

Summary – Public Safety Committee Meeting

January 9, 2018

Committee Members Present:

Sharon Bulova (Chairman)
Penelope Gross, Mason District (Vice Chairman)
John Cook, Braddock District (Committee Chair)
John Foust, Dranesville District
Pat Herrity, Springfield District
Catherine Hudgins, Hunter Mill District
Jeff McKay, Lee District
Kathy Smith, Sully District
Linda Smyth, Providence District
Daniel Storck, Mount Vernon District

Approved Meeting Summary, November 28, 2017, Public Safety Committee Meeting and the January 9, 2018, Meeting Agenda and Meeting Materials:

<https://www.fairfaxcounty.gov/boardofsupervisors/board-public-safety-committee-meeting-jan-9-2018>

Link to the January 9, 2018, Public Safety Committee Meeting video:

http://video.fairfaxcounty.gov/MediaPlayer.php?view_id=9&clip_id=924

Today's meeting was called to order at 9:33 A.M.

The minutes from the November 28, 2017, Public Safety Committee meeting were approved.

The first topic on the agenda was Police Pursuit Policy and the Precision Immobilization Technique (PIT) maneuver.

- David Pienta, with the PursuitSAFETY organization participating by conference call from a remote location, provided several recommendation and consideration points from his review of the draft Police Department pursuit policies.
 - Goal is an objective rather than subjective policy.
 - Draft policy provides some guidelines, but police supervisors would still be making “subjective” decisions on a pursuit.
 - No stated mandate for police officer to clear traffic control devices safely.
 - No stated mandate for police officer to remain on scene if involved in an accident during a pursuit.
 - Police officer should render aid when an accident occurs.

- Guidance should be included on tactical de-escalation for the conclusion of a felony vehicle stop.
- Candy Priano, founder of PursuitSAFETY, who also participated by conference call, shared her personal story in which her family's vehicle was struck by a violator's vehicle while being pursued by police, causing injuries to her, her husband, and their son, and the tragic death of their daughter Kristie.
- Candy Priano noted that policy standards should be if a pursuit results in death or injury, would a reasonable person understand why the pursuit occurred and if it was necessary.
- Phillip Niedzielski-Eichner, Chairman of the Ad Hoc Police Practices Review Commission's Use of Force Subcommittee, commended the engagement by other Commission members, Colonel Edwin Roessler, Jr., Chief of Police, his implementation team, and members of his command staff.
- Mr. Niezielski-Eichner stated Commission members believe pursuits should be restricted only to instances of violent felonies in which there is an imminent risk to public safety.
- Mr. Niezielski-Eichner noted the Ad Hoc Commission endorsed all Use of Force recommendations made by the Police Executive Research Forum (PERF) except for the termination of PIT for stopping a vehicle pursuit, for which they recommended the Chief review the practice and make a recommendation to the Board as to its continued use.
- Mr. Niezielski-Eichner noted pursuits are high risk police actions, which can result in loss of life or serious injury for members of the public or officers. He stated the key question is the appropriate tradeoff between the heightened risk of loss of life and property which could result during a pursuit compared to the risk posed by the escape of the offender.
- He further noted the civil liability that must be considered, and that most neighboring jurisdictions have restricted their pursuits to violent felonies only.
- Mr. Niezielski-Eichner acknowledged the draft pursuit policy establishes controls, performance standards, and accountabilities designed to mitigate risks in a pursuit. While not limiting pursuits as the Commission recommended, the draft pursuit policy represents a major improvement over existing policies and practices. Mr. Niezielski-Eichner noted the standard for pursuits have been raised significantly, including specifically:
 - Disregarding a signal to stop or trying to elude an officer cannot be the sole justification to pursue.
 - The offender must pose a clear and imminent danger of death or serious bodily injury.
 - All officers must undergo emergency vehicle operation training every three years.

- Mr. Niezielski-Eichner noted while the draft PIT policy does not eliminate its use as recommended by PERF, it represents an improvement over existing policy and practices. With the Board of Supervisors' approval, PIT should be permissible if it is objectively reasonable to protect oneself or others or to lawfully effect an arrest. The use of PIT should be limited to trained officers only, and while holding the highest regard for the sanctity of human life. Mr. Niezielski-Eichner believed the police supervisor should have similar authority as in pursuits to either authorize or restrict the use of PIT during an incident.
- As Chief Roessler began his presentation, Supervisor Cook requested he specifically address the issues of why pursuit should be permitted for non-violent felony cases and the safety concern of traffic control devices.
- Chief Roessler noted these draft policies reflect the best practices since its revision in the late 1990s. However, the population of Fairfax County has grown by 23%. Over the ensuing time, minor revisions to existing policies and practices continued to take place. Officers have continuously performed beyond the set standard, meeting the expectations of the community.
- Chief Roessler stressed that under the new draft policy officers must meet a three-prong test, as outlined in the draft policy, prior to the decision to pursue.
- Chief Roessler noted the incident where a Fairfax County officer entered an intersection on a red light without proper emergency equipment resulting in a crash and loss of life to the driver. He noted that he, the driver's mother, and Senator Puller worked together on revising the Virginia State Code 46.2-920 to reflect our policy. The officer responsible was held accountable by then Chief Rohrer.
- Chief Roessler pointed out Fairfax County enjoys a reputation in the region amongst offenders that they will be apprehended here. He does not want to limit officer's discretion or tools in preventing and fighting crime.
- Lieutenant David White, Police Department, explained the draft policy in more detail, noting that over 30 different policies across the nation were reviewed during the development of this draft. The requirement for pursuing outside of Fairfax County or the Commonwealth of Virginia must be a violent felony, which is defined by Virginia Code Section 19.2-297.1. For pursuits within Fairfax County, a three-prong test would be applied: reasonable articulable suspicion that a crime or traffic infraction has been committed or attempted, the offender refuses to stop, and the offender, or passengers, based on facts known at the time, present a clear and immediate threat to the sanctity of human life and the necessity of immediate apprehension outweighs the danger created by the pursuit.
- Lieutenant White stated when a pursuit reaches an intersection, the officer must stop or significantly slow down to make sure the intersection is safe and clear, as required by

Virginia Code Section 46.2-920. This is taught in the Academy and reflected in the General Order.

- 16 risk factors, outlined in the draft policy, must be considered by the officer before engaging in a pursuit, and a supervisor or commander must authorize any pursuit to continue once it is initiated. The officer and authorizing police supervisor must be able to articulate the need for apprehension outweighs the danger created by the pursuit.
- Lieutenant White described the multiple layers of internal review by police supervisors and commanders after a pursuit. In addition, a Pursuit Review Committee, established by Chief Roessler, reviews every pursuit and report with the goals of:
 - Identifying trends and driving behaviors.
 - Adherence to training and policies.
 - Improvement to safety and tactics.
- 2nd Lieutenant Mark Dale, MPO Gerald Burke, and MPO Erick Runkles explained PIT in more detail.
- MPO Burke spoke about his tenure and experience as an Emergency Vehicle Operation Course (EVOC) instructor. MPO Burke noted the effectiveness of PIT and affirmed it is the fastest way to end a pursuit. MPO Burke pointed out new vehicle safety technologies have not altered the effectiveness of PIT.
- MPO Burke described the advantages and disadvantages of the different type of vehicle stopping techniques available.
- Video of a PIT at 45 MPH on a vehicle with Electronic Stability Control was shown.
- MPO Burke noted PIT is not deadly force and we are not trained to use PIT to injure anyone.
- Supervisor Cook thanked Chief Roessler for his presentations and appreciated the work done on the draft policies. He did note his concerns though that some of the draft language is too vague, including phrases like a “clear and immediate threat”, and lacks sufficient clarity for officers. He also stated his reservations on PIT, except perhaps for the most violent of cases.
- Supervisor Gross expressed concern over the time it might take to go through the number of risk factors before the decision to pursue is made. Lieutenant White stated it is ingrained in training for officers and supervisors to constantly consider and evaluate risk factors.

- Supervisor Gross inquired about the length of time it takes for a police supervisor to authorize a pursuit. Lieutenant White responded the authorization to pursue by a police supervisor is immediate and the decision to terminate can occur at any time.
- Chief Roessler reiterated that police supervisors and dispatchers are continuously monitoring radio traffic for overall awareness.
- Supervisor Gross commented that pursuit revisions, if adopted, may create a public perception that Fairfax County police will not actively pursue and questioned how the community will be educated on this new pursuit policy. Chief Roessler responded that every officer will be trained on this new policy. Neighboring jurisdictions will be informed, and the Department's media relations team will ensure the policies and information are rolled out and explained to the public. We will maintain the reputation of the Fairfax County Police to fight and prevent crime.
- Supervisor Foust noted policies limiting police pursuits to only violent felonies have been adopted across the nation and that pursuing for traffic violations alone is not worth the risk. Supervisor Foust inquired if the "poses a clear and imminent danger of death or serious injury" test applied prior to the offender fleeing or their driving behavior during the pursuit.
- Chief Roessler explained that departments who have adopted the violent felony only standard also left footnotes in place to allow for exceptions. Instead of footnotes, the draft policy put forth the three-prong test to be transparent. Chief Roessler noted decisions are made based on facts presented at the time and no assumptions are made.
- Supervisor Foust expressed his continuing concerns, and he also noted several Police Department pursuits in which PIT was used resulting in vehicle roll over. He stated he felt the risks associated with PIT are being underestimated and PIT should be used only for violent felonies.
- Chief Roessler acknowledged that one of those pursuits involved DUI, but he spoke about his own crash in which his County vehicle was struck by a DUI driver and the overall dangers impaired drivers pose to the public.
- Supervisor McKay appreciated the presentation and shared similar concern as Supervisor Gross on community expectations. Supervisor McKay noted the number of crimes being committed in his district by non-County residents, the unique geographical challenges faced by the Police Department, and the relevant Virginia code controlling pursuits.
- Supervisor McKay noted because of our geography, there are opportunistic crimes and police should have as many tools as possible to apprehend criminals. He inquired if this new policy might increase the potential of these opportunistic crimes along our jurisdictional boundaries as offenders could exit the County quickly before an officer could make a decision or obtain supervisory approval to pursue outside the County. Chief Roessler acknowledged there are instances where officers may not have the time to

request pursuit authorization, but that pursuits are similar to use of force applications, in which officer discretion and training is of paramount importance to aid officers and supervisors in split-second decisions.

- 2nd Lieutenant Dale noted the Department's history and continuous effort in improving training have proved officers are making sound decisions regarding pursuits. He invited the Board of Supervisors to attend EVOC and a demonstration of PIT.
- Based on pursuit statistics, Supervisor Herrity questioned what problem the draft policy was trying to solve. He recalled no fatalities that ever resulted from a pursuit by Fairfax County police. Supervisor Herrity appreciated routine reviews to improve policy over the years, but was concerned the PERF recommendation would adversely affect the Department's ability and reputation to prevent and fight crime.
- Supervisor Herrity noted his concern that the draft policy had lack of clarity and ambiguity in some language, such as "the need for the apprehension of the fleeing suspect must outweigh the danger created by the pursuit..." He believes the policy needs more clarity and clearer language and standards so officers and supervisors can make informed decisions, and for the County to defend.
- Supervisor Herrity asked as to any changes regarding supervisory approval and the 16 risk factors to be taken into consideration. Chief Roessler responded the previous policy did require supervisory approval, and noted that former risk factors did not consider increased urbanization, but others were included. Officers are already factoring them into current pursuits, and supervisors are expected to assess the situation and to be "looking ahead." Training scenarios are also being developed, and have been used previously.
- Supervisor Herrity said it might benefit the Board to hear some examples of pursuit related radio traffic. He also noted a technology called "StarChase" (GPS tags) and inquired if the Department was still exploring this technology. Chief Roessler responded that the Department can explore "StarChase" again but noted there are other technologies already available that can be utilized, i.e., in-Car video and the police helicopter.
- Due to the extended discussion on police pursuits Supervisor Cook released Chief Bowers, Fire and Rescue Department, and other members of his department, who were on the meeting agenda for a separate topic, from the meeting and stated another meeting would be scheduled to allow for them to conduct their scheduled presentation.
- Chairman Bulova noted this discussion highlighted the judgement, decision-making and training officers possess. She noted if officers are properly trained in techniques that are safe and effective, those techniques should not be taken away. Chairman Bulova believes when PIT is utilized correctly it helps save lives by ending a dangerous pursuit, and she pointed out the dangers of DUI and the need for apprehension.
- Chairman Bulova noted the language of "clear and imminent danger" language is fair and reasonable. She also noted Ms. Priano's story was persuasive and inquired how her

incident might have been different between the current and new pursuit policy if it had occurred in Fairfax County. Chief Roessler referred to the annual reports where no fatalities have ever resulted because of the sound decision making by officers, but the goal to continue to improve the policy to protect the sanctity of life.

- Supervisor Stork appreciates and supports the changes being proposed. He inquired if statistics from 2017 were yet available and noted in the last four years there has been an approximately 12% increase in the number of pursuits. Chief Roessler noted the 2017 statistics are still being validated but will provide them when available.
- Supervisor Stork inquired within the 12% increase if there were any trends that are more prevalent now than in the past. Chief Roessler responded that in some cases the behavior of offenders has been more violent.
- Supervisor Stork noted the Board and the community certainly do not want offenders to possibly get away more easily after committing a crime and not held accountable, but did also question how seriously prosecutors and the courts were considering pursuits and whether offenders were being held accountable for fleeing. Chief Roessler commended the prosecutors' efforts, but believes the Commonwealth could possibly enhance the penalties and punishments for speed to elude violations, and offered possibly being able to seize the offender's vehicle as an example.
- Supervisor Stork emphasized the need to highlight the consequences of fleeing, whether apprehended immediately or later, that it is not acceptable, and that offenders are held accountable. Chief Roessler concurred and discussed briefly how offenders may be identified and warrants obtained if a pursuit is terminated.
- Supervisor Hudgins inquired about what happens when a pursuit approaches a jurisdictional boundary. Chief Roessler responded certain felonies would allow for the pursuit to continue, others would be discontinued, but the dispatch center would be communicating with that jurisdiction with relevant information. Chief Roessler noted the helicopter is also available to continue to follow the offender and communicate with other jurisdictions. Supervisor Hudgins appreciated the comments as to coordination between jurisdictions.
- Supervisor Herrity would like statistics on number of pursuits and PITs, and the number of injuries or deaths resulting from either. Chief Roessler responded the statistics are available to the public online.
- Supervisor Cook thanked Candy Priano and David Pienta for staying on the conference call for the entire meeting and invited them to send any additional information they wished to share to his office. He also asked Chief Roessler to share next drafts of the pursuit and PIT policies with the Board.

Meeting adjourned at 11:01 a.m.