



**REGULAR MEETING
MINUTES
for
Wednesday, November 8, 2006
7th Floor Small Conference Room
and
Art Pick Council Chambers
Riverside City Hall, 3900 Main Street**

CASE REVIEW – 4:00 P.M.

1) Case Review Roll Call

Brewer	Davidson	Garcia	Arreola	Ward	Pearcy	Corral	Castro	Quinto
✓	✓	A	✓	✓	✓	✓	✓	A

✓ = Present A = Absent

Staff: Dr. Pedro Payne, Executive Director; Phoebe Sherron, Sr. Office Specialist

2) Public Comment

Mr. James Teuschl addressed the Commission regarding his case.

3) Commissioner Comments

There were no commissioner comments.

4) Closed Session – Case Reviews

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 4:05 p.m. to discuss issues pertaining to PUBLIC EMPLOYEE PERSONNEL MATTERS.

	<u>CPRC CASE NO.</u>	<u>RPD CASE NO.</u>
1)	04-062	PC-04-237-038
2)	06-012	PC-06-076-162

The Commission recessed at 5:30 P.M. to reconvene in the Council Chambers.

OPEN SESSION – 5:30 P.M.

The following proceedings have been digitally recorded.
For copies, please call the CPRC office at (951) 826-5509.

Chairman Davidson led in the Pledge of Allegiance.

REGULAR MEETING – ROLL CALL

Chairman Davidson asked Ms. Sherron to confirm commissioner attendance.

Brewer	Davidson	Garcia	Arreola	Ward	Pearcy	Corral	Castro	Quinto
✓	✓	A	✓	✓	✓	✓	✓	A

✓ = Present A = Absent

Staff: Dr. Pedro Payne, Executive Director; Phoebe Sherron, Sr. Office Specialist

5) Public Comments

Dr. Ron Bailey revisited his question: “Do we really know how to police the medically and psychiatrically impaired?” He cited the Lane, Argow, Rabb, and Brown cases as the “backdrop” for these issues. He said he was interested in how far the Commission has pursued this.

6) Hill Officer-Involved Death Case

CHAIRMAN DAVIDSON – Okay. We’ll go to Item Number 6 and that is the first briefing from RPD on the Joseph Hill incident.

CAPT. JAMES CANNON – Dr. Payne, members of the Commission, and the public – good evening. I’m Captain James Cannon, commander of the centralized investigations division of the riverside police department and I’m tasked with providing you a briefing on the Joseph Darnell Hill incident, which occurred on October 19th of this year.

First, we extend our sympathies to the Hill Family. As you know the investigation has begun and the police department is working very closely with the District Attorney’s Office and the Sheriff / Coroner. Our detectives are working very hard to track down the leads, review all the evidence and interview witnesses, etc. As always, the criminal investigation is reviewed at multiple levels, up to the office of the chief of representative, and submitted to the District Attorney’s office for review. At the conclusion of this briefing, I will not be able to entertain any questions beyond my text in order to preserve the integrity of this investigation.

On the morning of Thursday, October 19th, 2006, Officer Jeffrey Adcox was on routine patrol in the Arlanza area. Officer Adcox saw a red 1997 Toyota 4-door being driven by Mr. Hill. As soon as Hill saw Adcox, he pulled his vehicle to the curb and stopped. Officer Adcox, thinking it odd behavior, does not contact Hill. Officer Adcox continued patrolling the area, when he sees Hill a second time. Hill again looks at Adcox and quickly pulls to the side of the road and stops. Officer Adcox pulled along side or parallel to Hill and asked him if he had a valid drivers’ license. Hill said that he did, so Officer Adcox was...although Officer Adcox was concerned about Hill’s unusual actions, he is not sure that he has enough probable cause at that time to legally stop him. So Officer Adcox drives off and continues to patrol the area.

A short time later, Adcox observes the vehicle being driven by Hill. The vehicles are driving toward each other when Hill suddenly makes an illegal U-turn and then fails to stop for a posted stop sign. Due to the traffic violations and Hill’s previous actions, Adcox makes an enforcement stop on Mr. Hill. At 10:17 hours, Officer Adcox makes the stop. Hill is the lone occupant and begins to argue with the officer. Officer Adcox calls for an assisting officer and Traffic Officer Giovanni Ili responds.

Upon arrival, Adcox briefs Ili about the circumstances and behavior of Mr. Hill. Officer Adcox positions himself on the driver’s side of Hill’s car and Ili positions himself on the passenger side. Hill is recontacted and asked to exit his vehicle, which he does. Officer Adcox conducts a cursory pat down search on Hill and asks him to sit

on the curb line of the roadway. Hill sits down, however, he continues to argue and refuses to cross his legs and extend them in front of him.

During the encounter, Hill is very belligerent, which causes Ili, the senior officer, to have concern. Ili tells Adcox to put Hill in the police car for their safety. Adcox agrees and he asks Hill to place his hands behind his back and stand up, which he does. Adcox grabs Hill's hands and assists Hill to his feet.

As Hill comes to a standing position, he immediately pulls free from Adcox and attacks him. Ili comes to the aid of Adcox and grabs Hill, at which time all three men fall to the ground with Ili ending up in a seated position with Hill on top of him. Adcox ends up behind Hill, trying to pull him off of Ili, but he is unsuccessful. During the struggle, Ili can feel his gun belt being pulled on by Hill. Believing that Hill is trying to take his gun, Ili traps his gun and holster with his right hand. Simultaneously, Ili feels the left side of his gun belt being pulled on and becomes concerned about his Taser. Ili releases his hold on Hill with his left arm and attempts to secure his Taser. As he does this, both Adcox and Ili see that Hill is holding the Taser in his left hand. Hill is trying to manipulate the safety on the Taser, which is pointed at Ili. Fearing for the safety of Officer Ili, Officer Adcox fires his duty weapon, striking and killing Mr. Hill. The officers radio broadcast "shots fired" and request medical aid for Mr. Hill. Mr. Hill is transported to Parkview Hospital via ambulance and is pronounced deceased at 11:15 hours.

Independent witnesses and physical evidence support the facts in this case so far and the investigation is continuing.

That concludes my briefing.

CHAIRMAN DAVIDSON – Thank you for that report.

I just got a request from Michael Morales to speak on, I guess, one of the agenda items, but it isn't on here. Michael, do you know...Mr. Morales, do you know what agenda item you want to speak on?

Unintelligible speaking....

CHAIRMAN DAVIDSON – Yeah, we'll go ahead and take it now. Come on up, Mr. Morales, and your welcome to speak.

MR. MICHAEL MORALES

Mr. Morales said that he had lived in Riverside for the last 15 years. He said he is "very fond of the police department that we have in this Little Town, USA" and believes that 90% of the officers, 90% of the City employees are good people. He expressed concern over "the other 10%" who only work here and have no connection to the City or its citizens.

7) **Brown Officer-Involve Death Case**

CHAIRMAN DAVIDSON – Thank you, Mr. Morales.

We will now go on to the CPRC investigator's report on the Brown incident. Butch Warnberg, are you there? Come on up, Butch.

BUTCH WARNBERG – Thank you, sir. Good evening, ladies and gentlemen. This is the summary report for the Lee Dante Brown shooting that occurred back in April of 2006. We've elected to actually do this report in a somewhat different fashion than we normally do. We're gonna do it in two parts and as we kind of go through Part 1, you're gonna understand it's a continuing investigation. You're gonna understand why it is a continuing investigation and there needs to be some additional work that is been done. That's all in an effort to clarify and harmonize some of the inconsistencies and things that have occurred in this shooting for the Commission.

To being with, Mr. Brown was a 31-year-old resident of Riverside, California at the time of his shooting death. Mr. Brown was living in a space that was provided by his fiancé's parents on 4th Street here in Riverside.

Mr. Brown had a moderate criminal record. Jail records show that Mr. Brown had been arrested twice in the past month for...uh, prior to the shooting on suspicion of drug-related charges, under the influence, possession of fake identification, things of that nature. Mr. Brown had been arrested and convicted, pled guilty to a

burglary charge in 1997 and he spent a year in jail.

Mr. Brown was unemployed. He had been diagnosed with a mental disorder described as paranoid schizophrenia. He was prescribed various prescription medications for that disorder. Mr. Brown was divorced and had two young daughters.

Part of the report that is reported as versions of events by police and media sources was derived from Capt. Cannon's statement here to the CPRC back in April, as well as the summary report by the lead detectives in the case.

We did a quick analysis of the citizen complaints that led up to the contacts by the two officers; Mr. Brown. And in the early afternoon hours of April 3, RPD Dispatch received a total of six citizen complaints via 911 telephone communications. The telephone calls came from citizens in various locations between Loma Vista Apartments and the Welcome Inn at 1910 University Avenue in Riverside. The driving distance between those locations is about 524 yards, so he generated a lot of activity in a very quick period of time in the early afternoon hours of that date.

Each of the citizens reported, that called in, they reported behavior on the part of Mr. Brown that included possible drug use, acting crazy, public nudity, screaming profanity, diving on cars in traffic and minor property damage to vehicles. No felony activity was reported and no reports of weapons were mentioned.

When Officer Stucker initially drove into the parking lot of the Welcome Inn and contacted...uh, he was contacted immediately by one of the witnesses in the case, a Kenneth Williams, Williams, uh, Witness Williams pointed out to Mr. Stu...uh, to Officer Stucker, uh, Brown, and then made some comments, gave him some more information, offered a personal opinion that he was on some kind of drugs. Brown apparently was sitting on the pavement when Officer Stucker arrived in the parking lot and he was waving at Officer Stucker to leave – leave the area – in some fashion. Brown was wearing dark pants with no shirt. Officer Stucker stopped and prepared to exit his car. Brown got up and he left his position and went into a blind corner in the southwest corner of The Welcome Inn where he put himself flat up against the wall.

Officer Stucker took his Taser out of his vehicle. From the reports and things he had received, the individual had been exhibiting some pretty bizarre behavior. So as he approached Mr. Brown, he approached him with his Taser sighted on Mr. Brown and began giving him very audible and understandable commands for him to put his hands at his side, put them up on the wall. It was...it was very clear that Mr. Brown was noncompliant and was not going to do exactly what Officer Stucker was telling him. However, Officer Stucker was by himself. His nearest cover was at least...almost a minute away at this point in time.

Following several commands by Officer Stucker for Mr. Brown to present his hands in a clear fashion, he turned and faced Officer Stucker. Officer Stucker could see that he had no shirt on and nothing in his hands, but he was still noncompliant. He took a step toward Officer Stucker and Officer Stucker perceived that as a threat and deployed his Taser, striking Mr. Brown with the two Taser probes.

From that point, there were a number of witnesses, both in the parking lot, across the street, that observed the events that took place following this incident. The first witness, Offic...or uh, John Gonzales, was actually working in the Budget Inn, which is across the street from the...from the Welcome Inn. And if I can figure out quickly how to...

This photograph that you're looking on right here is an actual aerial photograph taken by the RPD following the incident, of the Budget Inn...or excuse me, of the Welcome Inn at 1910 University. This...this area right here is essentially where the shooting occurred and where the contact between the officers and Mr. Brown happened.

This is a photograph taking...taken by RPD following the incident showing the position of Officer Stucker's car and the uh...excuse me...This is the position that Mr. Gonzales, the witness, was standing at the Budget Inn across the street on the second floor, and observed the activity. Mr. Gonzales describes the event, he describes a number of phases of this struggle that occurs. His attention was drawn to the incident by Officer Ellefson arriving at the scene with his siren. He watched the fight, describes the phases of the fight and essentially says that, at the end, Mr. Brown was seated on the ground when Officer Ellefson stepped back and shot him. He, he could see the...this baton strikes by Officer Stucker and he could also see the handcuff, the single handcuff, dangling from Mr. Brown's wrist from this position.

This is a diagram of the Welcome, er... of the Welcome Inn showing the position of the two police cars and Mr. um... Mr. Gonzales' position clear across the street here, almost some 270 feet away.

Another witness, Rachay Lear was walking on University Avenue, saw the activity at the street, crossed the street, stood in the driveway of the Welcome Inn somewhere in this position right here, and watched the activity. Once again, she describes the...

CHAIRMAN DAVIDSON – Butch, excuse me... You keep pointing out "in this position here," but is something supposed to be lighting up on this?

MR. WARNBERG – I'm sorry you cannot see the laser on your screens...

CHAIRMAN DAVIDSON – No, I can't...

EXEC. DIR. PEDRO PAYNE – No, the laser won't appear, unfortunately, on the commissioners' screens.

CHAIRMAN DAVIDSON – Could you possibly describe that to us so that we can understand what you're saying?

MR. WARNBERG – Okay. I apologize for that.

Uh, this Rachay Lear, she uh...she was walking on the opposite side of University Avenue, saw the activity over there with the police officers, crossed the street and stood in that driveway on the uh...it would be the south...uh, the first driveway right behind the police car there and watched the events of the, uh...of the fight. She, again, describes the position of Off...or uh, Mr. Brown when he was shot as in a sitting or on the ground position with nothing in his hand.

Rachel Nicole Bacon was a resident of the Welcome Inn, living there with her mother and sisters, residing in...in Apartment...uh, I believe it was Apartment #14...was, uh...had observed the...stepped out of her apartment, looked down and observed the various phases of the struggle between Officer Stucker and Officer Ellefson. She also describes the ultimate events at the conclusion of the struggle as Mr. Brown sitting on the ground and being shot with nothing in his hand and claims that she had seen the...um...the handcuff dangling from Mr. Brown's wrist.

Kenneth Williams is the witness who actually contacted Officer Stucker as he entered the parking lot and he took a position in front...in front of Rooms 8 and 9, where he watched...watched the events from that angle. He is the one witness that says that Mr. Brown was actually on his feet and moving toward the officers at the time that he was shot. He said that he could see the handcuff on one wrist of Mr. Brown's arm, but that he had nothing in his hand.

Officer Paul Stucker...we took a...we prepared a summary of his statement, which is provided on the summary report and Officer Stucker activated his belt recorded as soon as he contacted Mr. Brown in the corner, in the southwest corner of the building, so there is recorded conversation. You can hear...you can hear many of the events and the sequences of the struggle between the officers from that belt recorder.

Officer Terry Ellefson is the same. A summary of his statement is provided on the summary report and we prepared an analysis of the statements by the officers with key questions with regards to what was happening when shots were fired as stated by Officer Stucker and Officer Ellefson. Also, other officers that were at the scene or came later, and Capt. Cannon's statement as he provided it here to the CPRC.

As you can see in that analysis of those various statements, there's some inconsistency and discrepancy with regards to positioning, what was happening at the time of the shooting between the various statements of the officers, Capt. Cannon, and the civilian witnesses.

We did the same thing with asking, um...the position that Mr. Brown was in with regards to the statements, as provided – who was Mr. Brown pointing the Taser at. We did the same analysis – Mr. Brown's position after he got shot and then we've noted that out of the 24 witnesses, civilian witnesses, that were interviewed in this case, six of them said that they saw the shooting. Of these, none of them saw the suspect with a Taser in his hand and only one witness, Kenneth Williams, claims the suspect was advancing toward the officer at the time the shots were fired. However, even Kenneth Williams says that the uh...that Mr. Brown's hands were empty at the time of the shooting.

We did an analysis of the belt recorders for both officers and have tried to analyze those statements prior to, during the shooting, and following the shooting. For purposes of this report, there are some incons...there are some errors, some statements that were made – a statement that was made by Officer Ellefson just prior to the shooting that we were unaware of until last night. During further review of that tape, which in a...in a couple of instances, will invalidate some of our, uh, analysis at the conclusion of that.

So, uh...that pretty much concludes it. If you have any questions, I'll be glad to answer them at this point. We anticipate doing the conclusion, Part 2, of this investigation perhaps December the 6th.

DR. PAYNE – I just want to, if I may, let the Commission know, and also members of the public, that this is a preliminary presentation by our investigator. It is Part 1 of the investigation. It is by no means complete, as he even mentioned now. It's an on-going investigation where, even last night, we discovered some further...some facts that are relevant to this case. Our investigator intends to come back to this commission to conclude his report and in that report he will also address issues of toxicology. He will also – I have instructed him to...his firm has experts, what they call technical illustrators who will recreate the positions of the bodies based on the Coroner's report and the information that we do have so that the Commission will be better able to understand the positions of the officers in relation to the deceased, Brown, the trajectory of the bullets, the entry points and where they ended up, and so this is really the first time the Commission has done something like this and so it's just an indication that we are catching up with the times, and so we'll have a computer-aided reproducing of the positions so that you can understand how a downward trajectory would end up coming inside a chest level and all these other questions I'm sure you have. And so...

And also, in addition to that, the, uh...our investigator will attempt to address issues of perception – what is reasonable perception – how do you perceive danger, what would a "normal person" perceive danger or threat, because I know that has been an issue with this commission, a concern, in terms of how the officers perceive situations and the actions following that, so....

And at this point, I believe our investigator will entertain questions from the Commission.

CHAIRMAN DAVIDSON – Um...Mr. Warnberg, I had set up a few questions to ask, but based on the information we've just received, I don't want to be inaccurate in my questions to you, but certainly one of them was going to reiterate to you that we certainly are interested in perception. Now I realize you can talk to the officer involved, but maybe you can, through the facts or, certainly the witnesses, what the perception would have been of those people that would be normal for what was going on. We'd like to hear back from you, if you can do that for us.

My questions had to do with the nightstick that was being used at the time and the officer's...my understanding there was some discrepancy or there was one officer didn't know where the other one was or something to that effect. But I think I'll hold those off until we get facts on that from you, but I'll certainly turn it over to any of the other commissioners for their questions.

COMMISSIONER BREWER – Mr. Chairman, I feel that we probably should hold off. If we're halfway in the middle of an investigation, let's have the information before we start asking questions. As of last night, things changed on this thing, so it...it could totally confuse this matter if we start asking too many questions now.

CHAIRMAN DAVIDSON – I agree with that. When is the – based on our calendar – when is the next report gonna be due?

DR, PAYNE – We originally had calendared December 6th as the next report. However, as you recall, earlier today during closed session, certain commissioners expressed that they would not be available for that date that they would be out of town, so that we would be lacking a quorum. So we could schedule it for the second Wednesday of January, give time for the investigator to recreate computerized versions of the positioning and then immediately begin the drafting of the public report.

CHAIRMAN DAVIDSON – Well, obviously, time is of the essence and we need to do this expeditiously as we can.

DR. PAYNE – If we can conclude the public report by the end of January, even if that means calling a special meeting, then that means, then, that both the public and the Commission will be fully versed on the case and we can go into closed session no later than February and make the finding to the City Manager in February,

which would leave March, the remaining of February, March, and what little bit of April is left for...

CHAIRMAN DAVIDSON – That's fine. Mr. Warnberg, what I would ask at that meeting, if you could recapture what you've just said in a brief way before you start on the second half of this to make sure that all of the... What I'm a little concerned of is, getting this in two parts...I want to make sure that it all comes together as much as possible.

MR. WARNBERG – Sure...

CHAIRMAN DAVIDSON – I'm sure you'll do that, but if you could do that, I'd appreciate it.

MR. WARNBERG – Commissioner Ward...

VICE-CHAIR WARD – Yeah... First of all, I'd like...um...you said something about some information that come to your attention as late as last night. Could you elaborate on that please?

MR. WARNBERG – Yes, sir. We had done an analysis of the belt recorders for Officer Ellefson and Officer Stucker and in a continued review of those belt recording statements, I'd issued the report, prepared the report, and included the analysis of those belt recorder statements. Last...last night, we found a statement on behalf of Officer Ellefson just prior to the shooting that we...that was inaudible prior to...in our prior listenings that changes the analysis significantly.

VICE-CHAIR WARD – What was the statement?

MR. WARNBERG – The statement by Officer Ellefson just prior to the shooting was, "Drop the guh..."

VICE-CHAIR WARD – What's a "guh?"

MR. WARNBERG – Well, we believe that it's pro...it was most likely the gun, the Taser gun. But there is still some evidence that is...that has not been submitted yet. We have an analysis of the fingerprint evidence on the Taser gun, which was inconclusive for Mr. Brown's fingerprints. However, the DNA evidence that was submitted by the Police Department has not been returned by DOJ for conclusive...finding. So...so we don't have the DNA evidence on the, uh...on the Taser gun. We had not previously heard that almost inaudible statement on the part of Mr. Elle...Officer Ellefson just prior to the shooting, so some of the analysis with regards to the statements as they pertain to the shooting, are in error.

VICE-CHAIR WARD – Okay. One of my concerns is, in reading the report, I never heard any of the investigators or either one of the officers refer to the Taser as a gun. Every time they referred it, they referred to it as the Taser. You might want to take a look at that. I did not review the reports with that in mind, but I don't...my recollection is that every time they made reference to a Taser, they called it a Taser, not a gun and um... So... And then, what I would like to know, in addition to that, if that were the fact that he said, "Drop the guh" or whatever, how does that comport with all of these other...all this other information that we have? You know, we have some people here, according to this diagram, we have three witnesses that's almost as close to the situation as the police is and none of those witnesses saw him with anything in his hands and, you know, it's kinda hard for me to put it together that none of the witnesses saw it, but all of a sudden, that's what happened.

MR. WARNBERG – Yes, sir. That's correct, too. And, uh...and as part as...as part of Part 2 of this investigation, we're trying to locate and recontact some of the crucial witnesses in this things to clarify and harmonize some of their statements that were made to the Police Department and then later, to myself in the investigation.

VICE-CHAIR WARD – The other thing, in looking at your analysis, you know, these guys was asked some critical questions and seems that...that they could have responded to either one of them – Officer Ellefson could have responded to either one of them by saying that he ordered him to drop the gun. But he never makes that claim in this analysis. The only claim that he makes, that instructions he gave the young man, was that "I was giving commands for the suspect to get on the ground," and uh, so, if he's answering questions about, you know, what happened just before the shooting and all of that, seems the first thing he would have did was indicated that he had given this man – this man had the Taser and he had given him instructions to drop it and in light of that he fired. But, um, you know the fact that...that statement would be a very critical statement to the outcome of this investigation, but right now, and I just see that statement standing out there

alone. I don't see it connected to the other evidence and if you could do that for me, I'd appreciate it. Thank you.

CHAIRMAN DAVIDSON – Chair recognizes...

COMMISSIONER CORRAL – What I would like you to look at is, where you have Witness #2 and Witness #1 – Witness #1 is Williams; 2 is Wilsey. Williams is the only one that says that he stood up? That...

MR. WARNBERG – Yes.

COMMISSIONER CORRAL – But Wilsey says that he was sitting down?

MR. WARNBERG – Well, I didn't include Wilsey in the summary report, Part 1. Lynette Wilsey is a key witness and she needs to be recontacted and reinterviewed. Some of her statements to the Police Department are contradictory or a little bit inconsistent and some of her statements to us as compared to what she told the Police Department is a little bit inconsistent. We need to really try to find Lynette Wilsey, which I'm involved in doing currently and go back to her, not for the overall details of the incident, but for some specific clarification on exactly what she saw.

COMMISSIONER CORRAL – Okay. My next question is – How many people say that they saw him sitting down with his hands out like this?

MR. WARNBERG – **Just about...**well, all of the civilian witnesses are...are pretty consistent that he was in a sitting...sitting or a crouched position when he was shot, with the exception of Williams. Williams says that he was up, advancing toward the officer with his hands up, but empty. The other witnesses seem to put him sitting or squatting and what we're attempting to do is provide the Commission with some trajectory perspective with regards to Officer Ellefson's statements as to where he was when he fired and the distance he was from Mr. Brown and then do some technical illustrating for trajectory based on the autopsy – measurements, photographs, and information that we've received from the autopsy report. There seems to be, at this point, which requires us to go back to the Coroner's Office and do a little bit of follow-up with regards to that as well, because there's a few areas in the autopsy report with regards...it doesn't quite work out in a technical illustration as the way the autopsy report is explaining it. So that needs to be worked out with the Coroner's Office and clarified to some degree.

COMMISSIONER CORRAL – Okay. My last question is – Officer Ellefson, this is his second shooting?

MR. WARNBERG – Yes it is.

COMMISSIONER CORRAL – In what time span?

MR. WARNBERG – Officer Ellefson shot Todd Argow in November of 2005 and, I don't know if you remember the...the summary of that case, but it was clearly a suicide by police. Mr. Argow...

COMMISSIONER CORRAL – I do remember that...

MR. WARNBERG – ...and Officer Ellefson was the, uh...was the officer involved in that shooting as well.

COMMISSIONER CORRAL – Okay. That's all I have. Thank you.

CHAIRMAN DAVIDSON – Uh...any other commissioners wish to question our investigator? Butch, thank you for coming. We appreciate it and we'll be looking forward to your next report.

At this time, the Chair would like to call Dr. Bailey back to the stand. He'd like to comment on the Brown incident.

DR. RON BAILEY

Thank you. I have a couple of questions. The first is a statement. Again, this case clearly exemplifies our problems in dealing with mentally and physically impaired individuals and I'd be interested in trying to determine what venues Officer Ellefson used to attempt to diffuse the situation before it got out of hand.

MR. WARNBERG – Venues meaning what...what tactics he used?

DR. RON BAILEY – Yes.

MR. WARNBERG – Officer Ellefson, when he arrived, he was...he was immediately engaged in the fight. The fight was already on, so when Officer Ellefson arrived, his first action was...

CHAIRMAN DAVIDSON – Excuse me, gentlemen, without you at the mic, we're unable to record that, and so we'd like to get that on there and uh...if you don't mind, if you could answer that through the mic, that would be great, Butch.

MR. WARNBERG – Sure. I apologize. Um, when Officer Ellefson arrived at the scene, he was...he was immediately engaged in the fight because Officer Stucker had already tased...deployed his Taser to Mr. Brown. So, essentially, the resistance and noncompliance was in...was in effect. Officer Ellefson, his first tactic was to approach Mr. Brown and attempt to handcuff him. Mr. Brown was on his stomach in a semi-compliant posture, but as soon as Officer Ellefson attached the first handcuff to his wrist, Mr. Brown began to resist and did so in a fashion that twi...he was able to twist out of his position, lift himself up, eject Officer Ellefson from his back, uh, and...at that point he had a weapon, essentially. He had a single handcuff on an arm that was attached to a resistive, noncompliant person. So his...that was his first tactic, was to attempt to handcuff him.

DR. RON BAILEY – Again, I'll emphasize to the Commission that this is either the fourth or fifth case dealing specifically with a problem of policing mentally and physically impaired individuals.

Now, my second issue here, and I don't want to use Mr. Warnberg as my sounding board for the evening here, but simplistically, to resist arrest, implies conscious motivation. Would you agree with that sir? If somebody's going to resist arrest, it implies conscious motivation and in your tactical analysis, Page 6, you have "Brown did not lie down with Ellefson's commands." To resist arrest, it implies conscious motivation, so my question to you, sir, is how could somebody who is delirious and either delirious related to psychiatric issues, the medication that he was on for his psychiatric problem, or "drugs" have conscious motivation?

COMMISSIONER PEARCY – Mr. Chair, I'm gonna ask if you could step in here at the moment... I believe what's taking place is slightly out of order. What we're having here is a presentation to us by our investigator and what we're allowing at this point in time is for comments by the public. I don't believe it is appropriate, at this time, for the public to engage in an inquisition of our investigator, especially in light of the investigation is continuing.

DR. PAYNE – I'm gonna have to agree with Commissioner Percy that comments would be allowed, but direct interrogation of the investigator would probably be better served once the complete report is concluded and he can address issues of perception, including how would an officer perceive that this person could have followed instructions if he was mentally impaired, so I'll have to agree with Commissioner Percy on that...

CHAIRMAN DAVIDSON – Dr. Bailey, if I could ask you to go ahead and ask the questions, but we'll hold off answering those at this time and that way, maybe our investigator can write those notes down and address them on his next presentation.

DR. RON BAILEY – Yes, sir. That's fine. My only last question is – do we have the autopsy report on this case at this point?

DR. PAYNE – Yes, we do have a Coroner's report.

DR. RON BAILEY – Do we have the cause of death as listed on the Coroner's report? And the reason why I bring this up is because a diagnosis of excited delirium has been popularized in a case very similar to this that occurred in Dallas 25 September 2006 and the term is ambiguous. I'm just wondering what the cause of death was uh...was, uh...what cause of death was issued on this case.

MR. WARNBERG – Gunshot wound...one round...

COMMISSIONER PEARCY – Mr. Chair, I'm gonna ask once again that you'd instruct our investigator not to answer any of the questions at this time. It's really inappropriate.

DR. RON BAILEY – Thank you very much.

CHAIRMAN DAVIDSON – Thank you, Dr. Bailey.

DR. PAYNE – I do want to, though, for Dr. Bailey's benefit, let you know that this information that you've asked right now is public information and is available through a public records request, if you so desire to do that and you can get a copy of the Coroner's report for yourself. That is public information.

CHAIRMAN DAVIDSON – Mary Shelton would like to come, but Mary, you haven't indicated what issue you want to talk on on your form. Is it this issue?

MARY SHELTON

Yeah. I said...it says the Brown shooting on the form.

CHAIRMAN DAVIDSON – Okay, thank you. Go right ahead.

MARY SHELTON – I am...I have a lot of the same concerns and questions that were raised by Mr. Ward. I noticed here, on one of these column pages that, apparently Detective Cobb was asking about Brown's position after he got shot and he said "The suspect has still got the Taser in his hand. Are you and / or Officer Stucker still giving commands to him?" "I was giving commands for the suspect to get on the ground," which makes me have the same question as to what Jim Ward said about the comments of getting on the ground versus what apparently is on the audio tape of "drop the gun" or whatever that was. And I did have a question, too, about the Taser. From what I understand, there was two different Tasers involved in this case: one was the M26 and one was the X26 and I was wondering which one was which because the M26 is the one that resembles, if I'm correct, is the one that resemble a hand gun, except for the coloring and obviously not being a gun more than the X26 model. And, um, I was confused about some other things as well, because I can't understand why some of these RPD versions and the briefing versions are so...I mean, they're... include stuff that I can't find in the officers' statements. And one of the things that I was concerned about was the issue of the...was the briefing by Capt. Cannon, who said who was Brown pointing the Taser toward; Capt. Cannon: "Fearing for their safety because the power indicator light for the Taser was on." Officer Stucker hit Mr. Brown with the baton, apparently at the same the shooting was going on. But I was curious because I didn't see any mention of the power indicator light in any of these statements and I don't know whether that was included as part of the interview or not and I think that's a very important part of the investigation because, depending on where the power indicator light is located, that should give you some idea of how the officer was able to see it, whether or not the Taser was pointed in their direction because...obviously, the power indicator light is on a Taser somewhere and if the officer can see it, then they're probably looking at that part of the Taser and in the daytime...and that part of the Taser... and from what I understand with the M26, at least, the power indicator light is on the back of the Taser, according to the Taser model that I had. So that was my concern about that. But that's just based on the training material that the Riverside Police Department gave.

I was also concerned and have questions about the issue that were kind of alluded to here about the errant Taser probe that was fired and hit Officer Stucker in the hand. Apparently, at this point, they have finally concluded that that possibly came from Terry Ellefson's Taser, but with the time line that was produced by the briefing and some of the statements that were made in here, I'm not clear exactly when that Taser probe was even fired because it seems like, at least with the briefing and then some of the other information... it said the Taser probe... "Ellefson discharged his Taser probes" and dah dah dah dah dah, and then there was this shock and then there was... Ellefson had...I mean, Stucker having this Taser probe in his hand. And there's some confusion on to that, because I think that's a pretty important element of the case, is that what happened that an officer was struck by another officer's probe. I mean, that's a safety issue for that officer, as well, because that's obviously not a good position be in where you're being shot by a Taser probe that could potentially debilitate you. In this case, apparently, it did not.

And I also had questions back to the first page regarding the mental diagnosis of paranoid schizophrenia. And there is a statement here saying that he was prescribed various prescription medications for the disorder and I was wondering whether or not there was any access to any, like, hospitalization records or whether they interviewed people in the family or whether they actually had copies of these prescriptions of drugs that would have been given for paranoid schizophrenia. And, um...cause that's an interesting aspect of the case because it goes back to the importance of having mental health and crisis intervention training on the Police Department, which they currently do not have.

Thank you.

CHAIRMAN DAVIDSON – Thank you, Mary. I'd like call on, now, Michael Morales.

MICHAEL MORALES

Thank you, Mr. Chairman.

You know, honestly, it is not fair to be "Monday morning quarterback" in fairness to the officers involved in this shootings. But something is not right here. Something doesn't add up.

November 2005, Terry Ellefson shooting. He shot Todd Argow, a Caucasian gentleman and the explanation is depression, suicidal, alcohol intoxication. Five months later, just about, April the 3rd, '06, Terry Ellefson shoot to death Lee Dante Brown. Mental illness or disability is the explanation on this report.

So you're telling me that this officer or someone at the Dispatch center did not provide the officers with the right information. These two persons, these two people have some type of background, mental illness, alcoholic, be careful – this is a failure in training, as well...as well, you know, culture. What concerns me is that, even a dog deserves some type of compassion. I don't care what it is that he was intoxicated, mentally ill, whatever. You are trained...you are the trained police officer and this is...this falls in the 10% of City employees that do not deserve to have a job in this city. There was, in all this, 12 incidents, 12 people killed, 18 officers involved, two left the force, one involved in two – Officer Terry Ellefson. There was no designated shooter...

Let's go back to the Tyisha Miller incident – 17 to 19 rounds to kill a human being. That's a failure in training as well as culture. No priest or pastor to administer the last rites before you shoot a human being. That's not fair. No attempt...knowing the background, the mentally ill background, the alcoholic intoxication or whatever, no attempt to contact family members to try to diffuse the situation, the altercation. No extra backup was called knowing that these two persons had some type of background.

What concerns me the most, that an officer by the name of Terry Ellefson – and this is nothing personal; I never met the gentleman – but it proves to me that this person is not learning by training. There's something wrong with him... Culture. That's what it is. What I'm going to suggest to Chief Russ Leach in my next meeting with him – one to one – that any officer, from now on, involved in a shooting, should be dismissed. Dismissed. Or placed on desk duty for about a year, because obviously, those people are being trained but they're not acting according to their training because obviously we have a culture problem between this Little Town USA Police Department and the community. It is now 52% of this population of Latino ancestry and less, less than 3% of the police force are officers able to communicate on the field in the same language.

And I'm not raising the ethnic flag here, but it's a reality. Out of the people killed we have, six Caucasian, if I'm not mistaken, three Afro-American, two Latinos, and Laotian. And so something has to give. Think about it.

Thank you.

CHAIRMAN DAVIDSON – Is there anybody else that wants to speak on this issue? Item #7? Now this is out of order and normally, but I understand this person was late in arriving and wasn't here for Item Agenda #6, so I'm gonna give, Leslie Braden, a chance to come up and talk about Item #6.

LESLIE BRADEN

I do apologize for being late, but I came from work.

My name's Leslie Braden and Item #6 is closely related to me because Joseph was my brother.

What the Commission does not know is this is the second tragedy that my family has experienced. 1992, my brother, Charles, was shot by the Riverside County Sheriff's Department. Same scenario. The scenario is always the same – they went for the gun. Despite that 20 people did not see a weapon.

In Joe's case, same scenario. He picked up a Taser. He pointed it at the officer. I don't know how a person can point a Taser and then they're shot in the back. I don't even know why there's so much excessive force used. We do know that he was shot four times. Joe was unarmed. He did not have a weapon. The officers have a bullet-proof vest. They have pepper spray. They have Tasers. They have rubber bullets. These are all things that taxpayers are contributing to the police department in an effort to prevent situations like these, but none of those resources were utilized in this case.

According to Mike Medici, the lead investigator in this case, states that Joe had saw the officer earlier in the morning and that his...he saw his demeanor, his look, that the officer interpreted him as giving him a mean look. I don't know quite what that means, and if I shot everyone that gave me a mean look, then where would I be?

Joe was an intelligent, bright young man with a promising future that has now been cut off. What needs to happen...we've been exposed to or subjected to so many questions: what was Joe doing in that area? What was he doing, I mean, where did he work, these types of things. What was his background? I don't think you have to have a permit to be anywhere in the United States, as long as you're a citizen. The thing is that we don't do, we don't look at the officers' background. Several people have approached me as to the officer that shot my brother, saying that he had attempted to become a CHP officer, but was unsuccessful because he didn't pass the psychological evaluation. We need to look at what the officer's day was like; what types of things they do on their outside; what types of groups are they associated with, because one thing we forget just because they're police officers, does not mean that they're any less human than you or I. Just because we give them a badge – every day I see – I'm in the transportation department – I see officers that assume, because they have been given a badge and they've sworn this authority or this honor, that they be...that they think they're above duty. They do things. I've been pulled over for no reason other than being interpreted that I'm driving a nice vehicle. I've been questioned as to where I bought it. The same place as you would buy yours – at a car dealership.

These things have to stop. Have to. Joe was not wanted by the police for any reason. He was just a young man, bright young man, minding his own business. I'm not saying that the fact that he struck an officer is okay. But I don't believe that what Joe received in compensation for that was just.

And I'm gonna leave you on this note, that I, Leslie Braden, will never let Riverside County forget the trauma that they have caused to one family. Two brothers. My mother and father are gone, and that is a result of the first one. Riverside County bounced my brother, Charles Hill's case for five years and threw it out of court for lack of evidence. I don't know how it's lack of evidence when you have 20 people saying they never saw a gun, when there are sworn depositions that say at the time of the shooting, officer was trying to release his hands from underneath them to cuff him. How can you pick up a weapon at the same time? It's impossible, not unless he had a third arm. As to my recollection, he did not.

You have to think, if it was your son, your daughter. We will have to live with this for the rest of our lives. And then what are we gonna do about it? Our lives will never, ever be the same. It took them 'til 10:00 at night to notify us that they had shot and killed my brother. I don't know what the delay is, what took so long. We have lived in this county for all our lives.

When I went to Parkview Hospital a few days later, the emergency staff had the same question that we had: why no family came? Well, no family came because he was...we were never notified. Same instance with Charles. We were at the hospital. According to the records, he died at 5:32 PM. I was at Riverside Community at 2:00. They waited until 8:00 to notify us that he was deceased. When we asked to see the body, of course, it's the same story – the coroner already picked him up. There's no one else to identify him and we were never allowed to see him and the same case with Joe.

We need answers and I will not rest emotionally, psychologically, until I get those answers and I will protest, I will march, I will do whatever it takes to get them. And we have to have some kind of reform. Something has to happen.

I'll leave you with that. Thank you for your time.

CHAIRMAN DAVIDSON – Leslie, we want to thank you for coming all the way down here. You bring a very powerful message and I'm sure your words were heard by all the Commission. I'd also like to tell you that you have the complete Commission's sympathy for you and your family. Thank you.

8) CPRC 2007 Meeting Schedule

Motion for Approval	Motion	Second	Approve	Oppose	Abstain
Approve proposed 2007 CPRC meeting schedule	Brewer	Ward	7	0	0

9) Approval of Minutes

Minutes for Approval	Motion	Second	Approve	Oppose	Abstain
July 28 Informational Seminar (Special Meeting)	Brewer	Pearcy	7	0	0
September Regular Meeting	Brewer	Pearcy	7	0	0

10) Executive Director's Report & Comments

Executive Director Payne:

- Present plaque to outgoing Commissioner Frank Arreola
 - next year's will be in San Jose, CA
- CPRC investigator is working on both recent OID's

11) CPRC Committee Membership

A) Outreach Committee – Commissioner Quinto for Brian Percy, Chair

- 1st meeting since summer;
- covered several different issues
 - quality survey;
 - have some speaking ops developed by staff;
 - discussion of CPRC outreach plans;
 - directed staff to do "best practices" research

B) Budget Committee – Bob Garcia, Chair

- No Meeting

C) Policy & Procedure Review Committee - Jack Brewer, Chair

- No Meeting – No Report

12) Commissioner Comments

Commissioner Percy suggested a medical liaison regarding issues such as Dr. Bailey's issues, for training of Commission on medical issues as they relate to officers' interaction with potentially medically-disabled persons.

Chairman Davidson said he is in favor of discussing with the Commission the formation of a committee to study the suggestion.

13) Items for Future Commission Consideration

There were no items for future Commission consideration.

14) Adjournment

The Commission adjourned at 7:05 PM.

Respectfully submitted,

PHOEBE SHERRON
Sr. Office Specialist