

## **Summary Public Safety Subcommittee Committee Meeting**

**May 24, 2016**

### **Committee Members Present:**

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

### **County Executives:**

David M. Rohrer, Deputy County Executive

### **Agenda:**

<http://www.fairfaxcounty.gov/bosclerk/board-committees/meetings/2016/public-safety-committee-meeting-agenda-may24.pdf>

### **Previous Meeting Summary (May 10, 2016):**

<http://www.fairfaxcounty.gov/bosclerk/board-committees/meetings/2016/public-safety-committee-meeting-may10.pdf>

Meeting was called to order at 9:00 A.M.

Supervisor Cook laid out the steps anticipated for Board review and action on the Ad Hoc Commission recommendations beginning with the release of the report last fall and clarifying the Public Safety Committee role and Board discussion and action.

Supervisor Herrity notes in the notes/minutes from May 10, 2016, that on page 4, bullet 3 under "*Committee Members' Questions and Comments*" the concern he raised was not specifically about a shortage of "fiscal" resources. He was also referring to his larger concern that the department is dedicating a significant amount of time and staffing-related resources in responding to the Ad Hoc Commission, but he wants to ensure that we do not lose focus on the entire Police Department mission while responding to specific elements of the Ad Hoc report.

After a brief introduction and overview, discussion ensued on agenda item, "Board Questions and Discussion on the Ad Hoc Police Practices Review Commission's Communications and Use of Force Subcommittees' Recommendations." Previously disseminated draft Board Action items for the Use of Force and Communications subcommittee recommendations were the basis for discussion, with specific bullet items noted.

## **Use of Force Discussion**

- Chief Roessler and Second Lieutenant Ruck, Firearms Training, discusses the “ready gun” position in response to a Supervisor Hudgins question. Second Lieutenant Ruck provides a demonstration for the Board of the three specific “ready gun” positions. Supervisor Hudgins asks a follow up about using the weapon in a non-lethal manner and what constitutes “threatening” versus “non-threatening.” In response Second Lieutenant Ruck demonstrates position three in which the firearm is held tight to the officer’s body with the barrel pointed down. It is also emphasized that the officer’s trigger finger is positioned outside of the trigger guard and aligned with the firearm rail.
- Supervisor Kathy Smith raises a concern about the inclusion of the “in calendar year 2017” language on bullet #6, focusing on body cameras. She is concerned about waiting that long to move forward on this issue. Chief Roessler discusses a pilot project in this area with prospective vendors already identified. He notes that key issues to be considered before implementation are legal issues, dedicated staff positions and data storage, which it is estimated will have a recurring cost of \$3-4 million annually, on top of approximately \$4 million in initial implementation costs. Supervisor Cook notes that a meeting was held on this issue about a year ago, with distribution of a briefing packet, and that committee time today is limited. He encourages a briefing for Supervisor Smith as this meeting was held prior to her joining the Board.
- Supervisor Smith raised a concern with the definition of excited delirium (bullet #8). Chief Roessler notes that this is the medical examiner’s terminology and he cannot change it. Supervisor Smith asks that the language in the draft be edited to note that this is a medical term and not subject to change by the Board.
- Supervisor Smith raised a concern about the general format of the document including ensuring that all necessary references between recommendations of the commission and Board action were made so that the public would be clear. Supervisor Cook agreed.
- In response to Supervisor Smith concern about body cameras, Supervisor Herrity states that there is so much being decided right now in terms of legal issues, FOIA, etc., that he does not feel the need to rush into this. Supervisor Herrity notes the expression about being on the “leading edge” or the “bleeding edge” of adopting new technologies.
- Supervisor Herrity notes his concurrence with Supervisor Smith on her point on bullet #8. Supervisor Cook says the change will be made to bullet #8.
- Supervisor McKay notes that the Commonwealth is discussing the issue of body cameras as well. There were several pieces of legislation in the most recent General Assembly (GA) and although they did not get through the GA and signed into law, this was another reason for being cautious and not getting too far out in front of this issue. His concern is that if we move forward too quickly and begin

investing funds, the Commonwealth may turn around and mandate something different.

- Supervisor Gross also notes that COG is looking into the body camera issue and concurs with Supervisor Herrity that we do not want to get too far out in front of this issue.
- Supervisor Gross notes on bullet #3, the revised draft language does not clarify if report back is written or verbal. She thinks written is necessary. Supervisor Cook concurs.
- Phil Niedzielski-Eichner discusses the issue of Electronic Control Weapons (ECW – bullet #7). He notes that it was the committee's perspective that an officer should have an ECW on their person while on patrol, not as optional equipment carried at officer discretion. Chief Roessler notes that this is something the department is working towards but it is costly and there is also a training component that must be considered. Chief Roessler notes that the Criminal Justice Academy is well underway in expanding its training capacity. Supervisor Hudgins follows up with a question and Chief Roessler notes that core knowledge, skills and abilities must be in place before issuing the ECW to new officers.

### **Communications and Information Release Discussion**

- Supervisor Kathy Smith discusses that the overriding theme needs to be transparency and changing the culture in the Department. She notes that this is already taking place, but feels that needs to be up front in the final document. Supervisor Cook notes they tried to do that in the first sentence of bullet #2. Supervisor Smith suggests maybe moving language up to the top of the document.
- Supervisor Smith also begins a discussion about the proposed 10 day standard for releasing officer name in Use of Force Cases. She feels it is important to prominently note that this does not mean that there will be silence for 10 days. Chief Roessler notes that the 10 days is meant to conduct a thorough threat assessment to determine whether publicly releasing the officer's name would put the officer and/or family members at risk of harm. During this time the officer completes several sleep cycles important to incident memory and recall. There are generally several interviews that take place as part of this process and the Chief indicated that it is important that he meet with the officer personally. Members of the threat assessment team also review the officer's social media presence. Supervisor Smith wants to make sure that the document makes it clear that there will not be 10 days of silence. She states that the document needs to be clear that the Chief will be out in front immediately as information is available.
- Supervisor Smith is concerned about "the Board may overturn the decision" language in bullet #2a of the draft document.

- Supervisor Bulova states it is not the pre-disposition of the Board to overturn, but the Board needs to be given latitude in certain situations. Supervisor Bulova notes that the Board can meet with the Chief in closed session.
- Supervisor Herrity notes that the Chief's job is to follow policy and there are good policies in place. It is however the Board's responsibility to take the Chief's input and make the final decision.
- Supervisor Hudgins is comfortable with the draft language under bullet #2A. She feels that this document lays out a specific process.
- Supervisor McKay has some concern with the last sentence in bullet #2A but is primarily concerned about the definition of "threat assessment." He is not sure how he would make a decision without knowing all of what went into the threat assessment. Supervisor Cook says that the Board must be accountable and after getting a briefing in closed session, the Board must make some sort of public comment. The Board would then say it sustains or does not sustain the Chief's decision in regard to releasing the officer's name. Chief Roessler states that he tried to provide an outline of the threat assessment process in a response forwarded to the Board. He states that the Board should hold him accountable for going through this entire 10-step process in any use of force incident. Chief Roessler notes information developed in the threat assessment process may be classified as law enforcement sensitive, in which instance he can only share information so classified with persons holding the requisite security clearance.
- Supervisor Foust states that the public should not be looking at the Chief about release of an officer's name. He states that the Board is the elected body, and needs to be ultimately responsible for the decision.
- Going back to the earlier discussion on "the Board may overturn the decision" language, Supervisor Foust suggests replacing the current language with "the Board may direct" or "the Board endorses." Supervisor Herrity agrees. Supervisor Herrity notes the importance of the name release impact upon the officer's family.
- Supervisor Kathy Smith discusses the issue of the FCPD internal investigation starting concurrent with prosecutorial determination by the Commonwealth's Attorney (bullet #2c). Chief Roessler responds that based on the comments from the Commonwealth's Attorney, they will work collaboratively and concurrently when possible, without interfering with any criminal investigation being conducted by the Commonwealth's Attorney.
- Supervisor Cook states that the use of the term "beginning" in bullet #2C should be revised to be clearer. Supervisor Cook says that he tried to incorporate the Commonwealth's Attorney language as closely and directly as possible in drafting the language of this section. In response to another inquiry about needing to be clear on what part of the policy is changing in this section, Supervisor Cook states that there is a change here, specifically that the Chief is directed to consult with the Commonwealth's Attorney on what can be done on a case by case basis.

- Supervisor Foust asks about the rationale on bullet #4 (Community Engagement Team) in the draft document. Merni Fitzgerald states that the creation of a Community Engagement Team (CET) engages the public in a back and forth exchange. Supervisor Foust and Bulova have some proposed revised language - to make it clearer that the Board is not against the concept of CET-like entity, but is supportive of giving Chief Roessler the latitude to come back to the Board with his suggestion of how to meet this recommendation.
- Pertaining to bullet #3 (timeline on briefing the Board in closed session), Supervisor McKay asks about the definition of “deadly force.” Uses example of this past weekend’s episode. Chief Roessler responds that the definition in the draft refers to any time a life threatening situation exists.
- Supervisor McKay noted that we need to be thinking of our own process on closed sessions. Supervisor Cook asks Chief Roessler to work with the new County Attorney Elizabeth Teare and come forward with recommendations for closed session briefings.
- Chief Roessler clarifies an earlier statement and notes that Electronic Control Weapons (ECW) training is now part of standard academy training.

The meeting adjourned at 10:12 A.M.