

November 20, 2009 - Karra Porter's Statement to the Media Regarding the Washington County Prosecutor's Decision to Not Pursue Charges in Connection with the Death of Brian Cardall on June 9, 2009.

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Anna Schmidt Cardall and the Cardall family have asked that I, as their legal advisor, respond to today's announcement by the Washington County Attorney's Office that no one will be prosecuted for the death of Brian Cardall on June 9, 2009.

I think the family is disappointed as much by what is not in Mr. Belnap's report as what is in it. They understand that it would be awkward for a County Attorney in a relatively rural area to prosecute people that he works with every day, and that he is in a difficult position. That is why it is unfortunate that this decision was not handed off to an outside entity back in June, as others such as the *Deseret News* suggested.

Although the family may not be surprised by this decision, it is puzzling that the prosecutor's "investigative summary" does not address what appears to be some key evidence in the case. While the report discusses how some witnesses say Brian was acting before the officers arrived, it glosses over the far more critical account of an independent eyewitness who saw the actual Tasing. (A person obviously cannot be Tased for something he did ten minutes earlier.) According to that eyewitness, Brian was 10-12 feet away from Officer Thompson and had some clothing in his arms. He took "one step" toward Officer Thompson, at which point Thompson Tasered him and Brian dropped immediately.

The Prosecutor's Office also does not address the significance of other important facts, such as:

- Officer Ken Thompson, normally a school resource officer, got out of his car with his Taser already drawn.
- Officer Thompson knew that Brian had no weapon, and in fact had no clothes on at all.
- Officer Thompson knew that Brian was having a bi-polar episode, and that he had been given medication by his wife that would be taking effect shortly. Even with that knowledge, Officer Thompson and Hurricane City Police Chief Lynn Excell immediately began yelling simultaneously at Brian from opposite directions, forcing Brian to divert his attention from one to the other.
- Within 42 seconds of exiting his vehicle, Officer Thompson fired his conducted energy weapon (CEW)(Taser X-26) directly at Brian. During those 42 seconds, Brian was able to provide information to Officer Thompson; he told Officer Thompson that Anna was safe, and begged Officer Thompson not to shoot him.

Neither Officer Thompson nor the police chief made any effort to physically restrain Brian, despite acknowledging that Brian was thin.

- The Prosecutor's Office makes no effort to explain the clear contradiction of Officer Thompson's claim that Brian was running at him with the account of both the eyewitness and Anna Cardall that Brian took only a single step toward Thompson.
- Officer Thompson did not warn anyone that he was going to fire his Taser. The Taser sent two prongs into Brian's chest, penetrating deeply near the heart. One prong was above the heart, just above and in the middle of the clavicle, and the other prong was in the left chest wall at the heart's apex, between the fourth and fifth ribs.
- Brian crumpled to the ground from the Taser deployment. Instead of taking Brian into custody while he was incapacitated by the initial Taser charge, as he was trained to do, Officer Thompson instead waited only two seconds and then intentionally fired another Taser charge into Brian's chest while Brian was seated on the ground.
- The Medical Examiner concluded that Brian lost consciousness during the second Taser deployment. Although Brian was not moving, it appears that neither Thompson nor Excell checked to see if he was still breathing at that time. Thompson and the police chief handcuffed Brian face down and neither of them checked his vital signs. Brian died at the side of the road.
- Less than an hour after Brian's death, local officers had already put a call in to Mr. Belnap. The investigation consisted of a newly created Critical Incident Task Force (it was only months old and had never handled a major case like this before) which gathered some information and statements which it passed on to the County Attorney's Office. The last piece of information was the Medical Examiner's report. It appears that the Task Force completed much of its work some time ago. The family is just now beginning to look at the information collected by the Task Force, which was recently provided by the County Attorney's Office.
- Even though she was not suspected of a crime, Anna was ordered to drive her own car to the local sheriff's office, where she was detained for an extended period. Her requests to join her husband at the hospital, or even to leave the room to get a diaper for her baby, were refused. She was then questioned briefly, after which she was told that her husband was dead.

In light of the County Attorney's decision, the family will discuss their options for ensuring that the full truth emerges regarding Brian's death. I think they also want to feel reassured that steps are being taken to prevent other senseless deaths in the future. #