



**REGULAR MEETING  
MINUTES  
Wednesday, July 22, 2015  
Art Pick Council Chambers  
3900 Main Street, Riverside, CA**

**REGULAR MEETING – 5:30 PM**

**PLEDGE OF ALLEGIANCE**

**Regular Meeting Roll Call**

Rotker	Hawkins	Ybarra	VACANT	Smith	Jackson	Roberts	Andres	Adams
✓	O	✓	■	✓	✓	✓	✓	✓

✓ = Present    **B** = Absent / Business    **S** = Absent / Sick    **V** = Absent / Vacation    **O** = Absent / Other  
**UE** = Absent / Unexcused    **L** = Late    **LE** = Left Early    **■** = Vacant

**STAFF:** Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

**Public Comments**

Public comment on any subject matter within the Commission's jurisdiction.

John Burnard, the new Ward 7 councilmember, introduced himself to the Commission.

Mary Shelton expressed concern that the Commission's independent investigator, Mike Bumcrot, was providing a finding in his final reports, noting that RPD's investigation report does not include a finding. She expressed concern over the lack of civilian witnesses and said that Mr. Bumcrot relied on police witnesses. She also commented on the lack of transcripts for RPD's witness interviews.

Paul Chavez informed the Commission that Casa Blanca's annual National Night Out party would be held on August 4<sup>th</sup> and the Neighbor Fest on August 5<sup>th</sup>, both at Villegas Park. Mr. Chavez also said a fundraiser was underway for the freeway memorial sign.

Theresa Newham spoke regarding the complaint she filed against Chief Diaz.

## **Approval of Minutes**

<b>Minutes for Approval:</b>		June 24, 2015 Regular Meeting	
<b>Motion:</b>	Rotker	<b>Approve:</b>	Rotker, Ybarra, Smith, Jackson, Andres
<b>Second:</b>	Ybarra	<b>Oppose:</b>	None
		<b>Abstain:</b>	Roberts, Adams

## **OFFICER-INVOLVED DEATH (OID) CASE EVALUATIONS**

### **Training: Less-Lethal Weapons**

Presentation by RPD personnel regarding the less-lethal weapons used by the Riverside Police Department.

Lt. Chad Milby, Detective Chad Chinchilla, and Officer Zach Fishell gave presentations on the various less-lethal weapons currently used by RPD.

Lt Chad Milby:

- Assigned to Force Training Unit
- Force Training Unit Staff Members assisting in presentation of RPD's less-lethal options:
  - Sgt. Ryan Wilson
  - Detective Chad Chinchilla
  - Officer Zach Fishell
- When employed by RPD, new and lateral-transfer officers receive four hours of less-lethal training and four hours of defensive tactic training during their two-week orientation.
- Officers then receive 40 hours of reoccurring training every 18 months. This critical incident training includes:
  - eight hours of defensive tactics training
  - two hours of Taser training
  - two hours of less-lethal munitions training
  - eight hours of scenario-based training
- Reasons officers use one option versus another are:
  - the circumstances of the incident;
  - mindset;
  - training;
  - experience;
  - comfort level.

Detective Chinchilla gave a presentation on personal impact weapons and the Taser.

Commissioner Smith:

- Other than clothes, do drugs or alcohol interfere with the Taser's effectiveness?
  - Drugs or alcohol are not necessarily an issue if the probes connect properly. The Taser won't work if there is only one probe connecting. If clothing is thick or baggy, it may not work. If used for pain compliance, drugs may affect its effectiveness.
- If a suspect has a weapon that is not a gun, how does an officer decide on whether to use a Taser or a handgun?
  - There are a lot of variables. It depends on the totality of the circumstances. It's hard to give a definitive answer.

Chair Jackson:

- How do officers carry Tasers on their "weak" side?
  - It's determined whether the officer is left or right-handed and the Taser holster goes on the opposite side of the strong hand.
  - The Taser is holstered for a weak hand draw only with the handle pointing back. RPD no longer allows Tasers to be holstered for a cross-draw in order to minimize the possibility of a mistaken weapon.
  - All patrol officers wear the Taser somewhere on their weak side.

Commissioner Ybarra:

- Are all uniformed officers required to carry a baton on them?
  - They're not required to carry on them, but they are required to have it readily available. They all have their straight-stick baton in their cars and have the option of carrying an asp or RCB on their belts as backup.
- Who decides what he carries?
  - The officer decides whether to carry the asp or RCB.
- Concerned that if an officer is not close to the car and his baton is in the car, a valuable tool has been eliminated by not carrying it. Why eliminate that option? And all patrol officers now carry Tasers?
  - Yes. All patrol officers carry Tasers.

Commissioner Andres:

- It's the officer's decision when to use the Taser?
  - Yes.
- In all cases?
  - Yes.
- Are there any policies or procedures regarding the use of the Taser?
  - Yes. There is a Taser policy.
- What is it?
  - The Taser policy states that the Taser can only be used when there is an immediate threat to the subject, to the officer, or to another person or if, based on the totality of the circumstances, it's been determined that the subject will be an immediate threat. The officers don't have to wait for a threat to materialize before the Taser or any force option is used. Based on the nature of the incident, it's the officer's decision as to what weapons, if any, will be used.
- If there are other officers around, can an officer make an independent decision to use the Taser?
  - Yes. I can use the Taser or any other force options to address a threat.
- Do you know how often RPD uses Tasers annually?
  - No. I don't have that information.

Commissioner Rotker:

- The officer can put the Taser on the weak side, but it can be worn in two ways. Is that left up to the officer?
  - No. It is now mandatory that the Taser be set up for a weak hand draw only.
- Are the officers trained to deploy using their weak hand?
  - Yes.
- Why would an officer move the Taser from the weak hand to the strong hand?
  - The officer doesn't have to transfer the Taser from the weak hand, but can change to strong the hand if they want to. The Taser just has to be set up for a weak hand draw.
- Do officers need to demonstrate the ability to use the Taser with their weak hand?
  - No.
- Then would have to change to their strong hand.
  - No, they don't have to. I have used my weak hand before. The Taser has a laser which makes it easier to acquire the target. It's not that difficult to deploy with the weak hand.

Asst. Chief Vicino:

- RPD's Use of Force policy is based on US Supreme Court case law.
- The force used is based on reasonableness as stated in Tennessee v Garner.
- This case also states that incidents are not judged in hindsight, but on what the officer was experiencing at the time the use of force occurred.
- Because situations are always changing, it's impossible for presenters to answer questions that have been asked.
- Officers are to use force that is no greater than necessary to control the situation they are in.

Vice-Chair Adams:

- If there is a group of officers, is each officer making an independent decision in all situations?
  - There is no other way to do it. The officers won't think alike and the law judges their actions as individuals, what they're seeing and experiencing individually. They can't be judged as a group. That has not been established by RPD policy or by case law.

Officer Fishell gave a presentation on less-lethal munitions.

Chair Jackson:

- What is the maximum distance of the less-lethal shotgun round?
  - I will address that later.

Commissioner Smith:

- How many times would the less-lethal shotgun be fired during an incident?
  - It depends. Officers are taught not to fire in the same location twice if they need to fire more than once.
- What are contents of bean bag rounds?
  - It holds 40 grams of #9 lead shot.

Chair Jackson:

- What is the 40 mm gun called?
  - Defense Technology Federal Laboratories Less-Lethal Launcher.
- Is it called by anything else?
  - 40 mm launcher.

Commissioner Smith:

- What does the round consist of?
  - It's a sponge round.
- What does sponge round mean?
  - Closest thing would be like a racquet ball. It's made of foam and feels similar to a racquet ball.

Lt. Milby:

- Wanted to address Vice-Chair Adams question about when officers are together.
- If a group of officers is on-scene, they may be seeing the same thing, but they might be given different roles and responsibilities, if time permits.
- Duties assigned can include lethal, less-lethal munitions, hands on, and who will give commands.

Vice-Chair Adams:

- In that type of situation, would the team have the person with less-lethal fire first to see if that was effective before using deadly force?
  - Who fires first probably wouldn't be part of the plan. It would be based on the circumstances the officers are dealing with. Those using the less-lethal option will announce the deployment of less lethal to alert the other officers of its use.

Commissioner Andres:

- If there is a situation with various less-lethal options at a scene, are you saying a plan is formulated for when and what is used?
  - Yes. As time permits, discussions will take place as to what will be done and 'what if's' discussed if time allows.

Officer Fishell:

- DS-23 drag-stabilized bean bag round
  - Has "tails" that help keep it accurate and slow it down.
  - The small shot helps it be flexible so that it will flex to the object it strikes and doesn't strike sharply.
  - Bean bag rounds contain 40 grams of #9 lead shot.
  - Distance is up to 60 feet for accuracy. Minimum distance is hard to determine due to several factors with a person's body shape or type of clothing being two factors.
  - Travels at 300 feet per second.
  - Impact of 120 foot pounds of pressure.
- Sponge round
  - Travels approximately 325 feet per second.
  - Impact of 115 foot pounds of pressure.
  - Maximum distance is approximately 120 feet. The minimum distance is dependent on the same factors as the less-lethal shotgun.

Chair Jackson:

- During training, aren't officers told it can go so far, but it shouldn't be any closer than this? What is that distance?
  - There is no minimum. It is dependent on situation. It can be used at zero. The optimal range is 10 – 75 feet.
- If used at closer range, is it still considered less lethal?
  - Yes.
- All patrol officers now carry a Taser. Do all officers carry other less-lethal options in the trunks of their patrol cars?
  - Yes. By policy, all patrol units are supposed to carry a less-lethal shotgun in the trunk with munitions loaded in the side-saddle.
- Can they choose between the shotgun and 40 mm launcher?
  - No. All units have the less-lethal shotgun.
- Where does the 40 come in?
  - They are more expensive and carried by officers that have had the 40 mm training.
- If they have gone through the 40 mm training, is it exchanged or are both carried?
  - Both are carried. There are not enough to go around for everyone.

Commissioner Rotker:

- Is one shot of the 40 mm more effective than the less-lethal shotgun? Why the change?
  - The sponge round can't be confused with any other round. It is also as accurate if not more so. It's really the preference of the officer.
- That's the only reason?
  - There is not a lot of difference between the two.
- What is the potential for the bean bag to penetrate a body?
  - It depends on various factors. It's designed to limit that possibility, but the potential is there.

Lt. Kevin Townsend, RPD / CPRC Liaison, asked if there were any additional questions.

Mr. Hauptmann:

- When a Taser is going to be deployed, the person deploying will yell Taser Taser Taser?
  - Yes. Officers are trained to announce their use of a less-lethal weapon.

As Commissioners had no additional questions, Chair Jackson opened for public comment.

Mary Shelton noted that the last time there was a presentation, less than half the officers had Tasers and that it was good that all officers now carried them and that all cars carried less-lethal shotguns. She also asked if the bean bag ammunition had changed.

Lt. Townsend said that the older style bean bags didn't have time to flatten out and could be unintentionally lethal. He said that RPD uses the bean bags made with newer technology.

#### **Jimenez Officer-Involved Death (OID) Case Evaluation**

Continue discussion and action, if any, on the Jimenez OID Case Evaluation. The Commission may return to discussion of completed Stages, if needed.

- A) Stage I – Commission Member Review: In Process**
- B) Stage II – Fact Finding, Request for Training & Investigation: In Process**
- C) Stage III – Policy and Procedure Process**
- D) Stage IV – Deliberation and Finding Process**
- E) Stage V – Recommendation Process**
- F) Stage VI – Written Public Report**

Chair Jackson to Asst. Chief Vicino:

- Mr. Jimenez had a 245, Assault with a Deadly Weapon charged against him yet in the following case, Mr. Hayes, had a 664, Attempt Homicide charge. What is the difference between the two cases other than one man had a knife and the other man had a gun? Why don't both cases have the same charges associated with them?
  - If the decedent is going to be charge at all, the ultimate determination is made by DA.
- So this comes from the DA and not the lead detective?
  - RPD submits the reports as to how it is felt things happened, but if a suspect is charged, the DA can change the investigator's charge to one they feel is more appropriate.
- Why wasn't the decedent charged with his attempt to cut his wife?
  - That is up to the DA.

Commissioner Rotker to Asst. Chief Vicino:

- One OID had a tox report and one didn't. Have these now been included?
  - Records Manager Roz Vinson was asked to make it available, but Ms. Sherron is shaking her head no that it has not been received. This will be taken care of.

Commissioner Rotker:

- Sgt. Toussaint was multi-tasking from beginning, but as one person can only do so much at one time this might have had a bearing on what occurred.
- Shooting was justified and unfolded very rapidly.
- The K9 was not deployed in time.
- The Taser couldn't be deployed. If all the officers had had Tasers, the outcome might have been different.

Chair Jackson asked for comments regarding the Fact Sheet, noting some items for correction:

- Correct spelling of the word "pee-on" on Page 3, Tab 31
- Change spelling of Larking to Larkin on Page 6, Tab 51

Chair Jackson then asked for a motion to approve the Fact Sheet.

<b>Motion for Approval:</b>		That the Fact Sheet for the Jimenez OID be accepted.	
<b>Motion:</b>	Andres	<b>Approve:</b>	Rotker, Ybarra, Smith, Jackson, Roberts, Andres, Adams
<b>Second:</b>	Rotker	<b>Oppose:</b>	None
		<b>Abstain:</b>	None

Several Commissioners commented on their thoughts about the case.

Commissioner Andres:

- Officers tried to help Mr. Jimenez, but he wanted to die.

Commissioner Ybarra:

- This incident was moving to this end.
- Mr. Jimenez acted in a way which forced officers to respond in the way they did.

Vice-Chair Adams:

- See it differently. More people will try to commit suicide by cop, so officers will need to address these incidents differently.
- Officers moved in too quickly. Don't know why officers felt the need to jump over the fence.
- Eight officers with a barking dog surrounding Mr. Jimenez could have escalated the situation.
- Believe it could have been handled differently. There was no plan developed before going in.
- The sergeant handled things well, but there were officers screaming at Mr. Jimenez to drop the knife. It wasn't the best way to handle this type of situation.
- Question whether Mr. Jimenez lunged because the sergeant said Mr. Jimenez took two to three steps.
- Believe it could have been slowed down, possibly resulting in a different outcome.

Chair Jackson:

- Mr. Jimenez was, at some point during the incident, cutting himself in front of officers.
- Officer O'Farrell, who had the Taser, said he was transferring it to his strong hand, but one officer said he saw "the red dot." Do the weapons officers carry have laser sights or did the Taser actually come up and the officer doesn't remember?
- Concerned that all the officers were inside the fence, but realize they were also trying to avoid a hostage situation because they were trying to clear the people who were still in the house.

Commissioner Smith:

- Agree about slowing down a situation.
- Mr. Jimenez had been hurting himself and tried to hurt others. Maybe the situation could have been slowed down, but don't know that the end result would have changed especially after Mr. Jimenez went toward officers with the knife.

Commissioner Rotker:

- Agree with previous comments.
- Based on the circumstances, the officers had no chance to slow things down.
- Domestic violence had taken place at the residence and officers had a duty to protect those in the house.

Chair Jackson asked Commissioners to complete and submit their rationales for discussion at the next meeting.

Chair Jackson opened for public comment.

Mary Shelton said she would like to have seen more discussion, but appreciated Vice-Chair Adams' concerns regarding incident escalation. She expressed concern about the lack of civilian witnesses, noting that certain people mentioned in the investigation weren't interviewed. She was also very

concerned that there were no audio recordings or transcripts of witness interviews included in the casebook, only interview summaries.

Paul Chavez said Mr. Jimenez was depressed due to a variety of things, but it was said that he was threatening his family. The officers escalated the incident.

### **Hayes Officer-Involved Death (OID) Case Evaluation**

Continue discussion and action, if any, on the Hayes OID Case Evaluation. The Commission may return to discussion of completed Stages, if needed.

- A) Stage I – Commission Member Review: In Process
- B) Stage II – Fact Finding, Request for Training & Investigation: In Process
- C) Stage III – Policy and Procedure Process
- D) Stage IV – Deliberation and Finding Process
- E) Stage V – Recommendation Process
- F) Stage VI – Written Public Report

Chair Jackson asked that discussion be limited to approval of the Fact Sheet.

Chair Jackson noted a discrepancy in the number of rounds fired by Officer Miranda shown on Page 1 and the number shown in Tab 49 on Page 7. She also noted a similar discrepancy regarding the number of rounds fired by the decedent as stated in Tabs 3 and 4 on Page 2.

Mr. Hauptmann said Tab 4 should be one round. He said he would clarify the discrepancy regarding the number of rounds fired by Officer Miranda.

Chair Jackson asked Commissioners if they wanted to approve the Fact Sheet or wait until Mr. Hauptmann obtained the correct information regarding the number of rounds fired by Officer Miranda. The general consensus was to wait.

Chair Jackson asked Commissioners if there were any requests for training; there were none.

Chair Jackson closed discussion of the OIDs by reminding Commissioners to submit their Jimenez rationales to Staff.

## **OLD BUSINESS**

### **Revisions to CPRC Policies and Procedures**

Continue discussion and action, if any, on the document-wide revisions to the CPRC Policies and Procedures.

Commissioner Rotker said the Outreach section still being worked on, but that the document would be ready for Commission discussion at the next meeting.

Chair Jackson said the Outreach section would also be discussed during the Outreach Committee meeting on July 23<sup>rd</sup>.



## **COMMISSION ACTIVITY REPORTS**

### **CPRC Ad-hoc Committees**

Reports from Committee Chairs, with Commission discussion and action, if any, regarding respective Committee activities and / or recommendations:

- A)** Policies, Procedures, and Bylaws Committee: Commissioner Rotker – Chair
- B)** Outreach Committee: Vice-Chair Adams – Chair
- C)** NACOLE 2015 Conference Planning Committee: Commissioner Roberts – Chair

#### **A) Policies, Procedures, and Bylaws Committee**

Commissioner Rotker reported on the progress of the Policies and Procedures during the previous agenda item.

#### **B) Outreach Committee**

Vice-Chair Adams advised that the Committee would meet on July 23<sup>rd</sup> to discuss the Outreach PowerPoint. She also noted that Commissioner Smith was now serving on the Outreach Committee.

#### **C) NACOLE 2015 Conference Planning Committee**

Chair Jackson gave an update on the NACOLE Conference planning:

- Teleconference with NACOLE members on July 17<sup>th</sup>;
  - Discussed opening reception;
  - Shepherd for body cams session contacted BB&K for panel participant;
  - Nothing from shepherd for mental health session;
  - CPRC history panel is done;
  - Chief's panel is done.
- Asked that Commissioners make themselves available, if possible, as NACOLE is asking for volunteers in numerous positions;
- One scholarship recipient is from Riverside.

Mr. Hauptmann also noted that NACOLE has a higher registration for this time period than ever before and that the Mission Inn is already sold out.

### **Meetings and Training Sessions**

Reports from Commissioners on meetings and / or training sessions attended in June / July.

Commissioner Smith:

- June 30 – City Council Swearing-In Event and Reception

Mr. Hauptmann:

- June 30 – City Council Swearing-In Event and Reception

Ms. Sherron:

- June 26 – CPRC History Panel meeting with NACOLE shepherd
- July 17 - NACOLE Planning Committee Meeting

Chair Jackson:

- July 17 - NACOLE Planning Committee Meeting
- July 17 – Meeting with Mr. Hauptmann

Commissioner Roberts:

- June 26 – CPRC History Panel meeting with NACOLE shepherd
- July 17 - NACOLE Planning Committee Meeting

Vice-Chair Adams:

- July 17 - NACOLE Planning Committee Meeting

## **Outreach**

### **A) June / July Outreach**

Commissioner Smith:

- June 26 – Meeting with Tanya Humphrey of RCPA and NAACP
- June 30 – Addressed the Inland Empire Economic Partnership Regional Leadership Academy graduating class of 2015

Mr. Hauptmann:

- July 9 – RCPA Meeting

Commissioner Andres:

- July 7 – Mayor's Night Out at La Sierra Park
- July 13 – RRR meeting at Magnolia Station

Commissioner Ybarra:

- July 7 – Mayor's Night Out at La Sierra Park

### **B) Scheduled Outreach Events**

- 1) National Night Out, August 4th, 2015: numerous locations throughout the City

### **C) Future Outreach Opportunities**

- 1) Input from Outreach Coordinator on upcoming outreach events
- 2) Input from Commission Members on potential outreach events

Vice-Chair Adams noted the following upcoming events:

- August 8 – Event at Lincoln Park
- August 10 – Celebration of 50 Years of the National Health Center
  - Arlanza Health Center from 11 – 2
  - Eastside Health Center from 10 - 1

## **Staff Report**

Mr. Hauptmann said he was tasked by Asst. City Manager Nguyen to review the records retention schedule. Items listed were retained for two years, five years, or permanently. Mr. Hauptmann said he elected to change the retention schedule and keep all items for five years unless they are considered permanent.

Mr. Hauptmann said that the date an OID goes to the DA and the date it is returned to RPD will be added to OID case timelines.

## **Commissioner Comments**

Pursuant to Government Code Section 54954.2, Commission members may use this time to make brief announcements or a brief report on their own activities.

Commissioner Smith spoke on the tracking of Outreach activities and encouraged Commissioners to check table online.

## **Items for Future Commission Consideration**

There were no items for future Commission consideration.

**Adjournment**

The Commission adjourned at 8:04 PM.

Respectfully submitted,

A handwritten signature in blue ink that reads "Phoebe Sherron". The signature is written in a cursive style with a horizontal line underneath the name.

PHOEBE SHERRON  
Sr. Office Specialist

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