

## Item 8: April 28 Questions answered by Kevin Rogan, CPRC Manager

May 13, 2010

CPRC Members,

At the last meeting, Chani Beeman asked for information concerning 3 areas related to the Quinonez OID. We discussed some of her requests recently, and the information might be useful in your consideration of this case.

### ***Q: What training do lateral officers receive?***

This question arose because one of the officers who fired upon Quinonez was a lateral transfer (which means a police officer who was employed at another agency, and who subsequently applies at and is hired by Riverside). Officer Heiting was employed as a police officer by LAPD before being hired a RPD. Because Heiting completed the police academy training for LAPD, he was not required to re-attend RPD's police academy (this is standard throughout California). However, Heiting was required to complete RPD's "Phase Training" program, the same program that trainee officers (academy graduates) must complete before being certified for solo field work as a police officer.

The Phase program takes about 5 months for a trainee officer to complete. Phase Training requires that a certified "Field Training Officer" (FTO) ride in the car on a daily basis with the trainee. The FTO is responsible to complete daily evaluations of the trainee, and the FTO signs off the trainee's workbook each time a Learning Domain is completed (learning domains are specific topics of training).

Lateral officers are required to complete all of the same material as trainees. However, depending upon the prior experience of a lateral, the entire Phase Training program could be completed in even half the time required for a trainee. Lateral officers usually have at least one full year with a police department prior to applying to a new department, because an officer receives a "Basic POST Certification" after one full year. The Basic POST is generally required for lateral hire.

Also, Officer Heiting apparently commented during interview that he was not sure, or not exactly sure, where he was in the phase training program, or if he was still considered a trainee. This would be a plausible response, especially for a lateral. The Phase Training program is broken down into several (5-6) distinct phases of progressively advancing difficulty. A new hire usually progresses in a very methodical manner. A lateral, however, might begin completing even advance learning domains (e.g., a Phase 5 task) from the outset if the officer was experienced enough to demonstrate the performance. So, for example, Heiting may have completed virtually all of his phase training within 3-4 months, and could have been awaiting final approval from his Chain of Command before being certified as a solo officer. Heiting's FTO (apparently, Munoz) may have advised that Heiting was finished with all training tasks, but the FTO would not have actual authority to allow Heiting to ride solo.

### ***Q: Is there a policy requirement that witnesses to a homicide be kept apart from each other prior to training?***

No, there is no policy requirement, even though it is certainly a preferred practice to separate witnesses from each other prior to their questioning by detectives.

Patrol officers are trained that one of their duties in being a "first responder" to a homicide or other major event is to identify and retain witnesses for later questioning by detectives.

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Generally, witnesses are voluntarily detained. That is, they are not under arrest, as there is no requirement under law that a witness provide a statement to police.

Usually, officers are tasked with transporting witnesses to the police station for later questioning by detectives. Preferably, witnesses should be kept apart from each other prior to questioning to avoid "contamination" of witness statements. However, the ability to separate witnesses is a matter of logistics. The police building has limited areas where witnesses may be placed. For example, witnesses would not be placed at an employee's work area because of concerns over access to confidential information. Also, usually an officer stays in the station with the witnesses to both watch them, and to attend to basic needs (bathroom, water, etc.). The number of available officers - particularly after an officer-involved shooting - is limited (the 2 involved officers are not available; officers are on scene protecting evidence; some officers are sent to the hospital; some officer must remain in the field handling the rest of City service, etc.). So, when a homicide is witnessed by multiple persons, such as in the Quinonez case, it is probably not possible with existing resources to keep each witness separate from every other witness.

Also, it is generally not possible for officers with witnesses to prohibit them from talking. The witnesses are not under arrest. It is a goal of the investigation to maintain witnesses in a cooperative state, in order to obtain the most complete statement. Witnesses may not be interviewed for several hours after the event. Detectives usually are not on duty at night, so they must be called-out from home. Detectives first go to the crime scene to get an understanding of visually how events may have unfolded. Then, detectives may go to the station and begin questioning witnesses. If an officer is too harsh or restrictive with a group of voluntarily detained witnesses, one or all may become uncooperative or refuse to be interviewed. The officer must try to allow a reasonable amount of conduct, including conversation, for some minimal level of witness comfort. The officer should advise witnesses not to discuss the incident, but considering that a homicide is serious emotional event, most persons find it difficult to avoid saying anything at all about the event they just witnessed.

So, ideally witnesses should be kept apart, but the ideal is subject to logistical ability under given circumstances.

Information will be forthcoming concerning officer blood draws after an OID.

Please contact me if you have any questions or concerns.

Kevin

## Item 8: April 28 Questions answered by Kevin Rogan, CPRC Manager

May 14, 2010

CPRC Members,

There are two more items of information that I wished to provide to you from Chani Beeman's questions concerning policy regarding the Quinonez OID.

### ***Q. Is there policy that applies to who collects evidence at a crime scene?***

There is no policy that specifically covers who will or will not retrieve or collect items at a crime scene.

This question arose from the fact that the shotgun used by decedent Carlos Quinonez was retrieved from the driveway by Officer Heiting, and Heiting had been one of the 2 officers involved in the shooting. Under controlled circumstances at a homicide scene, a crime scene is established as a protected and delineated area, usually demarked by yellow tape. Forensic technicians who are specially trained in evaluating, testing, and handling evidence preferably are responsible for collecting and storing evidence.

However, in dynamic situations such as the immediate aftermath of the Quinonez shooting, safety considerations take priority over evidence collection techniques. Quinonez's shotgun was laying in the driveway in the immediate vicinity of where he was down. The police reports indicate that officers on scene had concern over the members of the party who were (understandably) in various stages of excitement. For the safety of all persons at the scene, recovering the shotgun became a priority task.

Because Heiting was involved in the shooting, he would not have been the best choice under ideal circumstances to retrieve the weapon. However, there were limited officers available immediately after the shooting, and the on-scene supervisor would have had the choice of whether to wait for another officer to arrive, or to retrieve the weapon as promptly as possible. The supervisor apparently chose to move promptly and allow Heiting to recover the weapon.

The police apparently created an impromptu "rescue and recovery" team that left their position of cover behind parked vehicles to approach the driveway, and both rescue the downed Quinonez and recover the unsecured weapon. The supervisor assigning roles had 3 apparent choices of how to use Heiting:

- 1) to be one of the officers charged with grabbing and removing Quinonez (with a concern that if injury occurred to Quinonez during the rescue, the involved officers could be held responsible, and persons might question whether Heiting should have been placed in physical contact with the person he just shot);

- 2) to be part of the cover team, which would require officers to have weapons drawn and at the ready to fire upon the house if the recovery team were threatened or fired upon (with a concern that if Heiting did so and shot and killed a second person, his use in that role would be questioned); or

- 3) to recover the shotgun, even though a question could arise as to whether he compromised any forensic evidence.

In fluid situations, the choices are sometimes not reflective of the "preferred" method.

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***Q. Is there policy that covers the drawing of blood from officers after an OID, and what occurs if an officer does not voluntarily submit a blood sample?***

This question arose because upon request for a blood sample after the shooting, Officer Heiting voluntarily provided a sample and Officer Munoz elected not to voluntarily provide a sample.

Training Lieutenant Hardin advised that Section 4.8 of the RPD policy manual governs blood draws from employees:

**g.** The involved employee(s) will be requested by the Investigation Team to voluntarily provide up to two (2) samples of his/her blood or urine when such sample request is permitted under department policy or law. If the request is refused, and no probable cause exists to seize the samples for criminal evidence, and when sample collection is permissible under department policy or law, the involved employee(s) 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 when lawfully ordered 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.

Therefore, under the policy, Officer Munoz was able to properly exercise his choice to not provide a sample in response to a request by the Investigation Team. Whether Munoz was later ordered to provide a sample would be information contained in the confidential in internal investigation that the Commission will review after its completion of the public OID evaluation process.

## Item 8: April 28 Questions answered by Kevin Rogan, CPRC Manager

May 18, 2010

CPRC Members,

Here is additional information in response to questions raised at the last meeting concerning facts from the Quinonez OID.

***Q: Is there a conflict between Officer Heiting's RPD interview at lines 754-55, and information listed on the CPRC Fact Sheet at line 125?***

Ms. Beeman raised this question by pointing out that on lines 754-755 of Officer Heiting's interview by RPD, Heiting stated that "he [Carlos Quinonez] wasn't moving towards his weapon uh, but I don't know if - if he was just layin' back fakin' it." Ms. Beeman compared this statement to Fact Sheet item 125, which states, "Ofcr. Heiting looked out from behind the car and saw the male subject lying on the ground on his left side, using both hands to raise the shotgun toward Ofcr. Munoz." Ms. Beeman asked if the two statements are in conflict.

The full context of both statements indicates that the statement from 754 refers to events *after* Officer Heiting fired his weapon. Fact Sheet item 125 refers to events *before* Officer Heiting fired. Because the statements refer to two separate moments in time, they are not in conflict.

In his RPD, Officer Heiting first gave a running narrative of events. He then was asked to recount the incident again, but was subject to question and answer. Officer Heiting's account of Carlos Quinonez walking from the garage begins on page 10 of tab 41 of the Criminal Investigation Book, at about line 425. Heiting continued to describe events up to the point that Heiting fired, at line 652. Lines 652-693 describe the immediate acts surrounding Heiting firing his weapon. Beginning at line 693, Heiting began to describe events *after* Heiting fired. Heiting's statement at line 754-755 describes Quinonez being down, near the shotgun. In fact, at line 756, Officer Heiting noted that, "my assumption is my one shot stopped him," confirming the immediate context of Heiting's statement.

In contrast, Fact Sheet item 125 describes Heiting's observations *before* Heiting fired. Officer Munoz had fired his weapon by this point (items 105 & 106), but Heiting had not. Heiting dove for cover instead (111) and pulled his pistol (111). Line 129 is the point at Heiting is described as firing his pistol at Quinonez after Quinonez picked up the shotgun (126) and raised it toward Officer Munoz (127)

**Kevin Rogan**  
*Manager*