

Rick Romley Says Police Union's Under Investigation in the Chrisman Murder Case

By **Stephen Lemons** *Thursday, Nov 18 2010*

PLEA DEAL

Can the Phoenix Law Enforcement Association, the powerful union that represents Phoenix Police Department officers, successfully derail the case against Officer Richard Chrisman, the Phoenix cop indicted for second-degree murder in the October 5 shooting of an unarmed man?

That's the question I have as interim County Attorney Rick Romley leaves office on November 22, to be replaced with County Attorney-elect Bill Montgomery.

PLEA endorsed Montgomery in his victorious Republican primary challenge to Romley, and PLEA contributed \$410 to his campaign coffers, though Montgomery hardly needed the help.

His official sponsor, longtime Romley enemy Sheriff Joe Arpaio, spent more than a half-million dollars on TV ads and mailers bashing Romley. That effort, or at least the cash dropped on the mailers, earned Arpaio a hefty campaign fine of \$154,000.

So you could at least argue that Montgomery owes PLEA less than he owes the sheriff, though PLEA's endorsement's worth a lot more than its little donation.

Also, PLEA's reportedly tight with at least one member of Monty's newly announced executive staff. And from day one, PLEA has vigorously defended Chrisman against allegations leveled at him by fellow officer Sergio Virgillo.

Virgillo told investigators that the victim, Daniel Rodriguez, posed no threat to the officers, who were responding to a domestic-violence call placed by Rodriguez's mother.

According to Virgillo, Chrisman, challenged by Rodriguez as to why the cops were in his mom's residence, put a gun to Rodriguez's head, telling him, "I don't need no warrant, motherfucker."

Why would a cop make this stuff up about another cop, thus instantly earning him the enmity of fellow law enforcement officers? If the confrontation went down the way Virgillo said and if he'd kept his mouth shut and backed Chrisman's tale, the whole incident probably would've been forgotten after the initial reports on it.

But PLEA's having none of Virgillo's account. The union ponied up the dough for Chrisman's bail and apparently began planting stories with friendly reporters at CBS 5 and elsewhere (according to my sources), aimed at smearing Virgillo, who's not a PLEA member.

That campaign caught the eye of Romley, who has told me that PLEA and other Phoenix police officers are now under investigation by his office and the Phoenix Police Department for possible witness tampering and obstruction of justice. In addition, Romley said an FBI agent's assigned to the matter.

"I think there's a concerted effort by PLEA and some of its members to obstruct the success of this case going forward," Romley told me. "And they need to know that I'm going to play hardball."

Sadly, Romley won't be playing hardball from the County Attorney's Office, but he's never been quiet on the sidelines, and I wouldn't expect him to clam up after November 22. By informing me of an investigation into PLEA, Romley was sending a message.

"This thing doesn't go away just because Rick Romley has to leave," he said.

I called the FBI, where spokesman Manuel Johnson said, "We're aware of the situation." He specified that the FBI knows about the County Attorney's Office and PPD probes.

Johnson would neither confirm nor deny Romley's statement that there was an FBI agent assigned to the matter. He said that in cases in which law enforcement's accused of alleged misconduct under "color of law," it's not uncommon for the FBI to wait until local investigations run their course. He said there was no active FBI investigation, but he left the door open for that to change.

(Note: PLEA President Mark Spencer hadn't returned a call for comment as this column went to press.)

Romley declined to discuss specifics of the investigation. However, I wondered to Assistant Phoenix Police Chief Andy Anderson, how PLEA had gotten internal e-mails among police officers concerning a phone call from Phoenix city councilmen Michael Nowakowski and Mike Johnson to Officer Virgillo concerning Daniel Rodriguez's death.

The e-mails are posted on PLEA's Web site. When I asked Anderson whether his department was investigating how the e-mails got there, he said he couldn't comment. I asked if the PPD was investigating PLEA, and he said that he couldn't make a statement at this time.

Nowakowski and Johnson have said they were calling only to offer support to Virgillo. The e-mails insinuate that Nowakowski and Johnson may have been trying to get Virgillo to stick to his story — which is what PLEA wants us to believe.

Granted, it's a legitimate news item for the media hounds who've reported on it. As was another item concerning Virgillo's wife, Maria, who was busted in 2008 and eventually caught three years' probation for being part of a drug-trafficking organization.

Virgillo, by all accounts, knew nothing of his wife's dealings. But as with the story regarding Nowakowski and Johnson, these twists effectively muddy the pool, no doubt part of PLEA's plan. If there's enough doubt in the mix when Montgomery ascends to the catbird seat, it could give him enough cover to act in Chrisman's favor.

Chrisman's attorney, Craig Mehrens — who wouldn't tell me whether PLEA's paying Chrisman's legal bills — contends that the grand jury was bogus from jump. He said the County Attorney's Office wouldn't allow his expert witness, police psychologist Dr. William Lewinski, to testify.

Mehrens said Lewinski interviewed Chrisman and has concluded that "this was a justifiable use of force," in the attorney's words.

"I wanted to make Dr. Lewinski available to the [county attorney] and the grand jury to tell them Rich Chrisman's version on the facts and, if they were interested, his expert opinion," Mehrens wrote in an e-mail to me.

Yet Mehrens admitted that he didn't offer his client to the grand jury to tell his side, which was the smart thing for Mehrens to do. Particularly if his client's guilty.

Romley scoffed at the suggestion that Lewinski should've gone before the grand jury.

"Mehrens knows better than that," Romley said. "His expert didn't even have any of the police reports or any of the information [on the case]."

And what about Mehrens' contention that he and Public Safety Manager (read: Police Chief) Jack Harris rushed to judgment regarding Chrisman — that the grand jury came too fast?

"That's ridiculous," Romley said. "How many murder investigations do we sit, [where] we have someone who's a potential subject and we do the grand jury right away? Just go back in history. It was a week [after the murder that the Chrisman grand jury] was done."

Romley also hotly contested the suggestion by Phoenix police Officer Eric Rude that the County Attorney dictated the probable-cause statement attached to the Chrisman indictment. Rude's testimony came before a hearing seeking a preliminary injunction against Chrisman's firing by Harris, a request the judge granted.

PLEA member Rude told the court that Chief Harris informed him that the County Attorney dictated what was to appear in the statement, referred to as a "form four." This, even though Phoenix homicide Detective Kenny Porter is listed as the author of the form four.

"I triple-checked it," Romley said. "We even contacted the officer that wrote the form four, and he said, 'Absolutely not.'"

PPD spokesman Tommy Thompson explained to me that in major cases, officers may corroborate facts with the county attorney, but the officers actually write the form fours themselves.

The latest round fired from Mehrens' office is a motion seeking a remand of the Chrisman case to the grand jury. Mehrens contends that the prosecutor assigned to the case, Juan Martinez, and another prosecutor, Ted Duffy, misled the grand jury by presenting the case "almost entirely from the point of view of Officer Sergio Virgillo."

Not long after its filing, the legal paperwork found its way to CBS 5, which then produced a hit piece on Duffy, noting that he'd been sanctioned, given a 30-day suspension, and put on probation by the State Bar of Arizona.

The Channel 5 story quoted defense attorney Daniel Raynak's saying he was surprised "anyone would put Duffy in charge of another murder case."

The TV report also noted that Duffy's "one of two prosecutors handling the Chrisman prosecution."

But the County Attorney's Office said it was Martinez who presented the case to the grand jury, not Duffy.

County Attorney's Office spokesman Bill Fitzgerald got back to me with this statement:

"Ted Duffy didn't have anything to do with the presentment of the Chrisman case. He was the person who was assigned that day to the grand jury to read from a piece of paper the standard admonishments with regard to all cases being heard by grand jurors that day.

"He reads from the piece of paper and takes a seat. The actual presentment of the case was done by Juan Martinez."

Asked about Duffy's involvement or non-involvement in the presentation of the case to the grand jury, Mehrens reacted, well, weirdly.

"You know, I am so tired of this shit," wrote Mehrens in an e-mail to me. "Why [is the County Attorney's Office] lying to you? More importantly, why are you buying into it? I actually know the answer to the former question: They cannot support their actions on the facts, so they spin."

Mehrens later added, "I know your paper supports Romley, having done a huge piece on how wonderful a guy he is. I know your paper supports and has done 'puff pieces' on the Phoenix PD homicide detectives and homicide detectives [who] have left for other employment, so why am I surprised? I shouldn't be."

So, uh, does this make New Times anti-cop or pro-cop? Confusing, eh?

Speaking for myself, I'm neither pro- nor anti-Phoenix PD. And as to Chrisman's guilt or innocence, that's for a jury to decide.

The line that's out there on the pro-Chrisman side is that Virgillo froze (or didn't engage) while Rodriguez and Chrisman struggled, that Rodriguez went for Chrisman's gun, and Chrisman had to kill him.

There were only three men involved in the incident, and one of them's dead.

The second, Virgillo, is a cop with a spotless record who's now loathed by many — if not most — of his brothers and sisters in arms for ratting out a fellow centurion.

The third, Chrisman, is tainted by his name's inclusion on the "Brady list" and the reason it was put there: planting a crack pipe on a mentally ill homeless woman in a sick prank we learned about only *after* he was indicted for murder two.

Chrisman's past behavior aside, I'd be willing to keep an open mind on whether the shooting was justified. That is, if Mehrens and PLEA weren't so actively sliming anyone who opposes or even questions them, and setting the stage for Montgomery to step in and put the kibosh on a possible trial.

That endgame may be good for Chrisman, Mehrens, and PLEA — which is using the affair to target its *bête noire*, Jack Harris. But would it be good for justice? No. Sorry, but now more than ever, we need a trial to sort out the death of Danny Rodriguez.