

Eggleston REDUX

Watching the Eggleston Case Unfold. **By Frank Driscoll**

Don't look too closely at the Eggleston case. It'll break your heart.

So many lives have been shattered in this ordeal that it's hard to keep track of them all.

There's John Bananola, of course, the Pierce County Sheriff's deputy who was killed October 16, 1995 while serving a search warrant at the Eggleston residence.

There's Bananola's daughter, Brooke, who was just a kid when her dad died. She's a young woman now, \$250,000 richer thanks to a negotiated settlement her attorneys reached with Pierce County after her mother filed suit, alleging that John Bananola died because of negligence on the part of the Sheriff's Department.

Then there's Brent Eggleston. He's the older brother of the defendant, and a Pierce County Sheriff's deputy. Imagine: a brother officer is dead and his kid brother has spent the past seven years in prison because a career criminal falsely accused him of being involved in Brian's marijuana operation.

There's Brent and Brian's parents, Tom and Linda Eggleston, who watched as Brian was shot, almost to death, that morning—and have watched from the sidelines ever since as the wheels of justice ground, ever so slowly.

There's Tiffany Patterson, who was Brian's fiancée at the time of the "incident."

And then there's the defendant, Brian Eggleston, who is either a cold-blooded cop killer or is himself a victim—which is precisely the question before the jury.

Here We Go Again, Again

Most of the surviving victims were in Superior Court Judge Stephanie Arend's courtroom on Monday, October 21 to hear opening statements in Eggleston's third murder trial.

Opening statements had to

wait, though, as the first two witnesses in Eggleston III took the stand, outside the presence of the jury.

The first was Teddy Garn, the forensic specialist who collected much of the evidence at the Eggleston residence. He no longer works for the Tacoma Police Department, he said, because he was injured in an automobile accident in August 2001.

He has undergone two surgeries on his neck, Garn testified. He's in severe pain, and he now suffers from post-traumatic stress disorder. Additionally, he said, he's experienced memory loss since the accident.

A Vietnam vet, Garn has been seeing a counselor at American Lake Veterans' Hospital and has been taking medication for his condition. In fact, he'd been scheduled to enter Seattle's VA Hospital that morning for inpatient treatment. He planned to check into the hospital the next time a bed became available.

He "just couldn't" testify, he said.

His wife testified that he has become increasingly irrational since the accident, sometimes insisting that someone was coming to get them. Recently, she said, he'd grabbed her arm hard enough to cause a bruise, and ordered her to get out of the house.

Watching the news—"anything like war or crime" sometimes triggered the episodes.

The court, counsel and the gallery absorbed all this, and then the jury members filed in and took their seats.

Prosecutor Jim Schacht laid out the state's position and defense attorney Monte Hester portrayed the defense's interpretation of the events of October 16, 1995.

The 16 members of the jury do not know Eggleston has been on trial twice before—for his life. (There are 16 jurors at this point in the trial. Up to four of them will be dismissed when the case is finally submitted to a 12-member

panel but, in the meantime, the alternates can fill in if someone falls ill or is otherwise unable to continue.)

The jury doesn't know that Hester and co-counsel Zenon Olbertz represented Eggleston at his previous trials. They don't know that Schacht and Amos obtained a second-degree murder conviction in Eggleston's second trial for first-degree aggravated murder. They don't know that Amos and Gerry Horne managed to convict Eggleston of assault and several drug-related offenses at his first trial (the jury couldn't reach a verdict on the first-degree murder charge). And they don't know that the Washington Court of Appeals vacated Eggleston's murder and assault convictions. In fact, what the jury does *not* know is the 800-pound gorilla in the courtroom that no one is permitted to mention.

Day 2

In a nutshell, the state maintains that Brian Eggleston intentionally killed a police officer to protect his marijuana dealing operation. The defense says he didn't know he was shooting at a policeman; he thought he was defending himself and his family from intruders. Thus, the only real issue in the case is Eggleston's state of mind when he shot Bananola.

Still, there is a tremendous amount of physical evidence, and prosecutors Schacht and Amos began the tedious process of getting it admitted.

Pierce County Detective Sergeant Ben Benson, the man who led the raid that resulted in John Bananola's death, took the stand on Tuesday, October 22.

Benson described how he'd met Steve McQueen, a career criminal who showed up at the County-City Building in August 1995 with a quantity of marijuana and asked to speak to a police officer.

McQueen offered to lead Benson to a marijuana growing operation on the Key Peninsula,

which he did. McQueen was paid the standard rate for informants, Benson said: \$40.

Then McQueen told Benson he

knew about another marijuana dealer, a guy called "Eggo," whose brother was a Pierce County Sheriff's deputy. What's more, the deputy knew about his brother's dealing, he said.

Benson approached his superiors with this information and, despite his misgivings about investigating a fellow deputy, he was ordered to proceed with his two-pronged investigation into Brian's drug dealing and Brent's possible complicity.

He said he "used" McQueen to conduct two controlled buys of marijuana from Eggleston. Benson explained that in a controlled buy, officers search their informant to ensure that he has no drugs or money on his person or in his car, and search the informant again after the transaction.

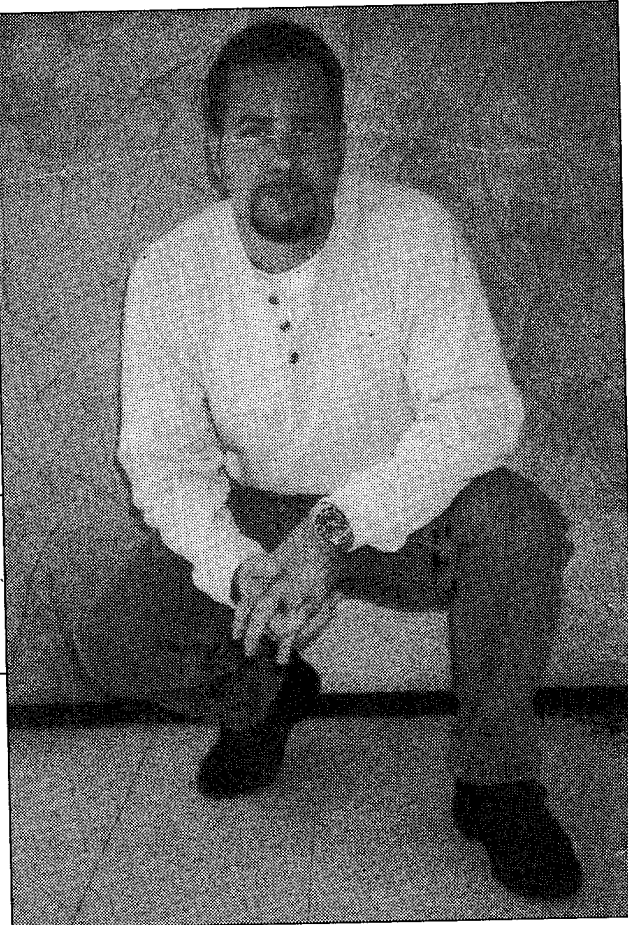
Benson said he cited the two buys in an affidavit used to obtain a search warrant of the Eggleston residence.

He described the way the "entry team" met at about 7:00 a.m. on the morning of October 16, 1995, to receive their assignments. As case officer, Benson assigned the various tasks to the officers.

He described how the entry team approached the rear of the Eggleston residence and how Deputy Bruce Larson knocked on the door and shouted "Police! Sheriff's Department! Search Warrant!"

Then Larson repeated the knock and announce procedure, Benson said.

Deputy Warren Dogeagle had been ready to batter down the door, but someone tried the knob and the door swung open. The officers entered, weapons drawn, shouting "Police! Sheriff's Department! Search Warrant!" Benson had stationed himself outside the house, keeping an eye on the rear windows and a



Brian Eggleston

stairwell that led to a basement door.

Deputy John Reding was the first to enter, Benson said, followed closely by Bananola. The others streamed in behind them.

In a very short time, he said, gunfire erupted, and Benson watched as the entry team retreated from the house. Once outside, they took a head-count. And then someone said it: "John is still in there."

Reding grabbed a ballistic shield from the raid bus, and the officers re-entered the house. They found Bananola in the living room, lying in a widening pool of blood. Brian Eggleston had collapsed in a hallway outside his bedroom. He, too, was bleeding profusely. His mother was bending over him, sobbing uncontrollably. Linda Eggleston was handcuffed and escorted outside. Her ex-husband, Tom, was also handcuffed and escorted outside.

Benson said he called dispatch and told them shots had been fired and two ambulances were needed. He then did what he could to render aid to Bananola.

As Benson's cross-examination began, it became apparent that attorneys Hester and Olbertz intend to use "prior inconsistent statements" to attack the credibility of prosecution witnesses. Like everyone involved in this case, Benson has been grilled by investigators and has testified in Eggleston's two prior trials and various lawsuits that arose from the incident.

Benson had to admit that he'd once said he didn't think the buys he used to obtain the search warrant would qualify as controlled buys, because other people had been present when the drugs and money changed hands.

But, he said, there are two kinds of informants—testimonial and confidential. Testimonial informants are willing to testify in court, CIs are not. Thus, the two buys *would* have been controlled buys in the case of a testimonial»

» informant, but would *not* qualify as controlled buys in the case of a CI.

Benson said he planned to serve the search warrant at 7:30—which is the precise moment the sun rose in Tacoma on October 16, 1995. One of the reasons for conducting raids in the early morning hours is that people tend to be asleep or groggy at that time of day and they are easier to get under control, Benson testified.

“It’s a safety issue,” he said.

Day 3

On Wednesday morning, John Kristoffersen took the stand. Like Garn, he was a forensic specialist with the Tacoma Police Department in 1995.

One of his duties was to record the exterior and interior of the Eggleston residence on videotape. In fact, he said, it took three tapes to record the scene.

Attorney Olbertz objected to the tapes’ introduction, but the objection was overruled.

Kristoffersen testified that he’d prepared 9 still shots from the video tape, including a shot of the Eggleston bathroom which showed that the toilet seat had been raised at the time the video was made. (According to the prosecution’s theory of the case, the raised seat suggests that Eggleston used the toilet sometime between 7:30, when Tiffany Patterson left for work, and 7:55, when the raid occurred.)

Once again, Olbertz objected, and was once again overruled.

Kristoffersen testified that he removed bloody clothing from the

house and identified several photos, which were admitted to evidence.

On cross-examination, Kristoffersen said his notes showed that he arrived at the Eggleston residence at 9:16, but he was less certain about when he first entered the house. A major incident log maintained by the Sheriff’s Department indicated that he first entered the Eggleston residence at 10:20 and stayed until 8:47 that evening.

After the noon recess, Kristoffersen testified that he thought the incident log was in error—that he had, in fact, entered the house before 10:20. He also acknowledged that he had modified his testimony as a result of a discussion with prosecutors over the lunch break.

He also said the log indicated 25 people had entered the Eggleston residence before him.

The state’s next witness was Fred Reinicke, a retired Pierce County Sheriff’s Department homicide detective. He testified he arrived at the scene between 9:00 and 9:15, but never went inside. He also said the incident log was inaccurate with respect to the time he left the scene.

Reinicke said he talked to members of the entry team and made tape recordings of their statements. They seemed emotionally upset, Reinicke said. This drew an objection from the defense, which Judge Arend at first sustained. After hearing argument from prosecutor Jim Schacht, however, Judge Arend reversed herself and allowed the testimony.

In the afternoon session,

Detective John Wright of the Washington State Patrol testified. Wright said he used a device called a "total station" to make a diagram of the scene and a three-dimensional model of the Eggleston residence.

Sheriff's Department Detective Bruce Larson was next to take the stand. He'd been assigned the task of knocking on the door and announcing the raid, he said. Larson testified he knocked on the door and yelled "Police! Sheriff's Department! Search Warrant!"

Once.

Larson said he was the third officer to enter the Eggleston residence—right behind John Bananola. The first officer in, Reding, went to the left, into the living room. There, Larson said, Reding confronted Tom Eggleston, who was asleep on a couch.

Larson said he heard Tom Eggleston say, "My son's a deputy. What are you guys doing here?"

He said he'd seen Bananola break to the right, into a hallway that led to two bedrooms. Almost immediately afterwards, Larson said, he heard two volleys of gunshots. The first volley seemed to have had more shots than the second.

Day 4

On Thursday, Monte Hester cross-examined Larson.

He had knocked on the Egglestons' rear door five times, he said, and then announced "Police! Sheriff's Department! Search Warrant!" The knock and announce procedure took between five and 10 seconds, he said.

Hester pointed out variations in Larson's previous statements and testimony. He'd made a statement immediately after the raid, he said, and on November 6, 1995, he made a second statement.

He also was questioned under oath on March 9, 2000, he said.

Larson said he has testified about the events of that morning six times, and acknowledged that he had never before mentioned that Tom Eggleston had said, "My son's a deputy. What are you guys doing here?"

He also acknowledged saying, on March 9, 2000 that he saw Bananola fire his weapon (which is different from what he had testified to the day before) and that he'd said Bananola was lying on his back when he saw him (which is also different from his previous day's testimony).

"I have been able to remember more as I've had time to reflect," he said.

On re-direct, Larson explained that he'd never mentioned Tom Eggleston's statement before because no detective had ever asked him about it.

Retired Tacoma Police Department Detective Doug Margeson was the next (and last) witness of the day. Margeson was the lead detective in the Eggleston investigation, he said.

He identified a series photographs, which were admitted to evidence.

Margeson decided not to take blood samples initially. "There was too much blood," he said, pointing out that Bananola and Eggleston had been taken out through the

same hallway. Additionally, there were bloody footprints—"quite a lot of them"—tracked into the front room.

Margeson said he determined that collecting blood samples would be a waste of time, but on April 16, 1996 he returned to the residence and collected evidence under the direction of a blood spatter analyst.

As the week's proceedings drew to a close, the video camera, operated by forensic specialist Kristoffersen, panned over the carnage at the Eggleston residence. There was no sound, and the eerie silence was broken only by the voices of Margeson and Amos, as the prosecutor elicited the detective's description of what was on the screen—here a cartridge casing, there a puddle of blood, over there a bullet fragment.

Kristoffersen's video made it clear, in a way no testimony could, that what happened on the morning of October 16, 1995 was unspeakably violent—unimaginable to anyone who hasn't been in combat.

Bullet holes, bloody clothing, gore that covered two hallways, powder stippling and bullet gouges and the ghastly discoloration that results when people bleed on wooden furniture.

Fade to blue. 