

**Ad Hoc Police Practices Review Commission
Use of Force Subcommittee
July 1, 2015, 7:00PM
Room 232, Fairfax County Government Center**

Subcommittee members present:

George Becerra
Joe Cammarata
Sal Culosi
Mary Kimm
William Moncure
Phil Niedzielski-Eichner
Randy Sayles
Jodi Shlesinger
Michael Shumaker
Adrian Steel
Ralph Cooper

Not present:

Hassan Aden
Gervais Reed
Bernard Thompson
Brad Carruthers
Joseph Smith

Others present:

Clayton Medford
Katie Boyle
Gordon Dean
John Lovaas
Tom Jackman
Tom Ryan
David White
Mary Tracy
Anita Culosi
Matthew Cook, Boy Scout Troop 1865
Ed Roessler (arrived 8:00pm)

Mr. Niedzielski-Eichner opened the meeting at 7:03pm by welcoming members and the public.

Mr. Niedzielski-Eichner gave an overview of the agenda, and introduced Mr. Cook.

Motion made to approve minutes, multiply seconded.

Mr. Shumaker moved two changes to the minutes, related to Graham V. Connor (page 3) and chokeholds (page 4). Those motions were approved and minutes were adopted unanimously.

Work Plan Updates by Mr. Niedzielski-Eichner:

Changed the date of subcommittee consideration of the PERF Report to July 1

August 26: Subcommittee finish its work

July 15: Members report on benchmarking work; observations and findings; keeping the record open for members to provide written comments.

July 29: In addition to Organizational Roles and Responsibilities, go through all observations and findings developed to date.

August 5: New date – full meeting dedicated to working through recommendations to rank them. Mr. Niedzielski-Eichner will offer an outline for the report. Goal is to have a draft report after this meeting.

Mr. Becerra asked the chair to ensure overlap between subcommittees does not lead to duplication of effort and that information is being shared between subcommittees.

Mr. Steel asked what is the expectation for developing, compiling and ranking recommendations. Mr. Niedzielski-Eichner said he is open to members, if they feel strongly, to offer minority opinions.

Subcommittee members discussed the schedule for delivering recommendations to Mr. Niedzielski-Eichner.

Mr. Culosi said more important than the summary of report is what is applicable to Fairfax County. On the PERF Report, it would be useful to understand what FCPD is implementing.

Mr. Sayles said his summary includes recommendations and an outline of the report.

Mr. Shumaker on ranking recommendations – PERF Report did not rank. If subcommittee ranks, how will that be used? Will there be an onus on department to do #1 first? Mr. Niedzielski-Eichner said it is a mechanism to show the Board of Supervisors what the subcommittee sees as most important. Mr. Shumaker is concerned the subcommittee is not receiving information in a timely manner.

Mr. Becerra is concerned with the current schedule, there will not be enough time for the public to comment on the final report.

Mr. Niedzielski-Eichner began discussion on status of answers to subcommittee questions.

Partial answers to #8 and #19. Follow up questions to 20 previously answered questions – Mr. White said responses to those will be available on Monday or Tuesday following the meeting.

Mr. Steel asked about officer-involved shooting synopses and when they will be available. Mr. Ryan said it will take at least one day before that is released – waiting on approval from Office of County Attorney and making the Board of Supervisors aware.

Mr. Steel on Use of Force Committee – will it be a new charter and when? Mr. Ryan said two component – Chief is working on UOF Committee. Mr. Ryan said on IAB/Academy, he is meeting with Academy staff in next week or 2 and the goal is implementation in January 2016. Mr. Ryan said he will try to get subcommittee a timeline in one month.

Mr. Niedzielski-Eichner began discussion on PERF Report.

Mr. Niedzielski-Eichner called attention to trend analysis on page 24-25.

Mr. Niedzielski-Eichner opened the floor.

Mr. Culosi said the PERF Report is missing discussion on SWAT and pointing a weapon.

Ms. Kimm said it doesn't appear to mention the need to record the race of suspects and she believes FCPD should.

Ms. Shlesinger said she asked PERF officials after the Ad Hoc meeting about the use of ECWs and the fact it's an option to carry. She was told that was not within PERF's scope. Mr. Niedzielski-Eichner said the lack of it in the PERF scope does not limit subcommittee.

Mr. Shumaker said it would be more useful if Chief Roessler would indicate what recommendations FCPD does not want to accept and why. He would like to know if FCPD has completion dates. He thinks two weeks is sufficient to have completion dates.

Mr. Sayles said subcommittee should ask Chief about his feelings on civilian review board. Several subcommittee members said that was better dealt with by Oversight Subcommittee. Mr. Steel, who serves on that committee, relayed Chief Roessler's general support of the concept.

Mr. Cooper asked how the subcommittees' recommendations are linked and the ownership of the recommendations. Mr. Niedzielski-Eichner discussed the role of full commission and subcommittees.

Mr. Shumaker said someone at FCPD should be assigned to implement recommendations. On the citizen oversight committee, he thinks there could be a role for them to review revisions to general orders and standard operating procedures.

Mr. Becerra discussed the process the Oversight Committee is following.

Mr. Niedzielski-Eichner asked if there are particular aspects worth noting.

Ms. Kimm called attention to the tone of the report. She said that the tone was FCPD is a great department, and therefore should lead. Mr. Niedzielski-Eichner and Mr. Sayles noted that PERF discussed aspirational aspects of recommendations.

Mr. Steel called attention to training recommendations.

Mr. Cammarata agreed with Mr. Steel, and pointed to the sanctity of life recommendation. Mr. Sayles said in the 1960s, the first thing you learned was the physical interaction – shooting in particular. Now it's more about de-escalation and taking control.

Mr. Moncure, on training, said putting skill set at the end it gives employer opportunity to evaluate trainee from a different perspective. You may find you don't want them trained in use of force if they can't understand the "taking care of the community" aspects taught at the beginning.

Ms. Shlesinger said the most important thing is the mind set of the officer. Do officers need college education?

Mr. Niedzielski-Eichner introduced Mr. Roessler. Mr. Niedzielski-Eichner asked for Mr. Roessler's thoughts on PERF Report.

Mr. Roessler said he embraces the 71 recommendations. Precision Immobilization Technique will take some time to work on. Driver training staff is looking at that in terms of the new fleet and the physics.

Mr. Roessler is more inclined to tighten up policy on use of PIT. The question is should we look at PIT the same way FCPD does in pursuing vehicles outside county. He thinks making PIT use safer should be the goal. Mr. Roessler said this is the only recommendation with which he has concerns.

Mr. Roessler said his goal is national accreditation (CALEA). He has enjoyed using outside jurisdictions to review FCPD. Mr. White is the lead on that effort. CALEA has several hundred standards and the PERF recommendations are right in line with those standards. Mr. Roessler stated he welcomes public input, particularly from Ad Hoc Commission, on all issues including the PIT recommendation.

Mr. Niedzielski-Eichner asked about the aspirational tone of PERF.

Mr. Roessler said Fairfax County was a leader in implementing technology. He said in areas of core service, there are gaps and those are shown in PERF Report. He is confident with the command team and the public involvement FCPD can fill those gaps.

Mr. Niedzielski-Eichner said recommendations should focus on challenging FCPD to be the best.

Mr. Roessler said there are trade secrets, such as gathering intelligence, they may not be fully transparent. But in all other aspects they can.

Mr. Becerra commended the chief for contracting for the PERF Report. If FCPD does not get a contract to look at everything, people could say the PERF Report was too specific. He recommended more consultant work in order to help build public trust in FCPD.

Mr. Roessler said state accreditation, national accreditation, the Ad Hoc Commission, PERF, internal reorganization, are all avenues FCPD is pursuing. On budget, costs of this work have been absorbed by FCPD. Mr. Roessler said this work cannot be hit-and-run and the Public Safety Committee could use citizens to challenge chiefs to be proactive on reviews.

Mr. Becerra noted lack of diversity on commission. Mr. Roessler noted his Chief's Diversity Council. Mr. Culosi said PERF Report was excellent, but there are holes related to questions given to Mr. Ryan, which were answered well. He believes with changes proposed, SWAT will only be used in high risk environments. On pointing a weapon, there's no definition of pointing a weapon. Given accidents can happen, pointing at center mass is risky and he asked FCPD to consider that seriously. Mr. Roessler said that is something they need to look at.

Ms. Shlesinger asked why tasers are not mandatory for patrol officers? Mr. Roessler said key piece is refocus of training, not only CIT but the decision-making model PERF offered. This model was presented to entire FCPD command staff earlier in the year. Mr. Roessler said he is fully support of this model. Tactical retreat is not a weakness is a key lesson. He gave an example of a three-day incident where FCPD waiting out a person in a home. He has been doing brown bag lunches with leadership to focus on de-escalation.

Mr. Roessler said color-coding of tasers is also important.

Mr. Roessler said availability of tasers and the number of those trained needs to be aligned.

Mr. Cooper asked if FCPD has the resources to execute. Mr. Roessler said absolutely and it is his responsibility to implement. He said the department is prioritizing now but some, like changes at academy, take time. He said he is aligning CALEA standards and PERF recommendations. Mr. Roessler said money is not the issue, leadership is the core.

Mr. Shumaker asked if he can provide Ad Hoc Commission due dates and contact information for accountable officer. Mr. Roessler said he is accountable, but the recommendations are being divided among command staff responsible for those specific issues. He plans on posting a score card on the chief's page as to how they are implementing the recommendations. He plans to report out through Public Safety Committee.

Mr. Shumaker said since PIT is the only one with concerns, what about chokeholds? Mr. Roessler said the order has been issues to eliminate choke holds. The academy was teaching how to get out of one by using another officer – that was in essence teaching. The parallel is that if an officer's life is threatened, anything can be a tool to escape the situation.

Mr. Moncure clarified deployment of tasers and aligning deployment with training – making sure all patrol officers are trained to use and there are enough to outfit all officers. Mr. Roessler said while that is a high dollar budget, FCPD has been pursuing that.

On CALEA, FCPD would need to implement all standards to achieve certification? Mr. Roessler said waivers can be granted for functions outside control of FCPD such as jail. But those waivers will be very few in number and related to functions carried out by other agencies. But FCPD will need to implement or get a waiver for every standard.

Mr. Culosi said FCPD could have best policies, but does FCPD follow them? Self-policing – fellow officers say don't do something or they get reported. Are those things being encouraged? Mr. Roessler said there is a regulation regarding obedience and another on reporting violations. More importantly, when FCPD reorganizes inspections ... on the tool belt are four items – are they working?

Mr. White discussed inspections division. Part of national and state standards are unannounced inspections. FCPD's practice of regular inspections exceeds national standard of annual inspections. Accreditation guidelines include specific questions. FCPD did not have specific criteria for "show up" inspections prior to pursuing state and national accreditation.

Mr. Sayles asked for clarity on taser deployment. Mr. Roessler said he wants to move toward all officers trained and equipped. But he wants more focus on decision making model. Yes – he would like to train and equip all but decision making should be top priority.

Mr. Sayles on supervisors responsibility – when there is operation approved by command and something goes wrong with the officer involved, we zero-in on officer for accountability. Is there the same for supervisors and commanders that approved? Mr. Roessler said yes and that's part of the IA report he receives. Was the operation safe? Was the officer acting on his own? Did FCPD follow threat-assessment check list? He's reversed or lessened discipline on officer following review.

Mr. Cammarata on PERF recommendations, are you accepting PERF's language on definitions? Mr. Roessler said he is not rejecting definitions. He likes guiding principle on use of force – it can cause death. That provides a framework for change. Mr. Cammarata has suggested language on force, resistance, objectively reasonable, are you going to rework policies and insert those definitions? Mr. Roessler said yes. Mr. Cammarata asked when the General Order will be revised? Mr. Roessler said FCPD is triaging and creating strategic plan but that will be in top 10. Mr. Cammarata asked if FCPD will re-train entire force? Mr. Roessler said he will be retraining everybody on use of force as a result of the changes recommended. He said there are opportunities to re-train, engage in dialogues.

Mr. Steel asked what is the policy on pursuit policy and does current policy meet national standards? Mr. Roessler said he is comfortable with current policy. He said the problem is that current policy allows for chase early in encounter.

Mr. Steel asked about Early Intervention System and the intersection with use of force.

Mr. Roessler talked about his experience in changing the tone of his interactions as a patrol officer. His goal here in part is to identify that type of behavior.

Ms. Shlesinger asked for clarity on taser deployment. Mr. Ryan said every station has 33 tasers, and there's never more than that at a station. There is not a shortage of tasers. But to outfit every officer, it would cost \$4 million. Mr. Roessler said tasers are checked out by patrol officers. He said training is not a budget problem.

Mr. Cooper asked what the e-training platform is? Mr. Roessler said online training.

Mr. Niedzielski-Eichner discussed the struggle with FCPD not releasing some information. He said there will be synopses provided of use of force incidents over a 10 year period soon.

Mr. Roessler said transparency model is the Philadelphia officer involved incident website model. Mr. Ryan's report is due to Mr. Roessler in the coming days. This will include summary of the incidents, call for service, what happened.

On the oversight function, if a case is closed criminally, civilly, administratively, whatever the model is they could review report from detectives and identify any gaps.

Mr. Niedzielski-Eichner asked about more Use of Force Committee reports being provided to subcommittee. Mr. Roessler said yes.

Mr. Culosi said he said in the previous meeting, he said he asked specifically that he did not want his case reviewed but the report written by David Rohrer was distributed. Mr. Roessler said talking to victims in these cases is important and he embraces Mr. Culosi's point.

Mr. Culosi asked how many commissioners read it. Multiple members raised their hands. Mr. Culosi asked based on what they read, are there policy issues it presented and do they have questions for Mr. Culosi. Ms. Kimm recommended it be added to July 15 agenda. Mr. Steel explained why he asked for the report to be distributed. He had heard discussion of it, and asked Mr. Medford to distribute it. He said there are lots of policy issues within it particularly why a citizen's oversight panel would be beneficial. Mr. Sayles said he agrees with Mr. Steel's point, but it should have been vetted with Mr. Culosi. Mr. Sayles said his previous questions about leadership accountability was brought about from reading the Culosi Report.

Mr. Niedzielski-Eichner said the point to consider is are there policy issues pertinent to the work of the subcommittee. He apologized to the subcommittee for the way it was handled.

Ms. Kimm said in the absence of case synopses, the Culosi Report provided a lot of detail. Mr. Ryan said the last media release under Philadelphia model will include great detail. Mr. Roessler pointed to the details provided in the Natasha McKenna case and the prosecution of two officers this year as signs of an effort to be more transparent.

Mr. Niedzielski-Eichner opened floor to public comment.

Mr. Lovaas said the Culosi Report would be very valuable to the subcommittee.

Ms. Tracy asked about the disengagement with CALEA. Mr. Roessler said he did not agree with the choice to disengage and has re-engaged.

Ms. Culosi asked if Mr. Roessler is accountable to anyone. Mr. Roessler said he has to act in the best interest of the community members and legal advice is only advice.

Multiple motions to adjourn multiple seconded.

Minutes prepared by Clayton Medford, Office of Chairman Sharon Bulova
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