

The Commission requested a cover-to-cover review of RPD's Accident Investigation Report by CPRC Independent Investigator Steven J. Bellino, a state-wide recognized expert in Traffic Accident Reconstruction. The purpose of this review was for Mr. Bellino to assess and analyze the RPD report and provide the Commission with his findings based upon his experience and expertise. Mr. Bellino felt that the investigation conducted by the Riverside Police Department was complete, accurate, and the most thorough traffic accident reconstruction report that he has ever reviewed. It is his expert opinion that there was nothing more that the RPD investigator could have done that would change the outcome of this case.

Based on his training, education, and experience, Mr. Bellino concluded that Ms. Pablo was the proximate cause of the traffic collision by having entered the roadway outside of a crosswalk and that she failed to yield the right of way to the on-coming police vehicle, in violation of California Vehicle Code 21954(a).

VI. Evidence:

The relevant evidence in this case evaluation consisted primarily of in-car video footage, mathematical calculations designed for the purpose of traffic accident reconstruction, testimony, including that of several civilian witnesses, a witness police officer, the involved officer, and a Deputy Coroner. Other evidence included police reports and photographs, forensic examination results, and a report by the CPRC independent investigator, a traffic accident reconstruction expert.

VII. Applicable RPD Policy(s):

- 4.17 MOBILE EQUIPMENT, OPERATION OF

VIII. Additional Policies Reviewed:

- 4.40 USE OF MOBILE DATA TERMINAL/MOBILE DATA COMPUTER
- 6.6 ACCIDENTS INVOLVING POLICE DEPARTMENT VEHICLES
- 6.10 COLLISION REVIEW: ON DUTY POLICE VEHICLES

IX. Vehicle Codes & Applicable Laws:

CALIFORNIA VEHICLE CODES

- VC§ 21950. Right-of-Way at Crosswalks
- VC§ 21954. Pedestrians Outside Crosswalks
- VC§ 23123.5. Text Messaging While Driving
- VC§ 165. Authorized Emergency Vehicle
- VC§ 21052. Public Officers and Employees

X. Rationale for Finding:

In this case, the undisputed factual findings of both the Department's investigation and the Commission's independent investigation support the conclusion that Officer Boulерice was not the proximate cause of the accident that, lamentably, took the life of Isabel Pablo.

The facts show the following: A short time before the collision at 7:49 AM on Sunday morning, May 13, 2012, Ms. Pablo was walking westbound on the south side of Emerald Street, approaching the southeast corner of Madison Street, in Riverside, California. At the time, Ms. Pablo had a blood/alcohol content (BAC) of 0.39%, almost five times the legal limit for driving and a percentage above that used for surgical anesthesia.

At approximately the same time, Officer Boulерice was driving his police vehicle, Unit 3934, northbound on Madison Street, approaching its intersection with Emerald Street. Both the Department's investigation and the Commission's independent investigator opinion, conclude that the line of sight between Officer Boulерice and Ms. Pablo was obstructed by a red 2010 Toyota Tacoma pickup, which was parked on the east side of Madison Street south of Emerald. Additionally, the investigations conclude that vegetation growth from planters also obstructed Officer Boulерice's view of Ms. Pablo as she approached the roadway of Madison Street.

Without first stopping and looking southward to check for oncoming traffic, Ms. Pablo entered the roadway and began crossing Madison Street. This location was not a marked crosswalk nor did it constitute an unmarked crosswalk under California Vehicle Code (VC) § 275. Thus, under VC§ 21954, Ms. Pablo had an obligation to yield the right-of-way to oncoming traffic. She failed to do so. At the same time, Officer Boulерice was traveling at

approximately 40 miles per hour, approximately five miles faster than the posted limit which, on that roadway, is a recommended speed, not “prima-facie” speed. This means that the 35 mph limit can be reduced or exceeded, depending upon the conditions that exist at the time.

The basic speed law that would apply in this situation is determined by VC§ 22350 which prohibits speeds greater than is reasonable or prudent. The Commission’s traffic consultant testified that Madison Street could have safely maintained a 40 mile-per-hour limit and, given the early hour of the accident and all associated surroundings, Officer Boulerville’s speed was not determined to be unreasonable. While the speed traveled by Officer Boulerville was still an issue of discussion amongst Commissioners, there was insufficient evidence to use this as a proximate cause or even an associated factor in the collision.

Ms. Pablo was only 137.90 feet from Officer Boulerville’s vehicle when she could have first reasonably been visible to oncoming traffic, and she continued toward oncoming traffic such that she was only 127.82 feet from Officer Boulerville’s vehicle when she entered traffic. From the time she first could have possibly been visible, skid marks indicate that it took Officer Boulerville only 1.697 seconds before he applied his brakes. Officer Boulerville’s reaction time was better than the average, undistracted driver’s reaction time, which recent studies have shown at 2.3 seconds. Because Officer Boulerville was traveling at 40 miles per hour, and because it took him 1.697 seconds to react, his vehicle needed at least 162.28 feet to stop. Notably, even if Officer Boulerville had been traveling five miles per hour slower – the posted speed – he still would have needed at least 135.27 feet to stop. Expert testimony established that, in either case, Officer Boulerville could not have prevented the collision or the fatal injuries that resulted.

Community members suggested that Officer Boulerville may have been distracted by his use of mobile devices at the time of the accident and that those actions contributed to the collision. Some Commissioners felt that this topic was in need of discussion as it relates to the accident so that it is clear whether or not Officer Boulerville was distracted by use of his Mobile Data Terminal (MDT). Evidence suggested that Officer Boulerville had received an MCT message and had begun to type a response near the time of the accident. In reviewing both the RPD and Mr. Bellino’s investigative reports, the evidence does not appear to support that conclusion. A search warrant was also obtained for Officer Boulerville’s cell phone records and no evidence was uncovered indicating that Officer Boulerville was either making text messages or participating in an incoming or outgoing cellular call on his personal phone at the time of the accident.

Anecdotal evidence suggests that Officer Boulerville had recently used his patrol vehicle’s MDT prior to the accident. However, given Officer Boulerville’s exceptional reaction time when he observed Ms. Pablo enter the roadway, combined with the distance traveled once he applied the brakes, the evidence reflects he was not using it at the time Ms. Pablo became visible to him. In addition, he could not have been distracted by any other

means. Moreover, the general use of the MDT is not prohibited by law, but is restricted (VC§ 21055). VC§ 23123.5 generally prohibits sending texts by wireless devices while driving, but expressly excludes emergency service professionals, defined to include police officers. (See VC§ 165 [defining authorized emergency vehicle].) Even with this exception, however, all drivers – including police officers – are obligated to exercise due care for the safety of pedestrians in the roadway. (See VC§ 21954(b).) Thus, even if there is no express law or policy detailing appropriate MDT usage, there exists a duty to use the MDT reasonably such that due care is preserved. There is no evidence, however, that Officer Boulерice’s use of the MDT violated his duty of due care.

The Commission concluded that the proximate cause of the accident was Ms. Pablo’s failure to yield to oncoming traffic as she was obliged pursuant to VC§ 21954(a) while crossing the roadway outside of a marked crosswalk. Pursuant to Section 21954(b), Officer Boulерice was still obligated to exercise due care for the safety of Ms. Pablo as a pedestrian in the roadway, but outside of a crosswalk. Officer Boulерice’s actions and efforts to stop his vehicle satisfied that duty.

XI. Recommendations:

Although the use of the MDT or any other electronic device did not contribute to the proximate cause of the collision, the review of the policy, coupled with the lively discussions between Commissioners, as well as that of members of the public, the Commission considered making a recommendation to the Chief of Police to review the policy and consider making adjustments that would be more specific and restrictive, and more in line with most other police agencies in the State of California. The Commission reviewed the Use of MDT policy as written in a generic Police Policy Manual known as “LEXIPOL,” that is utilized by most police agencies in California. The Commission felt that the LEXIPOL Policy is more specific and definitive than that of RPD.

Prior to the writing of this report, Chief Sergio Diaz and his staff updated RPD’s MDT Policy. The Commission reviewed the new policy and felt that the language addressed their concerns and provides more clarity to officers. Thus, no formal recommendation was made.

XII. Closing:

At the time of the traffic collision, Officer Boulерice was operating his marked police vehicle in a manner consistent with Departmental Policy and California traffic laws. Ms. Isabel Pablo was intoxicated with a blood/alcohol level of .39% when she stepped into the roadway outside of a crosswalk and without stopping or looking for oncoming vehicles. Under the circumstances and conditions, Ms. Pablo had a duty under California Vehicle Code Section 21954(a) to yield the right-of-way to the oncoming police vehicle.

Officer Boulerice reacted to the presence of Ms. Pablo entering the roadway faster than the average person in his age bracket. The national standard mathematical calculations applied by the investigators in this case concluded that Officer Boulerice was not distracted at the time and that although he exceeded the posted speed limit of 35 mph, he used all reasonable means to stop in order to avoid striking Ms. Pablo. The evidence concluded that even if Officer Boulerice had been driving at the posted speed of 35 mph, he still would not have been able to stop in time to avoid the collision.

The Commission offers it empathy to the community members, police officers, and City employees who were impacted by the outcome of this incident, as any loss of life is tragic regardless of the circumstances. This incident was truly an accident.

APPENDIX

RPD Press Release / Press-Enterprise Articles	Section A
Steven J. Bellino, California Traffic Specialists Traffic Collision Reconstruction Review Report	Section B
RPD Policy 4.17, (Rev. 4, 8/18/09): Mobile Equipment, Operation of	Section C
RPD Policy 4.40 (Rev. 2, 2/1/01): Use of Mobile Data Terminal / Mobile Data Computer	Section D
RPD Policy 6.6, (Rev. 1, 10/6/97): Accidents Involving Police Department Vehicles	Section E
RPD Policy 6.10, (Rev. 1, 3/95): Collision Review: On Duty Police Vehicles	Section F
Applicable California Vehicle Codes: <ul style="list-style-type: none">• VC§ 21950. Right-of-Way at Crosswalks• VC§ 21954. Pedestrians Outside Crosswalks• VC§ 23123.5. Text Messaging While Driving• VC§ 165. Authorized Emergency Vehicle• VC§ 21052. Public Officers and Employees• VC§ 21055. Exemption of Authorized Emergency Vehicles	Section G

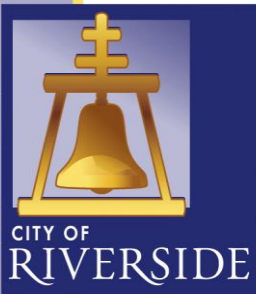
Section A

RPD Press Release

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Press-Enterprise Articles





# ***PRESS RELEASE***

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Riverside Police Department • 4102 Orange Street • Riverside, CA 92501  
Phone (951) 826-5147 • Fax (951) 826-2593

## **FOR IMMEDIATE RELEASE**

**Date:** Sunday, May 13, 2012  
**Contact:** Lieutenant Eric Charrette  
**Phone:** (951) 826-8777

### **Major Injury Traffic Collision**

Riverside, CA -- On Sunday, May 13, 2012, at about 7:49 AM, a Riverside Police Officer was on-duty and driving his marked patrol unit north on Madison Street. As the officer approached the intersection at Emerald Street, a female pedestrian attempted to cross, walking west from the east roadway edge of Madison St. The patrol unit collided with the pedestrian, as she walked briskly outside of the crosswalk.

Riverside Fire and AMR paramedics responded and treated the pedestrian, who suffered major injuries. The woman was transported to Riverside Community Hospital, where she is listed in serious condition.

Members of the department's Major Accident Investigation Team responded and investigated the collision.

Anyone with information related to this investigation is urged to contact Detective Rick Prince at 951-826-8722.

### 12-067-271###





## RIVERSIDE: Police car hits woman



DAVID KECK/STAFF PHOTOGRAPHER

Investigators from the Riverside police Major Accident Investigation Team take measurements after a woman was hit by a Riverside police car at Emerald and Madison in Casa Blanca on Sunday morning, May 13, 2012.

BY DAVID KECK

STAFF WRITER

[dkeck@pe.com](mailto:dkeck@pe.com)

Published: 13 May 2012 04:21 PM

A Riverside police cruiser hit and critically injured a woman as she crossed Madison Street in front of St. Anthony's Church in Casa Blanca on Sunday morning.

An ambulance took the woman to Riverside Community Hospital minutes after the 7:49 a.m. accident. Though the Riverside County coroner had not officially recorded the death of the woman by early Sunday evening, her son said he had heard from the hospital about 3 p.m. that Isabel Pablo Tomas had died.

"The hospital tells me I have to come," said Pedro Tomas, who runs a small store a glance down Madison Street from where his mother was hit. "I have to make her go in peace."

A police news release stated that the woman was crossing from the west side of Madison to the east, outside the crosswalk, when an on-duty officer in a marked patrol car struck her. The woman suffered major injuries, it stated. Members of the Police Department's Major Accident Investigation Team were investigating.

The name of the officer involved in the accident was not included in the release. A call to Lt. Eric Charrette for further details was not immediately returned.

There were no sirens, no flashing lights on the patrol car when Angel Gaytan Jr. went to find out what had happened. Gaytan said he was in the front yard of his home on Emerald Street when he heard a loud bang and walked to the nearby corner where the woman had been hit.

He saw her lying on the pavement perhaps 20 feet outside of the crosswalk. A male officer sat on the hood of his car, his head buried in his hands as he shook. An officer in another patrol car that had apparently been following in tandem was calling for help, Gaytan said.

Gaytan said he noticed that one of the woman's sandals was under the patrol car that had hit her, which had come to a stop on the crosswalk spanning from Emerald across Madison. He figured there were about 10 people near the corner there who saw the crash, including three women on the corner of Emerald next to the church selling flowers and small gifts for Mother's Day.

As for the woman who had been hit, Gaytan figured she was dead.

"She was unresponsive," he said.

No one looking out from the open garage door of the Quintero home on Emerald a few houses down from where police traffic investigators worked Sunday afternoon knew much about the injured woman. They knew she lived nearby, but didn't know exactly where.

Rudy Quintero, 35, said he thought she was from Guatemala and had lived in the neighborhood about five years. They saw her walking about every day. She seemed friendly and waved to most everyone she saw, a little dog tailing her every move. On Sunday morning, it was a little white Chihuahua, he said.

Rudy Quintero's sister, Angelina Quintero, said that Madison and Emerald is a dangerous corner, despite the wide crosswalk and broad fluorescent yellow sign warning motorists to watch

for pedestrians. It's especially hazardous on Sunday mornings, when hundreds flock to St. Anthony's to celebrate morning Mass.

"It's a busy, busy street," she said of Madison. "People just don't stop for people walking there."

Follow David Keck on Twitter: [@KeckDavid](https://twitter.com/KeckDavid)



## RIVERSIDE: Safety of crosswalk where woman struck criticized

Casa Blanca resident Bob Garcia says he's complained about the intersection for years. Sunday, Isabel Pablo was struck there



STAN LIM/STAFF PHOTOGRAPHER  
Pedestrians cross the street on Monday, May 14, 2012 in Casa Blanca. A woman was struck by a Riverside police cruiser the morning before while walking across Madison Street, near Emerald Street.

BY BRIAN ROKOS

AND STEVEN BARRIESTAFF WRITERS

[brokos@pe.com](mailto:brokos@pe.com) | [sbarrie@pe.com](mailto:sbarrie@pe.com)

Published: 14 May 2012 02:52 PM

- [WEBLINK PE Video: Safety of crosswalk criticized](#)
- [WEBLINK RIVERSIDE: Police car hits woman](#)

A Riverside community leader said he has asked the city for years to improve the markings and signage at a crosswalk where a police patrol car fatally struck a woman Sunday.

Isabel Pablo, 57, was taken off life support 12 hours after the 7:49 a.m. collision that happened when she crossed Madison Street at Emerald Street in the Casa Blanca neighborhood.

The officer was seen afterward shaking, his head in his hands.

Police said Pablo was outside the crosswalk.

“We know this from eyewitnesses’ and officers’ accounts,” Assistant Chief Chris Vicino said Monday by telephone.

The crosswalk is made up of connected flat pieces of rock. There are no stripes on either side. Bright-yellow signs on both sides of Madison featuring the pictogram of a pedestrian, as well as signs with arrows pointing to the crosswalk, warn drivers.

Bob Garcia, a member of the Casa Blanca Community Action Group, said in an interview at the scene Monday morning that the city has told him since the mid-1990s that there was no money for additional markings, flashers imbedded in the pavement or to post a stop sign.

Garcia said the city has told him that a traffic study showed no need for improvements.

The crosswalk is in front of St. Anthony’s Church, which Pablo frequently attended.

Garcia added that the opening of the nearby Casa Blanca Library in 2003 increased foot and vehicle traffic in the area, making the crossing more dangerous.

“It has always been an issue because of speed and traffic,” Garcia said.

Angel Gaytan Jr., who lives on Emerald, said he hears and sees vehicles driving too fast through the intersection on Sundays during family gatherings.

City spokeswoman Cindie Perry said no one from the Public Works Department was available Monday to comment.

In a later interview, Garcia said he had a “great” meeting Monday afternoon with Riverside Police Lt. Dan Hoxmeier, City Councilman Paul Davis, Community Police Review Commission Director Frank Hauptmann and CPRC member Robin Jackson. Garcia said afterward that he appreciated being able to address his group’s concerns.

“We must let the community know what happened and how it happened,” Garcia said.

## INVESTIGATION UPDATE

The officer was on routine patrol Sunday when the incident happened, Vicino said.

“We are reviewing in detail everything we can with his vehicle,” Vicino said, noting that the car’s onboard computer records, incoming and outgoing messages, audio and video recorders are all being looked at to determine whether anything might have distracted the officer.

The findings of the Police Department’s Major Accident Investigation Team will not be available for at least several days, he said.

“We feel deep sorrow for the victim and her family ... and we will work diligently to get some answers in this tragic accident,” Vicino said.

Cities have varying policies on investigating traffic accidents involving their police officers.

The California Highway Patrol will examine Corona accidents if it is available, Corona Sgt. Kim Velasco said. Otherwise, Corona’s major-accident team investigates, she said. The San Bernardino Police Department investigates its own accidents unless one happens outside the city or the officer did something “outright illegal,” Lt. Paul Williams said.

One of Pablo’s sons, Pedro Tomas, 41, operates a small store on Madison that sells snacks to the Guatemalan immigrants who live in Casa Blanca, he said. Tomas and a brother came to the United States 24 years ago from Guatemala and brought his mother here three years ago.

“The reason to bring her was to help her enjoy a dream come true,” Tomas said

Monday afternoon, an investigator for the attorney hired by the family took pictures of the accident scene. Tomas said, however, that he is not angry.

Follow Brian Rokos on Twitter: @Brian\_Rokos





## RIVERSIDE: Expert agrees with police conclusion on fatal crash



STAN LIM/STAFF PHOTOGRAPHER

A spray painted circle marks a spot where evidence was found in the May 13, 2012 death of pedestrian Isabel Pablo. She was struck by a Riverside police car.

**BY BRIAN ROKOS**

**STAFF WRITER**

**January 09, 2013; 09:24 PM**

A traffic-collision expert hired by the Community Police Review Commission to examine the Riverside Police Department's investigation of the fatal collision between a patrol car and a pedestrian agreed Wednesday, Jan. 9, with the department's conclusion that Officer Michael Boulерice could not have avoided Isabel Pablo.

"Pedestrian Isabel Pablo was the sole cause of the collision," said Steve Bellino, a former Los Angeles County Sheriff's Department deputy who operates a collision investigation company in Huntington Beach.

Boulерice, 28, was en route to a low-priority call on May 13, 2012, when he struck Pablo, 57, who was crossing Madison Street at Emerald Street in the Casa Blanca neighborhood about 8 a.m. on Mother's Day. Boulерice was driving 40 mph, 5 mph over the posted speed

limit. Pablo was crossing at a corner where there was not a crosswalk. She had a blood-alcohol content of 0.39, almost five times the limit at which a driver would be presumed intoxicated.

Video of the collision showed that Pablo did not look to her left, which would have allowed her to see the oncoming black and white.

“Isabel Pablo was walking in the roadway, not in a crosswalk, not in an unmarked crosswalk,” Bellino told commissioners. “Had she used the marked crosswalk, she would have been visible to Officer Boulерice.”

Pablo stepped into the road behind trees and bushes, and a parked pickup, all which obscured Boulерice’s vision, Bellino agreed.

Bellino did not in his presentation address an issue that has become a point of public contention in the crash – that Boulерice acknowledged he was using his patrol car’s computer, or MDC, shortly before the crash. Boulерice, in a statement to a sergeant immediately after the crash, said that he messed up, had been looking at his computer and did not see Pablo.

But in response to a question by Commissioner Ken Rotker, Bellino said the evidence showed that Boulерice was not distracted.

Bellino said Boulерice’s reaction time to braking after seeing Pablo was about 1.6 seconds, whereas the average reaction time of a motorist is 2.2 seconds. Boulерice could not have reacted that quickly, Bellino said, if Boulерice had not been looking at the road at the time Pablo would have first been visible.

Bellino also said that Boulерice could have avoided striking Pablo only if he was driving 32 mph – 3 mph below the posted speed limit – or slower.

Bellino, who said he has investigated 8,000 crashes, said he was “in awe” of the thoroughness of the Police Department’s 282-page report.

“I’m very gratified that the expert recognized the quality of the work that Officer (Greg) Matthews and Detective (Rick) Prince did,” Riverside Police Chief Sergio Diaz said in a phone interview afterward. Diaz described Pablo’s death as tragic.

Matthews and Prince sat in the back of City Council chambers during the presentation. Not everyone agreed with Bellino’s finding.

Resident Paul Chavez said after Bellino’s report that Pablo might not have seen the patrol car because the sun was in her eyes or because the car was the same color as the road.

“This doesn’t look right. Not to me and the community,” Chavez said.

Bob Garcia, president of the Casa Blanca Community Action Group, said some residents of the neighborhood accepted the Police Department’s report as accurate, and some didn’t.

“What is the community going to say when they hear the expert’s analysis is the same as the police’s?” Garcia said.

The Riverside County district attorney’s office declined to prosecute Boulerice.

Six of Pablo’s children have sued the city for in excess of \$25,000. They sought \$1 million each in their initial claim.

Follow Brian Rokos on Twitter: [@Brian\\_Rokos](https://twitter.com/Brian_Rokos) and online at [blog.pe.com/crime-blotter/](http://blog.pe.com/crime-blotter/)



## RIVERSIDE:

### Crash expert recommends police limit computer use



BRIAN ROKOS/STAFF PHOTO

Steve Bellino, president of California Traffic Specialists of Huntington Beach, addresses members of Riverside's Community Police Review Commission on Jan. 9, 2013.

**BY BRIAN ROKOS**

**STAFF WRITER**

**January 10, 2013; 04:29 PM**

**Comments (2)**

The traffic accident reconstruction expert who said a Riverside police officer was not at fault in a fatal collision with a pedestrian said he believes that officers should use their in-car computers only while responding to emergencies.

It's an opinion that runs contrary to the policy of the Riverside Police Department.

The computers display pending calls and messages between officers. They can be used to check license plates against the database of stolen vehicles.

Steve Bellino, president of California Traffic Specialists, told Riverside's Community Police Review Commission on Wednesday, Jan. 9, that Michael Boulерice, contrary to the officer's own admission, was not distracted by typing on or looking at his mobile data computer when Isabel Pablo came into his line of vision on May 13, 2012.

Later, when asked by Commissioner Jon Johnson when the computers should be used, Bellino said their use should be limited to "exigent" circumstances.

In a phone interview Thursday, Bellino defined exigent as "something that would require an emergency response, Code 3, lights and sirens."

Riverside's policy does not require an emergency to exist before an officer can use the computer while driving. Boulерice was responding to a report of an abandoned vehicle and at the same time messaging another officer, the Police Department's report on the collision said.

The policy reads in part: "Field personnel shall use the MDT/MDC's for receiving and acknowledging routine dispatch assignments, updating unit status, and querying databases when practical to do so, with due regard to officer safety. ... MDT/MDC's should be used whenever practical to reduce radio traffic."

Police are exempt from state laws that prohibit the use of cellphones and other electronic devices while driving, as long as they do so safely. Officers' use of computers has become a point of public debate among those following Pablo's death.

Johnson said while questioning Bellino that some policies were written when officers had only a "steering wheel and a radio on your shoulder," and now officers face more distractions because of technology.

Boulерice was not prosecuted in the collision. In the interview Thursday, Bellino addressed assertions by some civilians that they would have been jailed if they had struck Pablo.

"That's 110 percent incorrect," Bellino said. "The facts are the facts and the speeds are the speeds. If any citizen took out this pedestrian, the end results should be exactly the same. I know people have a hard time believing that."

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**[BJ Clinton](#)** · Top Commenter

You mean to tell me someone who isn't accused of eating Cheetos in his underwear while using the computer in his mother's basement has questioned RPD policy?

**[Mary Shelton](#)** · Top Commenter

I think we're in the basement of our mothers' houses now...but anyway since the city's settling a case with some big tax payer money on the issue of this policy, different incident it's probably being discussed behind closed doors somewhere in the city. Hopefully intelligently.

# Section B

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Steven J. Bellino  
California Traffic Specialists

Traffic Collision  
Reconstruction Review  
Report





# ***CALIFORNIA TRAFFIC SPECIALISTS***

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**Traffic Accident Reconstruction - Vehicle & Occupant Dynamics - Biomechanics - Vehicle Deformation Analysis - Fraud Investigations**

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January 4, 2013

Community Police Review Commission  
3900 Main Street, 6<sup>th</sup> Floor  
Riverside, California 92522

**Re: Fatal Traffic Collision Investigation**

Report No.: P12067271  
Date of Loss: 5/13/2012  
CTS Number: 4582

**Traffic Collision Reconstruction Review Report**

California Traffic Specialists was retained to review and analyze a vehicle vs. pedestrian fatal traffic collision and provide a report regarding liability and the reconstruction of the collision event by the Riverside Police Department. The traffic collision occurred on May 13, 2012, at approximately 7:49 AM at the intersection of Madison Street and Emerald Street in the City of Riverside, California. The collision involved a 2009 Ford Crown Victoria black and white marked City of Riverside Police vehicle, unit 3934, driven by Officer Michael Boulerice and pedestrian Isabel Pablo.

The specific assignment was to perform all investigative and analytical services as directed by the City Manager and/or designee, to include, but not limited to:

- Conduct a review of a Riverside Police Department fatal traffic accident investigation and all related reports, involving an on-duty Riverside police officer driving a marked City police vehicle on May 13, 2012, at Madison Street and Emerald Street in the City of Riverside involving pedestrian Isabel Pablo to include analysis of:
  - Calculations used by the investigator(s), technology, measurements, photographs, available videos, diagrams, witness statements, opinions and conclusions.

➤ 7071 Warner Ave., F-723, Huntington Beach, California 92647 Tel: (949) 722-0522 Fax: (949) 722-0512  
3450 Palmer Dr., Suite 4-185, Cameron Park, California 95682 Tel / Fax: (530) 626-3443  
[www.CtsExperts.com](http://www.CtsExperts.com)

- Produce a comprehensive report at the conclusion of the investigation as directed by the Manager with an executive summary.
- Deliver an oral presentation of the summary report to the Community Police Review Commission as scheduled by the City Manager and/or designee.
- Provide training to the CPRC, if necessary, in order to answer questions of a technical nature concerning traffic accident reconstruction and investigation.

**Background:**

Officer Michael Boulerice was traveling northbound on Madison Street approaching the intersection of Emerald Street in a marked police vehicle when pedestrian Isabel Pablo walked from the southeast corner of the intersection westbound into the roadway on the south side of the intersection into the path of the approaching police vehicle. Isabel Pablo was struck by the police vehicle and sustained fatal injuries.

The traffic collision report and all supplemental reports, investigations, technology, measurements, photographs, available videos, diagrams, witness statements, opinions and conclusions were reviewed and analyzed by this expert. Officer Greg Matthews was the primary investigator and coordinated the investigation and reconstruction of the collision event. Detective Rick Prince completed a collateral review and investigation of the collision event.

The following is a summary of the investigation and reconstruction of the collision events and the techniques and methodology implemented to investigate and reconstruct the collision event by the officers and employees of the Riverside Police Department and City of Riverside:

- Interview of Officer Michael Boulerice, witnesses Officer Neely Nakamura, and reported witnesses Ma De Los Angeles, Angel Gaytan, Christine Valdez, and Ross Goldstein.
- A comprehensive inspection of the collision scene including the examination, measurements, photography, and documentation of the collision scene and the physical evidence.
- A Nikon NPL-322 Total Station was used for scene and physical evidence measurements. The system is a laser measuring system where the measurements, points, and description codes are interpreted by the Total Station and Crash Zone 9, CAD software, which was utilized to produce the collision scene diagram and the location of the physical evidence.

- The California Highway Patrol (CHP) Inland Division Multidisciplinary Accident Investigation Team (MAIT) was contacted on May 17, 2012, to conduct an airbag control module (ACM) and powertrain control module (PCM) download and analysis of the 2009 Crown Victoria police vehicle, unit 3934.
  - A Crash Data Retrieval (CDR) system was queried via the Data Link Connector to image the ACM and PCM.
  - There was no data captured or recorded on the ACM or PCM due to the very minor threshold of the collision forces at impact and the very minor g-forces that were experienced by the vehicle.
- A vehicle inspection of the 2009 Ford Crown Victoria police vehicle, unit 3934, was completed to examine, measure, and photograph the vehicle and to identify and weigh the contents of the vehicle.
  - The vehicle was placed in MAIT vehicle storage for safe keeping, evidence preservation, and possible future inspections.
- COBAN police vehicle onboard windshield view video camera footage was identified and the video was analyzed from Officer Boulерice's vehicle, unit 3934, and Officer Nakamura's vehicle, unit 3930.
- Video camera footage of City of Riverside buildings near the collision from seven locations:
  - Video camera footage memorializes pedestrian Pablo's activities from Casa Blanc Library to the AOI. The video also memorialized pedestrian Pablo's dog's activities.
  - Video camera footage also memorialized witness Angel Gaytan approaching the scene and witness Cooper driving a vehicle to the scene.
  - The video camera captured the audio and video of Officer Boulерice and witness Cooper's conversation at the scene.
- A satellite view and photographs of the line of sight study from witness Gaytan's residence that was located 275 feet east of Madison Street. The study concluded that witness Gaytan could not have seen the collision but could only have seen the police vehicle skidding 35 to 40 feet into the intersection after the impact occurred.
- Pedestrian Pablo's personal property at the scene was identified, marked, photographed, and booked into evidence. Pedestrian Pablo's personal property included a vodka bottle partially empty.

- A time and distance analysis was conducted of witness Cooper's arrival at the scene from westbound Emerald Street which was approximately 300 feet from the collision scene. Witness Cooper could not have seen the police car's approach to the area of impact (AOI).
- Historical weather data was obtained for May 13, 2012.
- A search warrant was obtained for Officer Boulерice's cell phone records to determine if his cell phone was in use or if he was texting at the time of the collision.
  - Sprint/Nextel security and subpoena compliance department determined that there was no evidence of text messaging or incoming or outgoing cellular telephone calls prior to the collision on May 13, 2012.
- A search warrant was obtained for Isabel Pablo's medical records from Riverside Community Hospital in order to review the toxicology report and to evaluate the injuries sustained by pedestrian Pablo.
- The results of a blood sample collected from Isabel Pablo by the Riverside Sheriff's Coroner's Office that was submitted to Bio-Tox Laboratories for analysis found that Isabel Pablo had a Blood Alcohol Content (BAC) of 0.39%.
- The maintenance records and speedometer calibration certificates were obtained for Officer Boulерice's police vehicle, unit 3934.
- A detailed investigation and analysis was conducted of the collision event and all aspects of the pre-collision Mobile Digital Computer (MDC) usage by Officer Boulерice and all other officers utilizing the MDC prior to the collision.
- A roadway and environment analysis was conducted regarding the termination of the south sidewalk of westbound Emerald Street at the east side of Madison Street. The analysis concluded that there is no crosswalk or unmarked crosswalk that allows a pedestrian to cross Madison Street on the south side of the intersection from Emerald Street. However there is a marked crosswalk at the intersection on the north side of the intersection that would have allowed pedestrian Pablo the opportunity to use a marked crosswalk to cross Madison Street.
- Video footage from Officer Boulерice's vehicle, a short distance prior to the collision, illustrates that pedestrian Pablo can not be seen walking westbound on the south side of Emerald Street approaching the southeast corner of Madison Street. The video footage illustrates that there was a red 2010 Toyota Tacoma four-door pickup truck parked on the east side of Madison Street just south of Emerald Street. A line of sight analysis was also

conducted to reconstruct the position of the red 2010 Toyota Tacoma four-door pickup truck that was parked on Madison Street at the southeast corner of the intersection at the time of the collision to determine if it created a vision obstruction to Officer Boulерice of pedestrian Pablo prior to her walking into the roadway. The analysis concluded that the Toyota Tacoma pickup truck did create a vision obstruction to Officer Boulерice of pedestrian Pablo as she approached the roadway of Madison Street.

- A line of sight evaluation of the curbing, planters, and vegetation growth from the sidewalk to the fog line at the southeast corner of the intersection of Madison Street and Emerald Street were conducted. The analysis concluded that the vegetation growth from the planters would create a vision obstruction to Officer Boulерice of pedestrian Pablo as she approached the roadway of Madison Street from the southeast corner of the intersection.
- **Speed Analysis:** Officer Greg Matthews contacted Forensic Audio Video Technician expert Daniel Shattuck who is an audio video expert from Riverside County District Attorney's Office. Daniel Shattuck determined a video timeline of Officer Boulерice's police vehicle as it approached the intersection of Madison Street and Emerald Street. A timeline was established from specific measured reference points by Officer Matthews. The distance between the reference points was determined to be 125.3 feet from each other and the police vehicle traveled that distance in 2.135 seconds. The resultant calculation indicated that the police vehicle was traveling at a speed of 56.6 fps (feet per second) or **40 mph** as it approached the intersection of Madison Street and Emerald Street.
  - A second speed analysis was conducted of the police vehicle, unit 3934, which is equipped with a Placer GPS 450 mobile device. The recorded GPS speed of the police vehicle was **41 mph** at a distance of 108 feet south of the AOI.
- Expert Autostats was used to determine the acceleration rate of an original equipped manufacturer (OEM) model 2009 Ford Crown Victoria police vehicle. The maximum OEM acceleration rate of a vehicle traveling from 28 to 40 mph is indicated to be 11.0 - 15.7 ft/sec/sec or .34 - .49 g's.
- An acceleration rate for the police vehicle, unit 3934, using the vehicle's GPS from two data points during its approach to the AOI from 28-40 MPH in 11 seconds determined that Officer Boulерice's police vehicle was accelerating at 1.6 ft/sec/sec or .04 g's which is a very slow acceleration rate.

- Pedestrian Pablo's walking speed was determined by Officer Boulerice's COBAN video camera that was analyzed by Forensic Audio Video Technician expert Daniel Shattuck. It was determined that pedestrian Pablo walked a distance of 6.49 feet in 1.635 seconds which indicates a walking speed of 3.97 fps or 2.7 mph. The Institute of Police Traffic Management Pedestrian Accident Investigation and Reconstruction Manual indicates that the average 50 year old female crossing a street travels at 4.25 fps or 2.9 mph. Pedestrian Pablo was walking just slightly slower than the average 50 year old female.
- The video camera in Officer Boulerice's police vehicle illustrates that pedestrian Pablo did not look south towards the approaching police car as she entered the roadway and began walking across Madison Street from the southeast corner of the intersection.
- The video camera in Officer Nakamura's police vehicle illustrates Officer Boulerice's vehicle traveling ahead of Officer Nakamura's police vehicle approaching the intersection of Madison Street and Emerald Street. Just prior to the intersection, the rear brake lights of Officer Boulerice's vehicle were activated and illuminated, and the vehicle turned to the left in an attempt to avoid striking pedestrian Pablo who had walked into the roadway.
- A coefficient of friction braking test was conducted with Officer Boulerice's police vehicle, unit 3934, using an onboard Vericom VC-300 brake test computer. The average coefficient of friction was determined to be .85 g's.
- A time and distance analysis was conducted once Officer Boulerice's vehicle's speed and deceleration factor were determined. The required braking distance at 40 mph to a stop is 62.73 feet. The time required to stop from 40 mph is 2.14 seconds.
- Officer Boulerice's vehicle collided with pedestrian Pablo a distance of 18.5 feet after the beginning of vehicle braking. The impact speed was 33.58 mph which required the time of .34 seconds from brake application to impact. If Officer Boulerice's vehicle was traveling at 35 mph, the vehicle would have struck pedestrian Pablo at 30.89 mph.
- A speed survey was conducted on August 2008, on Madison Street in the vicinity of the collision by the City of Riverside's Department of Public Works Traffic Engineering Division. The speed survey concluded that the 85th percentile that the average vehicle travels on Madison Street in the vicinity of the collision was 38 mph. The recommended posted speed limit was 35 mph; however a posted speed limit of 40 mph would have been more appropriate at the intersection of Madison Street and Emerald Street.

- Pedestrian impact trajectory calculations were performed to determine Officer Boulerice's vehicle's speed at impact. Using the industry accepted calculations of Searl, the impact speed was estimated to be 29.37 - 35.19 mph at impact. Using the industry accepted calculations of Collins, the impact speed was estimated to be 32.12 mph.
- A perception and reaction time for Officer Boulerice was determined using video footage from Officer Boulerice's vehicle and a time and distance analysis. Officer Boulerice's perception and reaction time from when he first saw pedestrian Pablo become visible to when the police vehicle began braking was 1.697 seconds.
- A time and distance analysis was conducted based upon Officer Boulerice's vehicle traveling at 40 mph and his 1.697 second perception and reaction time. The distance the vehicle would travel during Officer Boulerice's perception and reaction time would be a distance of 99.55 feet and the braking to stop distance would be 67.73 feet which is a total required stopping distance of 162.28 feet. Officer Boulerice's vehicle was 137.90 feet from pedestrian Pablo when she was first visible and 127.82 feet from pedestrian Pablo when she was at the east fog line before entering the northbound lane. At a speed of 35 mph the distance the police vehicle would travel during Officer Boulerice's perception and reaction time would be a 87.11 feet and the braking to a stop distance would be 48.13 feet which is a total required stopping distance of 135 .24 feet.

**Summary:**

Based upon the above investigation and reconstruction, Deputy Greg Matthews and Detective Rick Prince both concluded that pedestrian Isabel Pablo was the sole cause of the collision and was in violation of California Vehicle Code Section 21954 (a) at the time of the collision. Section 21954 (a) indicates: Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard. (b) The provisions of this section shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of any pedestrian upon a roadway.

**Analysis:**

It is this expert's opinion that the investigation and reconstruction of the collision events and the techniques and methodology implemented to investigate and reconstruct the collision event by the officers and employees of the Riverside Police Department and City of Riverside were extremely thorough, precise, accurate, and exceptional in every way possible.

This expert conducted an independent evaluation and analysis of Officer Boulерice's response to the path intrusion by pedestrian Isabel Pablo based upon the information reconstructed by the Riverside Police Department in order to determine if the collision could have been avoided. A human factors computer program titled Integrated Driver Response Research by Crash Safety Research Program from the University of Connecticut was used to evaluate if Officer Boulерice could have avoided the collision. It was concluded that Officer Boulерice could not have avoided the collision. The results of the analysis and evaluation are attached.

**Conclusion:**

It is this expert's opinion that pedestrian Isabel Pablo was the sole cause of the collision and that Officer Boulерice was not traveling at an unsafe speed at the time of the collision. Officer Boulерice did an exemplary job in an attempt to avoid the collision but he did not have the available time or distance to avoid the immediate hazard of pedestrian Isabel Pablo walking into the roadway directly into his police vehicle's immediate path of travel.

By virtue of Officer Boulерice's immediate perception and reaction to the presence and hazard of pedestrian Isabel Pablo in the roadway and his immediate collision avoidance attempt in applying his police vehicle's brakes and steering his police vehicle left to avoid the collision, it is concluded that Officer Boulерice was attentive to his driving and the environment by his observation and rapid perception and reaction of pedestrian Isabel Pablo 1.69 seconds after she entered the roadway and was visible to him.

It is this expert's opinion that the collision was avoidable by pedestrian Isabel Pablo had she crossed Madison Street in the required marked crosswalk on the north side of the street or had she looked south on Madison Street prior to entering the roadway where she could have clearly seen the police vehicle approaching so close to her that it created an immediate hazard.



Finally, it is this expert's opinion that Officer Boulерice did not have the opportunity to avoid this collision based on the negligent act of pedestrian Isabel Pablo. Officer Boulерice shares no responsibility for the causation of this collision.

I sincerely appreciate this opportunity to be of service to the City of Riverside and the Community Police Review Commission. Should you have any questions or require additional information, please contact California Traffic Specialists.

Sincerely,

*California Traffic Specialists*

*Steven J. Bellino*

Steven J. Bellino, President  
Traffic Accident Reconstructionist



See Attachments:

**PATH INTRUSION**

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5. Hazard & Appro Response Unknown \*\*\*DEFAULT\*\*\*

4. Road/Hi Fidelity Slim \*\*\*DEFAULT\*\*\*

1. Response to one object

\*CALCULATE ECCENTRICITY\*

1. Straight Road

3. Full Response (250 ms veh delay)

Check if hovering brake

Officer Boulterice

Primary Driver

Initial Speed 35.0 mph

Braking Response 3.0

Avg. Deceleration factor 0.8 gs

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Pedestrian Isabel Pablo

Check if using Mobile Phone

1. Driving 7.4

0. SV Not Turning 127.8

1. Day 3.3

1. Subj did not discern other unit stop

Response Distance =  $\sim 1.7 \times 35 \times 1.467$  eq.3

Distance to Stop =  $(35 \times 1.467)^2 / (2 \times 32.2 \times 0.8)$  eq.4

Total Stopping Distance = 88 feet + 51 feet eq.5

Time to Brake =  $\text{SQRT}(2d / g \times f) = 2.1 \text{ sec}$  eq.6

TOT. STOPPING DIST. 139 feet eq.5

AVG. Response Dist. 88 feet eq.3

85th percentile response Dist. 119 feet eq.4

Stopping Dist. 51 feet eq.4

85th percentile response Dist. 170 feet

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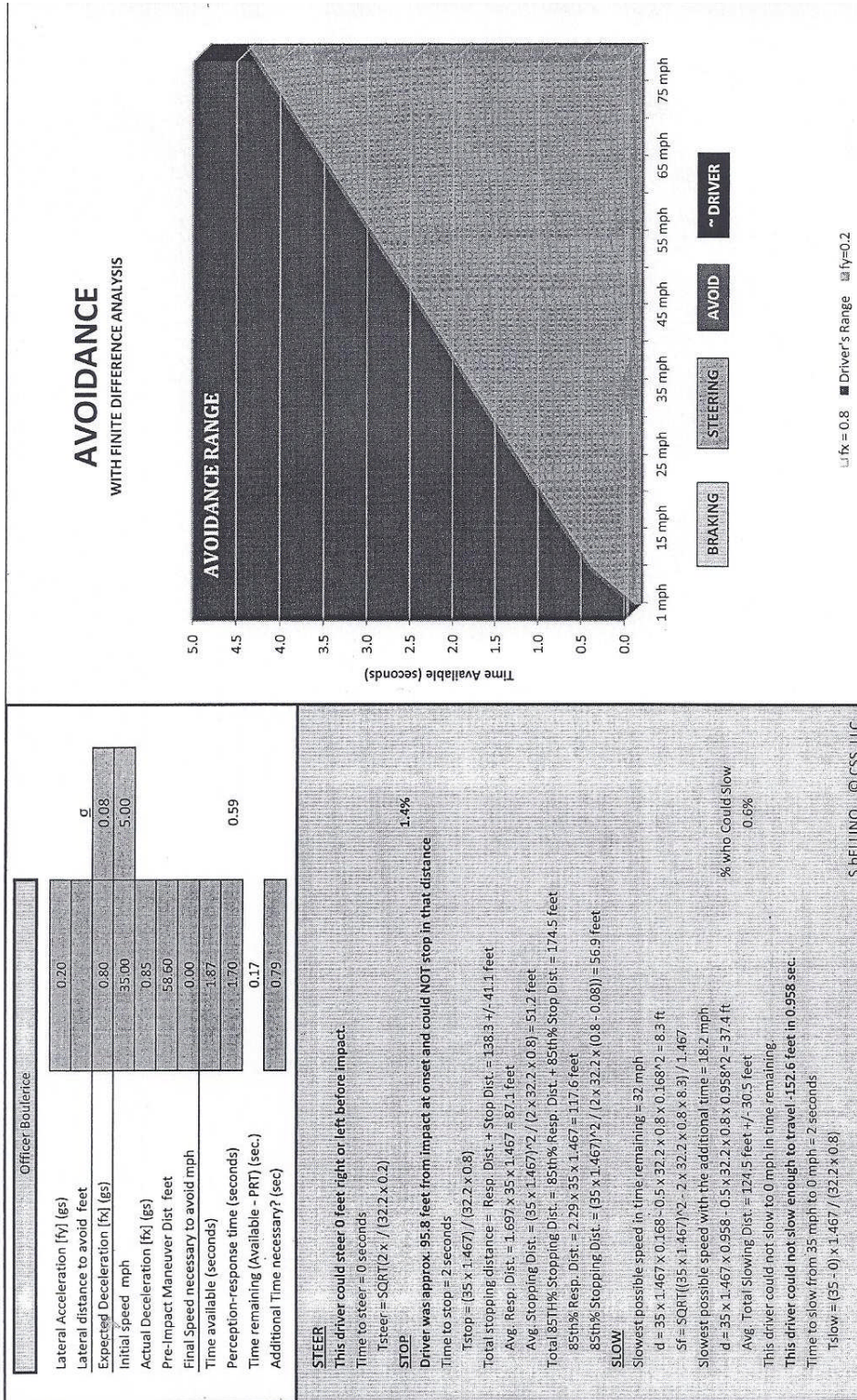
Braking Adj +  $(413 \times \text{Tr}) + 30E + 224\text{Lt} + 7160 - 496\text{Tp} - 164\text{M} + 261\text{Tn} + 350(\text{D} - 1) + 7$  eq.1

0 +  $(413 \times 3) + 30 \times 3.3 + 224 \times 1 + 716 \times 1 - 496 \times 1 - 164 \times 1 + 261 \times 0 + 350 \times (1 - 1) + 7$  eq.2

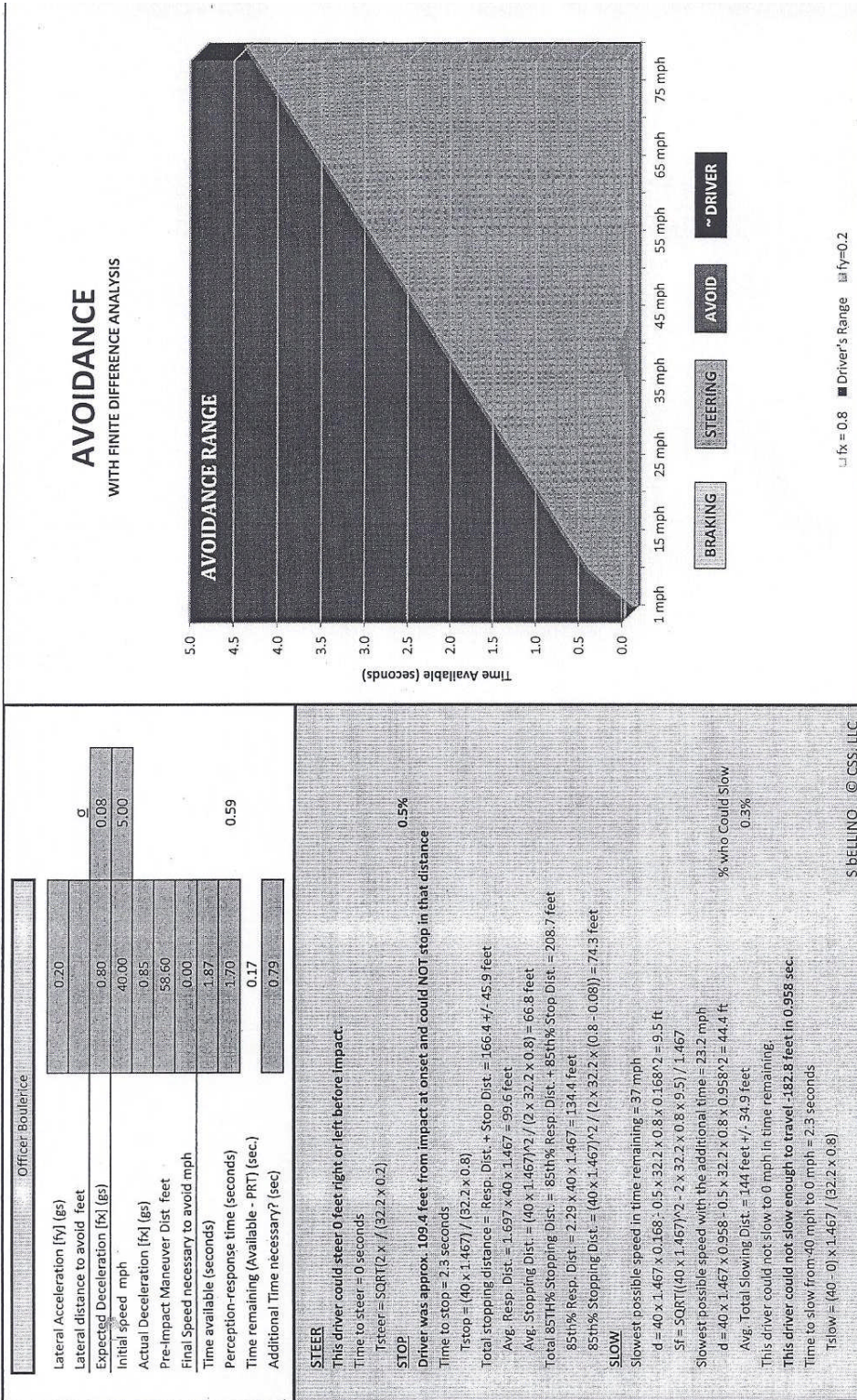
85th percentile response 2.3 sec Individuals

| AVERAGE PRI     | 1.7 sec | Min Avg | Max Avg |
|-----------------|---------|---------|---------|
| Equation        | 1.6 sec | 1.4 Sec | 2.1 Sec |
| A2B studies     | 1.8 Sec | 1.5 Sec | 2.0 Sec |
| Resp to Vehicle | 1.8 Sec | 1.5 Sec | 2.1 Sec |
| Resp to Ped.    | 1.8 Sec | 1.4 Sec | 2.0 Sec |
| Resp to Object  | 1.8 Sec |         |         |

| PATH INTRUSION                                                                                                                                                                                                                                                              |  | RESPONSE TO PATH INTRUSION                                                                                                                                                                                                                        |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| S BELLINO © CSS, LLC<br>5. Hazard & Appro Response Unknown ***DEFAULT***<br>4. Road/Hi Fidelity Sim<br>1. Response to one object<br>*CALCULATE ECCENTRICITY*<br>1. Straight Road<br>3. Full Response (250 ms veh delay)<br><input type="checkbox"/> Check if hovering brake |  | S BELLINO © CSS, LLC<br>Pedestrian Isabel Pablo<br><input type="checkbox"/> Check if using Mobile Phone<br>Primary Driver<br>Initial Speed 40.0 mph<br>Braking Response<br>3.0<br>Avg. Deceleration factor 0.8 gs                                 |  |
| Braking Adj + (413 x Tr) + 30E + 224Li + 7160 - 496Tp - 164M + 261Tn + 350(D - 1) + 7<br>$0 + (413 \times 3) + 30 \times 3.3 + 224 \times 1 + 716 \times 1 - 496 \times 1 - 164 \times 1 + 261 \times 0 + 350 \times (1 - 1) + 7$                                           |  | eq.3<br>eq.4<br>eq.5<br>eq.6<br>eq.5<br>eq.3                                                                                                                                                                                                      |  |
| AVERAGE PRI<br>Equation<br>1.7 sec<br>1.6 sec                                                                                                                                                                                                                               |  | Response Distance = $\sqrt{1.7 \times 40 \times 1.467}$<br>Distance to Stop = $(40 \times 1.467) / (2 \times 32.2 \times 0.8)$<br>Total Stopping Distance = 100 feet + 67 feet<br>Time to Brake = $\text{SQR}(2d / g \times f) = 2.3 \text{ sec}$ |  |
| A2B studies<br>Resp to Vehicle<br>Resp to Ped<br>Resp to Object                                                                                                                                                                                                             |  | TOT. STOPPING DIST: 167 feet<br>AVG. Response Dist. 100 feet<br>85th percentile response Dist. 136 feet<br>Stopping Dist. 67 feet<br>85th percentile respon: 203 feet                                                                             |  |
| Braking Adj + (413 x Tr) + 30E + 224Li + 7160 - 496Tp - 164M + 261Tn + 350(D - 1) + 7<br>$0 + (413 \times 3) + 30 \times 3.3 + 224 \times 1 + 716 \times 1 - 496 \times 1 - 164 \times 1 + 261 \times 0 + 350 \times (1 - 1) + 7$                                           |  | eq.1<br>eq.2                                                                                                                                                                                                                                      |  |
| AVERAGE PRI<br>Equation<br>1.7 sec<br>1.6 sec                                                                                                                                                                                                                               |  | 85th percentile response<br>2.3 sec<br>Individuals                                                                                                                                                                                                |  |
| A2B studies<br>Resp to Vehicle<br>Resp to Ped<br>Resp to Object                                                                                                                                                                                                             |  | Max Avg<br>2.1 Sec<br>2.0 Sec<br>2.1 Sec<br>2.0 Sec                                                                                                                                                                                               |  |



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# Section C

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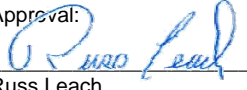
RPD Policy 4.17  
(Rev. 4, 8/18/09)

Operation of  
Mobile Equipment





Effective Date: 10/1984  
Revision 1 Date: 03/05/96  
Revision 2 Date: 05/05/03  
Revision 3 Date: 04/02/04  
Revision 4 Date: 08/18/09  
Approval:

  
Russ Leach  
Chief of Police

#### 4.17 **MOBILE EQUIPMENT, OPERATION OF:**

##### **A. PURPOSE:**

The purpose of this policy is to provide a framework to guide Department members in the operation of public owned vehicles.

##### **B. ROUTINE OBEDIENCE TO THE LAW:**

Members of the Department shall operate automotive vehicles in accordance with Section 21052 of the California Vehicle Code which provides that all governmental employees operating public owned vehicles under ordinary conditions must obey all the provisions of the Vehicle Code.

##### **C. UNATTENDED VEHICLES:**

Officers shall not leave a Department vehicle unattended with the keys in the ignition when they reasonably know they will be out of the immediate vicinity of the vehicle and the vehicle is no longer under their control. This does not apply to a vehicle that is equipped with a police package integrated anti-theft system that prevents someone other than the officer from driving the vehicle.

##### **D. EMERGENCY VEHICLE OPERATION:**

1. Section 21055 of the C.V.C. outlines the exemptions to which a driver of an authorized emergency vehicle is entitled.
2. The exemptions thus provided apply only where the authorized emergency vehicle is being operated under one or more of the following circumstances:
  - a. In responding to an emergency call.
  - b. In the immediate pursuit of an actual violator of the law.
  - c. In the immediate pursuit of a suspected violator of the law.
  - d. In responding to, but not returning from, a fire alarm.

The above exemptions apply only when the following conditions are met:

- e. A siren is being sounded in a manner which gives reasonable warning of the approach of the vehicle. The “yelp” tone of the electronic siren is not sufficient.
- f. One lighted red lamp which is visible in normal atmospheric conditions for a distance of 500 feet is displayed to the front of the vehicle.

3. Three criteria must exist simultaneously before the exemptions provided in Section 21055 of the Vehicle Code are available:
  - a. The vehicle driven must be an authorized emergency vehicle.
  - b. One or more of the above circumstances listed in D-2 must exist.
  - c. A siren must be sounded and a red light displayed.
4. No privilege to operate a vehicle in disregard of the "Rules of the Road" can be established unless these facts can be proved. Having complied with these conditions, the benefits of the privilege is still denied if the driver of the vehicle fails to show due regard for the safety of all persons using the highway or arbitrarily exercises his privilege (21056 CVC).

**E. CODE THREE RESPONSE POLICY:**

**1. Definition:**

A Code Three response is defined as the driving of a police car or other emergency vehicle while red lights and siren are in operation as provided in Section 21055 of the California Vehicle Code.

**2. Policy:**

It is the policy of this Department to perform all Code Three responses in accordance with applicable laws, utilizing red lights and sounding a siren, with due regard for the safety of all persons using the highway. The safety of all persons and the exemption of the city and its employees from civil and criminal liability are considerations that demand responsible and controlled Code Three responses at all times. Code Three responses include pursuits and all other types of Code Three operations.

Hazardous speeds, dangerous maneuvers, and loss of vehicle control, regardless of the circumstances, may be in violation of the standard requiring due regard for the safety of all persons using the highway. Such a violation, even when red lights and siren are employed, can/may subject the operator and the city to civil and criminal liability, and the operator to disciplinary action.

Riverside Police Department units shall not respond or proceed Code Three except in the following situations:

- a. When necessary to facilitate an immediate response to requests for urgent assistance by employees of the Riverside Police Department, other law enforcement or fire agencies, such as on an 11-11 Expedite Backup or 11-99 Officer Needs Help emergency call where the officer reasonably believes there exists a serious danger of great bodily harm or threat to human life.
- b. When in pursuit of an actual or suspected law violator.
- c. When responding to a radio call involving an immediate danger of great bodily harm or life-threatening emergency.
- d. Where an officer must necessarily use red lights and siren to make a traffic stop.

- e. When a law violator clearly exhibits the intention of avoiding arrest by using a vehicle to flee, or when a suspected law violator refuses to stop and uses a vehicle in which to flee.
3. Officers proceeding Code Three shall:
- a. Notify Communications of their starting point as soon as practical given radio congestion or the need to keep radio traffic to a minimum to allow for emergency updates by the officer who requested urgent assistance, .
  - b. Immediately cease responding Code Three when notified by a police employee at the scene or by a supervisor that there is no longer a need to continue to respond Code Three to an emergency call such as an urgent request for assistance on an 11-11 Expedite Backup or 11-99 Officer Needs Help emergency call.
  - c. In the case of a vehicle pursuit, refer to policy 4.16 of the departmental manual.
4. At no time shall a police unit serve as an escort to another vehicle while proceeding Code Three.
5. Officers shall not proceed with red lights unless the siren is also in use, except when stopping a traffic violator and a siren is not required.
6. Sworn Personnel are prohibited from driving Code 3 in a pursuit or Code 3 at high speeds while operating marked vehicles or unmarked vehicles with covert emergency lights and siren that are not equipped with factory approved heavy duty brakes and suspensions (such as is the case with the Ford Taurus and most sport utility vehicles).

**F. OPERATION OF POLICE VEHICLE UNDER CODE THREE CONDITIONS:**

- 1. It is imperative officers maintain self-control, exercise good judgment, and drive with due regard for the safety of all persons using the highway.
- 2. Avoid passing on the right.
- 3. Keep near the center of the roadway so oncoming vehicles can see the red light approaching.
- 4. Approach all intersections with extreme caution. It may even be necessary to stop before proceeding.
- 5. If involved in an accident, notify the field supervisor immediately.
- 6. Get there as quickly as possible with safety.
- 7. Keep the vehicle under control at all times.
- 8. The law gives an officer the right of way when the siren and red lights are in operation, but the officer must give the motorist and pedestrian the opportunity to yield.



# Section D

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RPD Policy 4.40  
(Rev. 2, 2/1/01)

Use of  
Mobile Data Terminal /  
Mobile Data Computer



#### **4.40 USE OF MOBILE DATA TERMINAL/MOBILE DATA COMPUTER:**

##### **A. PURPOSE:**

To establish policy and procedural guidelines for use of the Mobile Data Terminals (MDT's) and Mobile Data Computers (MDC's) and to define dispatcher and field unit responsibilities.

##### **B. POLICY:**

1. The MDT/MDC provides direct access to the Police Department's Computer-Aided Dispatch (CAD), Records Management System (RMS), and State and National criminal justice database systems. Security is of the utmost importance.
2. Terminals shall not be installed, removed, moved, or modified in any manner by anyone other than authorized Department or technical service personnel.
3. MDT/MDC's shall not be activated or used by anyone other than those personnel properly trained in their use. At no time shall an employee use another log-on I.D. number or password other than their own.
4. MDT/MDC's shall be used to transmit official messages. MDT/MDC's shall not be used to transmit any message of a defamatory, derogatory, inflammatory, racist, or sexual nature. All transmissions are recorded and subject to audit. There will be no expectations of confidentiality or privacy.
5. No member of the Department shall access, disclose, nor knowingly permit the access to or disclosure of information within the possession of the Department to any person or entity except as necessary in the performance of his/her official duties and in compliance with departmental policy and relevant civil and criminal statutes. This includes but is not limited to: California Law Enforcement Telecommunications System (CLETS), Criminal Justice Information System (CJIS), Department of Motor Vehicles (DMV), National Crime Information Center (NCIC), National Law Enforcement Telecommunications System (NLETS), Oregon Law Enforcement Data System (LEDS), Riverside Sheriff's Department Automated Name Index (RSD ANI), Riverside Police Department Computer-Aided Dispatch System (RPD CAD), and Records Management System (RPD RMS). When in doubt, a member of this Department shall consult with his/her Division Commander before releasing any information.
6. Field personnel shall use the MDT/MDC's for receiving and acknowledging routine dispatch assignments, updating unit status, and querying databases when practical to do so, with due regard to officer safety.
7. Any status change or acknowledgment that is broadcast by voice by a field unit shall be entered in the CAD system by the dispatcher to avoid errors and duplication of effort.
8. Field personnel signed onto MDT/MDC's shall be responsible for monitoring the terminal and maintaining correct unit status on the CAD system. Any field unit in the AVAILABLE or EN ROUTE status is presumed to be in the unit and monitoring the

MDT/MDC for assignments and messages.

9. When away from the unit and not monitoring the MDT/MDC, field personnel shall change their status accordingly using the appropriate CAD call type.
10. MDT/MDC's should be used whenever practical to reduce radio traffic. Obvious officer safety or urgent information will continue to be broadcast via voice. **The field unit has the ultimate decision over when they will transition to voice as situations in the field change.**
11. MDT/MDC's assigned to employees may be used in school and/or training projects, when the school or project is related to course work approved by the Department. All employee shall receive Division Commander approval prior to using MDT/MDC's for school/projects.
12. Employees shall not use MDT/MDC's, whether on or off duty, for the pursuit of any outside employment, personal business or profit making ventures. All records and information maintained in any MDT/MDC assigned to any employee are confidential, the property of the Department, and must be made available for inspection to any department supervisor or manager.
13. No criminal history information, personnel information or history, intelligence information, or other confidential information, may be maintained in MDT/MDC's unless authorized by a Division Commander as part of an ongoing investigation.
14. Members of the Department shall not use any unlicensed computer software. The Police Technology Unit Supervisor or his designee must approve any software not provided by the Department. No software should be installed except by a representative of the Police Technology Unit. In addition, no hardware or any type of computer peripheral devices may be used without the express approval of the Police Technology Unit Supervisor or his designee.

**C. PROCEDURE:**

**1. Log-on and Unit Information:**

When logging onto the MDT/MDC, field personnel are responsible for entering employee numbers, vehicle numbers, and starting mileage into the CAD system.

**2. Dispatching Priority E, 1, 2, I/P, and/or J/O within 10 minutes with suspect information - (Category One):**

Field units will remain in a voice mode while responding and will acknowledge the call via voice. Dispatch will voice broadcast any critical supplements and changes to the call while the units are responding. **MDT/MDC's do not receive updated information automatically.** MDT/MDCs can display current updated information by pressing the "RECALL" key. Field units will advise 1097 by voice to notify other responding units and allow dispatch to initiate 1033 if needed.

**3. Dispatching Priority 2, 3, 4 and/or J/O within 10 minutes without suspect information - (Category Two):**

Dispatch will utilize a "minimum voice" technique, voice dispatching only the heading and location of the call for service. Units will copy their MDT/MDC for further details. Field units will acknowledge the call by voice. For non-critical supplements and changes to the call, dispatch will advise the responding units to press their "RECALL"



key for their updates. Field units will voice acknowledge that instruction. Field units will press the "10-97" key when they arrive on scene. Priority 3 and 4 calls should not contain felony in-progress or just occurred information. Calls containing that type of information should be raised to an appropriate higher priority level. Units shall not dispatch themselves on a pending call for service.

**4. Cancellations and Exchanges:**

Any cancellation of unit response to a call by dispatch shall be broadcast by voice. Field units shall acknowledge by voice. Field units will be responsible for a voice "code four" and/or cancellations when other units are still responding and no further assistance is needed. When preempting a unit from a currently assigned call, dispatch shall voice broadcast the cancellation of the first call before assigning the new call. Exchanges will be done by voice and dispatch will be responsible for the immediate CAD updates.

**5. Changing Unit Location/Transport/Status:**

Field units will use the MDT/MDC to change locations whenever practical, if the unit chooses to voice the update, dispatch will be responsible for changing status in CAD. Terminal to terminal messages shall not be used to change location or status.

**6. Premise History:**

Premise history information is automatically sent to the MDT/MDC. On any category one dispatch, it is dispatch's responsibility to give the premise history by voice. On any category two dispatch, it will be the field unit's responsibility to read the premise history. Any officer safety premise history is to be given by voice.

**7. Emergency Messages:**

If the dispatch center receives an MDT/MDC request for emergency assistance, (11-99, 11-11, or 11-10) the procedure will be as follows:

- a. If the unit is on a call, dispatch will immediately send a backup unit and then attempt to raise the unit on all channels to confirm status.
- b. If the unit is not currently on a call, dispatch will immediately attempt to raise the unit on all channels and confirm location and status.
- c. As soon as practical, the unit declaring the emergency shall contact dispatch via voice to confirm the nature of the situation.

The MDT/MDC does not have to be logged on to send an emergency message.

**8. Clearing Calls:**

All calls, except Traffic Stops, Shakedown, C-6, 10-10, Supps, and C-7's, whether initiated from the Communications center or self-initiated, need either a file or PN (no report) number assigned. It will be the assigned/handling unit's responsibility to assign the file and clear themselves with a valid disposition code and correct heading. Units shall contact dispatch to either verify or change location of occurrence.

**9. Teletype Entry/Updates:**

Field requests to enter/update information in C.L.E.T.S. and N.C.I.C. systems will be accepted via MDT/MDC message using "REQ" command format sent to either position

PD02 or PD04. The message will be acknowledged by dispatch using the "REQ" command format.

**10. MDT/MDC CLETS Inquiries:**

Personnel are encouraged to use the MDT/MDC for D.O.J. and D.M.V. inquiries on persons, vehicles, and property. Personnel shall notify Channel 2 of a HIT. Dispatch shall initiate a confirmation and notify the officer of the results as soon as it is confirmed.

**11. Message Acknowledgment:**

Do not assume that messages or information sent via the MDT/MDC to dispatch, other CAD terminals, or MDT/MDC's have been read or that action has been taken without receiving acknowledgment.

**12. Log off:**

It is the field unit's responsibility to properly log off the MDT/MDC at the end of watch by using the LOGOFF command and filling in the unit mileage information. The MDT/MDC should not be logged off during the shift as it removes the unit from the CAD systems active unit list and signifies "off-duty" status. The MDT/MDC should not be powered off while it is still logged on. This causes the system to continuously attempt to reach the terminal and can dramatically slow responses to other system users.

**13. Security:**

The MDT/MDC may be disabled for security reasons by using the "LOCK" function as needed whenever the user is away from the unit. To reactivate the MDT/MDC, use the "UNLCK" function.

**14. MDT/MDC Operation Failure:**

If an MDT/MDC fails to operate properly the officer assigned to the unit will notify dispatch immediately via voice that the unit no longer has MDT/MDC capability. It will be the officer's responsibility to fill out an "MDT/MDC Service" form and to forward it to the Communications Equipment Supervisor.

**15. Novell Network Log On:**

All employees shall log onto the Department Novell Network at least twice during their assigned shift. The first occasion within the first hour and the second occasion within the last hour of the shift. This will allow employees to receive automated computer updates and to check GroupWise email.

**D. CARE, CLEANING, AND SERVICE OF MOBILE DATA TERMINALS/MOBILE DATA COMPUTERS:**

1. All requests for installation, removal, or modification shall be forwarded in writing to the Communications Bureau.
2. All requests for installation, removal, repair or modification of MDC's shall be forwarded to the Police Technology Unit Supervisor.
3. No equipment or items may be attached to MDT/MDC's other than those specifically

designed to be a part of the MDT/MDC by the manufacturer.

4. MDT/MDC display screens shall be cleaned with commercial glass cleaner and a soft cloth only.
5. MDT/MDC keyboards shall be cleaned using alcohol and a soft cloth or with commercial alcohol soaked cotton pads only. **DO NOT** use abrasives, solvents, or acetone to clean MDT/MDC's.
6. Spillage of any type shall be removed from the MDT/MDC surface as quickly as possible using a soft clean cloth. Any incident of spillage shall be reported on the "MDT/MDC Service" form and forwarded to the Communications Equipment Supervisor.
7. Required repair or service of MDT/MDC's shall be properly documented on the designated MDT/MDC repair form. Completed forms shall be turned in to service personnel as quickly as possible after the failure is noted.



# Section E

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**RPD Policy 6.6  
(Rev. 1, 10/6/97)**

**Accidents Involving  
Police Department  
Vehicles**



## 6.6 **ACCIDENTS INVOLVING POLICE DEPARTMENT VEHICLES:**

### A. **PROCEDURE:**

1. A traffic collision investigation is required in all traffic collisions involving any department owned or leased vehicle, or any other vehicle operated by a department employee in the course and scope of his/her employment, when property other than the employee operated vehicle is damaged.
2. If the accident is investigated by the California Highway Patrol or any other law enforcement jurisdiction, the police department employee shall prepare a memorandum to his immediate supervisor documenting the facts and circumstances of the collision.
3. A supervisor is required to conduct an independent investigation of all collisions, whether traffic or non-traffic, involving on-duty personnel. The supervisor's investigation and findings shall be submitted in a memorandum along with the appropriate city accident form.
4. If a traffic collision involving any department vehicle causes an injury or a complaint of pain to any involved party, a supervisor will ensure that collision investigation is conducted by an employee of the department who is a qualified accident investigator having met the requirements per 40600 CVC.
5. For collision investigation guidelines, see section 6.3 of the Department Policy and Procedures Manual.
6. In those instances where the police department vehicle is involved in a collision with a stationary object and there is only property damage to the vehicle and no injury to the departmental employee, a supervisor shall investigate and prepare a memorandum. Photographs shall be taken and the appropriate city accident forms (131-62 and 131-121) submitted.
7. If an employee is involved in a traffic collision resulting in death or a serious likelihood of death in the performance of his/her duties, he/she will be requested by the traffic accident investigators to voluntarily provide up to two (2) samples of his/her blood or urine. If their request is refused, and no probable cause exists to seize the samples for criminal evidence, the involved employee will be administratively ordered to provide a sample by the representative from the Office of Internal Affairs. If so ordered, the employee shall provide a sample in conformance with the Alcohol and Drug Testing Policy and Procedures. The sample may then only be utilized in an administrative action. An employee who refuses to provide a sample or otherwise refuses to comply with the Alcohol and Drug Testing Policy and Procedures may be disciplined for misconduct or unsatisfactory job performance, up to and including termination.





# Section F

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RPD Policy 6.10  
(Rev. 1, 3/95)

Collision Review:  
On Duty Police Vehicles



**6.10 COLLISION REVIEW: ON DUTY POLICE VEHICLES:**

**A. PURPOSE:**

To establish a process for reviewing traffic and non-traffic accidents involving employees of the Riverside Police Department during the course and scope of their duties.

**B. DEFINITION:**

An accident, for the purpose of this policy, is any unintentional property damage and/or personal injury caused to, or by, a city motor vehicle (or private vehicle being used for city business) under the care or control of a Police Department employee.

1. **Preventable:** A preventable accident is one in which the driver is responsible, did not use proper defensive driving techniques, and/or did not follow Department Policy. All preventable accidents shall be classified as one of the following categories:

a. **Category 1:** An accident which occurred because of misjudgment of clearance, failure to drive defensively, or not anticipating another driver's movements.

b. **Category 2:** An accident which occurred because the employee violated or failed to comply with state law, city or Department policy, and/or procedures.

c. **Category 3:** An accident which occurred because the employee flagrantly or willfully disregarded their duty to drive with due regard for the safety of all persons.

2. **Non-Preventable:** A non-preventable accident is one in which the driver was not at fault and could not have been reasonably prevented.

3. **Intentional Acts:** An intentional act is any action taken which, by its very nature, one could reasonably expect resultant property damage or injury. It is not intended for these acts to be reviewed pursuant to the Collision Review policy. These acts are to be reviewed pursuant to other established policies and procedures (i.e. , legal intervention or road blocks).

**C. PROCEDURES:**

1. **Initial Reporting:** All applicable accidents will be immediately reported to a supervisor who will be responsible for insuring that a complete investigation is conducted. All accidents that result in only damage to Police vehicles shall be reported by using the Vehicle Accident Report form 131-123 (sample attached), the Accident Investigation Report form 131-62 (R1) (sample attached), with a memo from the supervisor detailing the investigation and their recommendations. A State of California Traffic Collision Report (sample attached) will only be required on all accidents involving any injury to any person or property damage to another no matter how slight.

a. All accident investigation packages resulting from work-related collisions shall

be forwarded to the Traffic Services Bureau as soon as practical.

- b. Each package will be reviewed by Traffic supervision to insure completeness, then forwarded to a Collision Review Board for evaluation.

**2. Review:**

- a. All vehicle accidents involving sworn personnel operating any vehicle during the course and scope of their employment shall be reviewed by the Police Department's Collision Review Board.
- b. All vehicle accidents involving non-sworn Department personnel operating any vehicle during the course and scope of their employment shall be handled in accordance with Chapter VII-1 of the City of Riverside Administrative Manual.

**3. Riverside Police Department Collision Review Board:**

Collision Review Board of Inquiry, appointed by the Traffic Services Bureau Division Commander, shall review all accidents, when practical within fifteen days, involving city vehicles being operated by sworn-personnel. The Board will determine if reasonable precautions or proper handling was exercised, and that no violation of state law or Department policy exists. The Collision Review Board will categorize their findings and report them to the Traffic Services Bureau Division Commander.

- a. The Traffic Services Bureau Commander is the Board's non-voting Chairperson who is responsible for setting up reviews and reporting the recommendations to his/her Captain.
- b. The voting members of the Board shall consist of a Lieutenant from Field Operations Division, a Sergeant from Traffic Services Bureau, and a Police Officer or Special Agent.
- c. If an employee, subject to review, believes any Board member may be unable to view the information without prejudice, the employee may request, within five days of the date of the notice, that the Traffic Services Bureau Commander replace that person. If the request is denied, the employee will be notified as to the reasons for the refusal.
- d. Appearance by an employee before the Board shall be mandatory if requested by the Chairperson or the employee.

**D. RECOMMENDATIONS:**

Upon completion of the review, the Collision Review Board Chairperson shall inform the Traffic Captain of the circumstances of each collision and the recommendation of the Board. If preventable, the Board will also make a recommendation as to which category the incident should be classified.

**E. FINDINGS:**

The Captain in command of the Traffic Services Bureau shall be responsible for final determination of an appropriate finding in all work-related collision investigations. The involved employee's Division Commander shall be notified in writing within fifteen days as to the findings, previous vehicle accident history, and any prior specialized driver training.

**1. Sworn Personnel:**

Within five days of receipt of the Collision Review Board's recommendations the Captain will notify the employee of the findings of the Board.

**2. Non-Sworn:**

Within five days of receipt of the Riverside Management Safety Committee recommendations the Captain will notify the employee of the findings of the Board.

**F. APPEALS:**

An employee may appeal the decision of the Board to the Captain of the Traffic Services Bureau within ten days of being notified of the findings. The Captain will consider the information provided by the employee, then render a final decision within five days of receipt of the appeal.

**G. CORRECTIVE ACTION:**

Upon receipt of a report of findings by the Traffic Division Commander, each Division Commander is responsible for taking appropriate corrective action to insure compliance with laws, policies, procedures, and the safe operation of all vehicles being operated pursuant to city business.

**1. Training and Prevention:**

Administrators and supervisors shall have the responsibility for training employees in the safe operation of vehicles the employee will operate while on duty. They shall also insure that appropriate corrective action is taken on vehicles which have been reported unsafe.

**2. Discipline:**

Preventable collisions are grounds for disciplinary action. All disciplinary action for preventable accidents shall be administered in accordance with established City and Department procedures. The following guidelines generally apply unless the employee's Division Commander determines there are extenuating circumstances:

- a. Employees who demonstrate a pattern of poor driving should be given a less than satisfactory performance evaluation when driving is a major portion of their job.
- b. A single Category 1 accident shall result in a written admonishment or reprimand.
- c. Any employee who has two Category 1 accidents or a Category 2 accident within a three-year period shall receive a written reprimand.
- d. Any employee with three Category 1 accidents within a three-year period shall result in disciplinary action up to and including a 30-hour suspension from duties without pay.
- e. Any employee with two Category 2 or one Category 1 and one Category 2 accidents within three years shall result in disciplinary action up to and including a 30-hour suspension from duties without pay.
- f. Any Category 3 accident shall result in disciplinary action of a minimum 40-hour suspension from duty without pay or action up to and including dismissal. Other action may include a transfer and/or a demotion to a position which

would not involve the operation of any city vehicle.

**3. Mitigating Circumstances:**

Division Commanders will consider an employee's past accident record, the type of driving done, the severity of the accident, the potential for injury and liability. Any consideration of mitigating circumstances in deviating from the disciplinary guidelines described in section G(2) must be approved by the Chief or Police or designee prior to the implementation of any disciplinary action. In addition, such consideration must be documented in the notice of disciplinary action.

**H. EMPLOYEE RIGHTS:**

Employees shall be allowed to exercise legislated and/or negotiated benefits and rights.

# Section G

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Applicable California  
Vehicle Codes





## **PABLO OID - CALIFORNIA VEHICLE CODES**

### **VC§ 21950. Right-of-Way at Crosswalks**

**(a)** The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

**(b)** This section does not relieve a pedestrian from the duty of using due care for his or her safety. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard. No pedestrian may unnecessarily stop or delay traffic while in a marked or unmarked crosswalk.

**(c)** The driver of a vehicle approaching a pedestrian within any marked or unmarked crosswalk shall exercise all due care and shall reduce the speed of the vehicle or take any other action relating to the operation of the vehicle as necessary to safeguard the safety of the pedestrian.

**(d)** Subdivision (b) does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Amended by Stats. 2000, Ch. 833, Sec. 8. Effective January 1, 2001.)

### **VC§ 21954. Pedestrians Outside Crosswalks**

**(a)** Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard.

**(b)** The provisions of this section shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of any pedestrian upon a roadway.

(Amended by Stats. 1971, Ch. 1015.)

## **VC§ 23123.5. Text Messaging While Driving**

(a) A person shall not drive a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication.

(b) As used in this section "write, send, or read a text-based communication" means using an electronic wireless communications device to manually communicate with any person using a text-based communication, including, but not limited to, communications referred to as a text message, instant message, or electronic mail.

(c) For purposes of this section, a person shall not be deemed to be writing, reading, or sending a text-based communication if the person reads, selects, or enters a telephone number or name in an electronic wireless communications device for the purpose of making or receiving a telephone call.

(d) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(e) **This section does not apply to an emergency services professional using an electronic wireless communications device while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.**

(Added by Stats. 2008, SB 28, Ch. 270, Sec. 2. Effective January 1, 2009.)

## **SEE BELOW FOR THE DEFINITION CITED IN THE ABOVE SECTION**

### **VC§ 165. Authorized Emergency Vehicle**

#### **An authorized emergency vehicle is:**

(a) Any publicly owned and operated ambulance, lifeguard, or lifesaving equipment or any privately owned or operated ambulance licensed by the Commissioner of the California Highway Patrol to operate in response to emergency calls.

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency, department, or district employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by those officers in the performance of their duties.

**(2)** Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

**(c)** Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

**(d)** Any state-owned vehicle used in responding to emergency fire, rescue, or communications calls and operated either by the California Emergency Management Agency or by any public agency or industrial fire department to which the California Emergency Management Agency has assigned the vehicle.

**(e)** Any vehicle owned or operated by any department or agency of the United States government when the vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work.

**(f)** Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

(Amended by Stats. 2010, AB 2791, Ch. 618, Sec. 291. Effective January 1, 2011.)

(Amended by Stats. 1983, Ch. 1292, Sec. 8.)

### **VC§ 21052. Public Officers and Employees**

The provisions of this code applicable to the drivers of vehicles upon the highways apply to the drivers of all vehicles while engaged in the course of employment by this State, any political subdivision thereof, any municipal corporation, or any district, including authorized emergency vehicles subject to those exemptions granted such authorized emergency vehicles in this code.

(Enacted by Stats. 1959, Ch. 3.)

### **VC§ 21055. Exemption of Authorized Emergency Vehicles**

The driver of an authorized emergency vehicle is exempt from Chapter 2 (commencing with Section 21350), Chapter 3 (commencing with Section 21650), Chapter 4 (commencing with Section 21800), Chapter 5 (commencing with Section 21950), Chapter 6 (commencing with 22100), Chapter 7 (commencing with Section 22348), Chapter 8 (commencing with Section 22450), Chapter 9 (commencing with Section 22500), and Chapter 10 (commencing with Section 22650) of this division, and Article 3

(commencing with Section 38305) and Article 4 (commencing with Section 38312) of Chapter 5 of Division 16.5, under all of the following conditions:

(a) If the vehicle is being driven in response to an emergency call or while engaged in rescue operations or is being used in the immediate pursuit of an actual or suspected violator of the law or is responding to, but not returning from, a fire alarm, except that fire department vehicles are exempt whether directly responding to an emergency call or operated from one place to another as rendered desirable or necessary by reason of an emergency call and operated to the scene of the emergency or operated from one fire station to another or to some other location by reason of the emergency call.

(b) If the driver of the vehicle sounds a siren as may be reasonably necessary and the vehicle displays a lighted red lamp visible from the front as a warning to other drivers and pedestrians.

A siren shall not be sounded by an authorized emergency vehicle except when required under this section.

(Amended by Stats. 1977, Ch. 1017.)