



FAIRFAX COUNTY POLICE DEPARTMENT

REVIEW OF ISSUES SURROUNDING RECENT POLICE-SHOOTING INCIDENTS

April 2023



OVERVIEW

Since July 19, 2021, the Fairfax County Police Department (FCPD) has had eight police-shooting incidents (PSIs) — three of them fatal; during the entire seven years before July 19, 2021, there were a total of eight PSIs. PERF examined all but the most recent incident at the request of Chief Kevin Davis. PERF did not examine reports connected to the last incident, which took place on February 22, 2023, since that matter is under active review by the local prosecutor. The purpose of PERF’s review was to identify trends or departmental policies and practices that contributed to the uptick in PSIs. During this review, PERF identified areas where FCPD may need improvement, regardless of whether the identified issues contributed to any of the PSIs.

General Incident Information

PERF first reviewed general information about the seven incidents to determine whether any commonalities or trends emerged. The incidents took place in five different police precincts and involved officers with varying degrees of experience (two years to fourteen years), on different shifts, and with different supervisors. Every involved (shooting) officer was a man: seven white and one Hispanic.¹ Of the seven incidents examined, the subject demographics broke down as follows:

<u>Subject Demographics</u>	<u>Armed with (or unarmed)</u>
1 Asian woman -----	Knife
2 white men -----	Compound Bow / Rifle
2 Black men -----	Pistol / Unarmed
1 white trans man -----	Bottle
1 Hispanic man -----	Pistol

The following chart has a short summary of each incident with some relevant information.

¹ PERF examined seven incidents, but in one of them (Franconia – June 30, 2022), two officers fired their weapons.

Date Precinct	Call/Incident Type	Overview	Subject	Subject Weapon	Officer	Outcome
7-19-2021 West Springfield	Mental Health Call Woman in group home threatening self and others with knife.	Officers entered group home and when subject approached with knife, one officer fired weapon.	Asian Woman 30y	Knife	- W/M – 39y - 14y on job - K-9 officer	Shot: Survived gunshot wound
1-4-2022 Sully	Mental Health Call Father reports bipolar son, armed with knife, in basement threatening people.	Police established a perimeter outside the house. When the subject came out of house and pointed compound bow in direction of officers, one officer fired weapon.	White Man 52y	Compound Bow	- H/M – 32y - 3y on job	Shot: Survived gunshot wound
2-15-2022 Franconia	Mental Health Related (Unknown to responding officers) A civilian reports a suspicious vehicle in the neighborhood.	Police were called to investigate a suspicious vehicle and did not see a person in the van due to its tinted windows. A tow-truck driver opened the passenger door and a homeless man living inside the van pointed a rifle at people outside the van. One officer fired. After being shot, the man yelled “just kill me” and other statements indicating he no longer wanted to live.	White Man 34y	Rifle	- W/M – 24y - 2y on job	Shot: Survived gunshot wound
6-30-2022 Franconia	Wanted / Warrant	Police located the subject (wanted on warrant) in a parking lot and boxed him in. Subject appeared to reach for gun. Pistol retrieved afterward.	Black Man 37y	Pistol	2 shooting officers W/M 32y // W/M 27y 8y on job // 2y on job	Shot: Fatal
7-7-2022 McLean	Mental Health Call Call for man breaking items in house. History of anxiety/depression. “Not violent.”	Police entered the house. After taser attempt failed, man approached with bottle (and large wooden mask) and one officer fired.	White Trans Man 26y	Bottle Mask	- W/M - 32y - 9y on job	Shot: Fatal
8-2-2022 Mason	Undercover Drug Buy No body-worn cameras	Subject fled after drug buy. Officers engaged in vehicle pursuit and PIT maneuver. Sergeant shot subject, according to the sergeant, after he saw the subject make movements that he thought were consistent with wanting to shoot an officer.	Black Man 41y	Unarmed	- W/M – 32y - 11y on job	Shot: Survived gunshot wound
10-6-2022 Mason	Mental Health Related (Unknown to responding officers) Assist to Arlington County.	Arlington County requested assistance with a pursuit involving a man pointing a gun out of a car. After the pursuit ended, the subject fired at officers. One officer fired back. After being taken into custody, the subject said he was trying to get help.	Hispanic Man 27y	Pistol	- W/M – 34y - 10y on job	Not struck by bullet

FINDINGS AND RECOMMENDATIONS

I. MENTAL HEALTH-RELATED CALLS ACCOUNT FOR A DISPROPORTIONATE NUMBER OF FCPD'S OFFICER-INVOLVED CRITICAL INCIDENTS

The starkest commonality is that five of the seven incidents involved a person experiencing some type of mental health crisis. **In three of those instances, dispatchers told officers they were responding to a call involving a mental health situation.** In two others, the presence of a mental health crisis only became known after the critical incident ended.

While striking, the fact that a mental health issue lay at the root of five PSIs is not surprising. About a quarter of all fatal police shootings examined through the first five years of the *Washington Post's* "Fatal Force" database involved people experiencing a mental health crisis.² And, according to the Treatment Advocacy Center, a person with an untreated mental illness is sixteen times likelier to die during an interaction with the police than a person without an untreated mental illness.³

PERF found areas where both the FCPD and Fairfax County can take immediate action to improve the nature and quality of the response to calls involving people in crisis.

FAIRFAX COUNTY POLICE DEPARTMENT – Improvements to Mental Health-Related Calls

None of the officers involved in the seven PSIs examined was trained in PERF's *Integrating Communications, Assessment, and Tactics (ICAT)* training program at the time of the critical incident. PERF designed ICAT to give officers more tools, skills, and options for handling critical incidents, especially those involving subjects who are in mental distress and not armed with a firearm.⁴ In an independent study, ICAT training was found to be associated with decreases in uses of force and injuries to both officers and citizens.⁵

ICAT contains entire training modules on recognizing people in crisis and on responding to potential "suicide by cop" (SBC) situations. In some instances, a person in crisis, who may be suicidal, is at risk of being adversely impacted by an officer's actions; therefore, officers should be trained to identify people in crisis and adjust their communication accordingly. In the three

² Kindy, K., Tate, J., Jenkins, J., & Mellnik, T. (2020, October 19). Fatal police shootings of mentally ill people are 39 percent more likely to take place in small and midsized areas. *The Washington Post*. https://www.washingtonpost.com/national/police-mentally-ill-deaths/2020/10/17/8dd5bcf6-0245-11eb-b7ed-141dd88560ea_story.html.

³ Fuller, D.A., Lamb, H.R., Biasotti, M., & Snook, J. (2015, December). Overlooked in the undercounted: The role of mental illness in fatal law enforcement encounters. Treatment Advocacy Center. <https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf>.

"Where official government data regarding police shootings and mental illness have been analyzed[,] ... the findings indicate that mental health disorders are a factor in as many as 1 in 2 fatal law enforcement encounters."

⁴ Police Executive Research Forum. (2016). Integrating Communications, Assessment, and Tactics. <https://www.policeforum.org/icat-training-guide>.

⁵ Engel, R.S., Corsaro, N., Isaza, G.T., & McManus, H.D. (2022). Assessing the impact of de-escalation training on police behavior: Reducing police use of force in the Louisville, KY Metro Police Department. *Criminology & Public Policy*, 21(2). <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9133.12574>.

PSI incidents PERF examined where the officers knew they were responding to a mental health crisis, there were some preliminary indications that the situations may be planned SBC incidents, or could develop into a spontaneous SBC incident.⁶ For instance, in one of the incidents, the dispatcher told responding officers that the subject was threatening to harm herself and others with a knife; in another, officers were told that a man had no violent history but was anxious and depressed. In both cases, the subjects charged at the officers and the officers fired their weapons.

In 2022, FCPD recognized the need for ICAT training, which PERF commends. But as of March 28, 2023, only about 1/3 of FCPD officers had completed the training. Further, PERF learned that FCPD provides its training alphabetically. Therefore, an officer whose last name begins with “A” but whose job duties do not bring that officer into regular contact with the public is trained before an officer who interacts with the public daily but whose last name begins with a letter later in the alphabet.

1. ***Recommendation: FCPD should expedite its plans to provide ICAT training to those members who have not yet received it and prioritize the officers most likely to interact with members of the public. Given the significant increase in PSIs, and the prevalence of mental health crises in these incidents, FCPD should consider how it can fast-track ICAT training, particularly for those officers in operational roles such as Patrol, Operations Support, Violent Crimes, and Organized Crime & Narcotics. Paying overtime and running two training sessions per day are among the options worth considering to ensure the FCPD personnel who most need ICAT training receive it as soon as possible.***

The critical decision-making model (CDM) is the cornerstone of ICAT and provides officers with a systematic method for making better decisions during rapidly evolving situations. Some agencies, such as the New York Police Department (NYPD) and the Monterey, CA Police Department (MPD), have found creative ways to integrate the CDM into the culture of their organizations. NYPD displays a graphic of the CDM prominently above the entrance to its police academy, while MPD transposed the model onto double-sided cards given to all its officers.

Training officers to more effectively slow down and think — rather than quickly react and respond — can affect their ultimate decisions. PERF does not imply that any PSI would not have happened if the officers had been trained on the CDM. But a consistently applied, methodical decision-making process may help reduce the risk of these and other similar incidents going forward.

2. ***Recommendation: FCPD should train its officers on the CDM and encourage them to think critically during rapidly evolving events by integrating the CDM throughout the culture of the organization. Opportunities for integrating the CDM throughout the organization include departmental policy, training modules across a range of topics, after-action reviews, Performance Review***

⁶ Police Executive Research Forum. (2021). Suicide by Cop: Protocol and Training Guide. <http://www.policeforum.org/assets/SBCTrainingGuide.pdf>.

Boards, supervisory use-of-force reviews, body-worn camera audits, and roll-call briefings.

Relative to first line supervision of mental health calls, FCPD General Order 609, *Mental Health Calls for Service*, specifies the following:

Supervisors should monitor and evaluate calls for service and request and/or consult with CIT trained officers whenever practicable.

The policy does not recommend, much less require, that sergeants respond to the scene of mental health-related crisis calls.

As PERF noted in *Suicide by Cop*,⁷ sergeants are extremely valuable at potential SBC scenes, since the presence of a supervisor can have a stabilizing effect on other officers. As first-line supervisors, sergeants can also assign roles, establish perimeters and staging areas, request additional resources, and coordinate the entire response. PERF recommends that FCPD modify General Order 609 to recommend that, whenever possible, sergeants respond to mental health-related crisis calls.

- 3. *Recommendation: FCPD should modify General Order 609 - Mental Health Calls for Service.*** *The order does not currently require or recommend that first-line supervisors respond to mental health-related crisis calls. As PERF has noted previously, supervisors can play an extremely important role in helping to resolve these incidents safely.*

FAIRFAX COUNTY – Improvements to Mental Health-Related Calls

Fairfax County needs to implement a co-responder program for mental health-related calls. The Department of Justice (DOJ) Civil Rights Division favors co-responder teams for calls involving mental illness,⁸ as evidenced by its settlement agreement with the Albuquerque, NM Police Department (2014) and its consent decree with the Baltimore, MD Police Department (2017). National organizations, such as the National Alliance on Mental Illness, similarly endorse the co-response system.⁹ Under this model, trained officers respond to mental or behavioral health-related calls paired with a mental health professional as part of a team in certain designated circumstances. The benefits of co-responder teams are significant and include fewer uses of force, fewer arrests and other contacts with the criminal justice system, better behavioral health referrals and outcomes, reduced burdens on EMS, and cost savings for public services.¹⁰

⁷ Police Executive Research Forum. (2021). *Suicide by Cop: Protocol and Training Guide*. <http://www.policeforum.org/assets/SBCTrainingGuide.pdf>.

⁸ See generally, Knowledge Lab – Federal Interventions Dashboard at <https://leknowledgelab.org/federal-interventions-dashboard/#rights>.

⁹ National Alliance on Mental Illness – Responding to Crises. <https://www.nami.org/Advocacy/Policy-Priorities/Responding-to-Crises>. Krider, A., Huerter, R., Gaherty, K., & Moore, A. (2020, January). Responding to individuals in behavioral health crisis via co-responder models. Policy Research Inc. and National League of Cities. <https://www.theiacp.org/sites/default/files/SJCResponding%20to%20Individuals.pdf>.

¹⁰ Bureau of Justice Assistance – Police-Mental Health Collaboration (PMHC) Toolkit at <https://bja.ojp.gov/program/pmhc/learning>.

To its credit, Fairfax County is trying to implement a co-response program by hiring crisis intervention specialists (CIS) who will respond to mental health-related calls with crisis intervention team (CIT)-trained police officers. There are currently between 9-12 trained FCPD officers ready to be paired with mental health clinicians, and according to the FCPD, they plan to have a total of 18 CIT-trained officers soon. But despite offering a \$10,000 sign-on incentive bonus, Fairfax County is struggling to hire CISs.

Knowing the many benefits co-response models bring to communities, Fairfax County should carefully evaluate its current hiring system to see if there are ways to accelerate CIS hiring. The minimum qualifications for the job, as currently posted, are a master's degree and one year of clinical experience along with numerous additional required skills and abilities. The county may want to consider adjusting the minimum qualifications. For example, they may want to allow a less experienced clinician to consult with a more experienced colleague via telephone. If the minimum qualifications are inflexible, the county could consider additional incentives, such as flexible work weeks or increased time off.

But the county should carefully consider how it presents some of the position's necessary skills and requirements, and whether they are necessary. Several behavioral health professionals in other jurisdictions told PERF that the Fairfax County CIS posting may dissuade otherwise qualified candidates from applying, due to confusion about expectations and concerns of burnout. PERF recommends that Fairfax County consider the following:

- Adding more details about the 24/7 “rapid call-out” and overnight responsibilities, which may mitigate confusion about the number of on-call days an applicant will be expected to work each year. And since prospective applicants likely want a healthy work-life balance, using terms like “rotation,” “as needed,” and “team” may be more appealing. “Overnights” should be avoided, if possible, or qualified, such as “once-monthly overnights.”
- Describing additional training CISs will receive, because law enforcement terminology (e.g., “high risk hostage/barricade situations,” “Temporary Detention Orders,” and “Incident Command Management”) may intimidate some applicants.
- Softening the reference to “life and death situations as a routine/daily part of job.” The work environment could instead be characterized as “high stress but rewarding.”
- Increasing the \$1,500 stipend for fully licensed clinicians who are credentialed to supervise, which may attract additional quality candidates.
- Limiting CISs’ responsibilities. For instance, CISs are expected to work with officers throughout the evaluation and detention process and attend civil commitment and appeals hearings, which may be excessive. They are also expected to “interpret data from psychological test results,” which is generally done by a PhD rather than a social

worker/licensed counselor. Listing these types of responsibilities among a CIS's required knowledge, skills, and abilities may unnecessarily limit applicants.

Although Fairfax County is not alone in its need to hire mental health clinicians,¹¹ the strong link between PSIs and behavioral health-related calls demands that Fairfax County take creative action to make the current openings more attainable for or inviting to potential candidates.

4. ***Recommendation: Fairfax County must seek ways to fill the Crisis Intervention Specialist positions so that a co-responder model can be fully implemented. The county could consider modifying qualifications and responsibilities and/or improving certain quality-of-life benefits.***

Sentinel Event Review

Fairfax County should implement a sentinel event review (SER) program. SERs examine complex events with negative outcomes — like PSIs — to identify systemic failures and, when possible, avoid similar outcomes in the future. The success of the SER is based on three underlying principles:

- It is non-blaming,
- All stakeholders are involved in the review, and
- It is an ongoing, routine practice.¹²

SERs should take place after each PSI in Fairfax County and involve not only members of the police department, but also key decision-makers from such systems as behavioral health (e.g., health department, public health authority, social workers, clinicians, community-based treatment providers, and peer and consumer advocates), criminal justice (e.g., prosecutors, public defenders, courts, jails, parole and probation, and juvenile services), schools, and housing. By comprehensively analyzing each incident with a wide range of stakeholders, FCPD can better diagnose and begin to remedy their incidents' complex root causes.

FCPD could look to Seattle, WA for guidance in establishing an SER. Seattle describes its program as “a community inclusive accountability program” that examines the Seattle Police Department's critical incidents to determine how they can avoid future harmful outcomes and better serve the community.¹³

5. ***Recommendation: FCPD should conduct sentinel event reviews of PSIs and in-custody deaths. These reviews should bring all potential stakeholders together, to thoroughly review incidents from all standpoints in order to identify systemic failures and determine how things can be done better. The exclusive goal of the review should be to ensure that no similar incident happens again.***

¹¹ Masters, K. (2021, October 27). A shortage of workers is hindering efforts to improve mental health care in Virginia. *Virginia Mercury*. <https://www.virginiamercury.com/2021/10/27/a-shortage-of-workers-is-hindering-efforts-to-improve-mental-health-care-in-virginia/>.

¹² National Institute of Justice, “Sentinel Events Initiative,” November 1, 2017, <https://nij.ojp.gov/topics/articles/sentinel-events-initiative>.

¹³ Seattle Office of Inspector General, Sentinel Event Review, <https://seattle.gov/oig/sentinel-event-review>.

II. REVIEW OF FCPD'S USE-OF-FORCE POLICY

Proportionality

As part of the PSI review, PERF examined FCPD's Use of Force Policy. FCPD is to be commended for going beyond the "objectively reasonable" standard of *Graham v. Connor*, 490 U.S. 386 (1989), that so many other agencies simply restate in their use-of-force policies. FCPD's policy is more descriptive and restrictive, directing its officers to use only that amount of force "necessary to overcome ... resistance and gain control." Further, before the use of deadly force, the policy requires that "all other [force] options have been exhausted, do not reasonably lend themselves to the circumstances, are not feasible, or have already proven to be ineffective."

However, FCPD could go further. FCPD intersperses the word "proportionality" throughout its policy but never clearly defines what it means. FCPD should add "proportionality" to its list of defined terms. As explained in PERF's *Guiding Principles on Use of Force*, the definition should state that proportionality involves officers: (1) using only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers' actions.¹⁴

The concept of proportionality does not mean that officers, having determined that a particular use of force is necessary and appropriate to mitigate a threat, should stop and consider how their actions will be viewed by others. Rather, officers should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Proportionality also considers the nature and severity of the underlying events. This view of proportionality is consistent with the CDM (referenced in Recommendation 2).

The February 22, 2023, PSI is an example of an incident where proportionality and better critical thinking could have affected the outcome. Since it is still being actively investigated, PERF was unable to review officer reports, but was able to review video of the incident on FCPD's public website. The video appears to show a sergeant chasing a man, ultimately drawing and firing his gun; the man he was chasing had allegedly stolen a pair of sunglasses from a department store. A clear concept of proportionality and use of the CDM may have led the officer to think through other available options from the start and may have inspired a different response.

After defining proportionality, FCPD should incorporate a "necessary and proportional" standard into its use-of-force policy. In 2021, University of Texas at San Antonio researchers recommended that FCPD incorporate the following into its use-of-force policy:¹⁵

"A police officer may not use force against a person unless under the totality of the circumstances, said force is necessary and proportional."

¹⁴ Police Executive Research Forum. (2016, March). *Guiding Principles on Use of Force*, <https://www.policeforum.org/assets/guidingprinciples1.pdf>.

¹⁵ Smith, M., Tillyer, R. Engel, R. (2021, June). *An Investigation of the Use of Force by the Fairfax County Police Department*. University of Texas at San Antonio. <https://www.utsa.edu/today/2021/images/UT-Report.pdf>.

FCPD declined to do so. The proposed language is unambiguous and affirms the “sanctity of life” language FCPD placed prominently in the first sentence of its use-of-force policy.

6. ***Recommendation:*** *FCPD should add “proportionality” to the definitions in its use-of-force policy. Defining the term, which is interspersed throughout the policy, will help to clearly define expectations.*
7. ***Recommendation:*** *FCPD should update its use-of-force policy to indicate that force may not be used against a person unless, under the totality of the circumstances, that force is necessary and proportional. This will further align FCPD with the “sanctity of life” language already in its use-of-force policy.*

Shooting at Vehicles

FCPD’s policy about shooting into moving vehicles can also be improved. It currently reads as follows:

Officers are prohibited from discharging a firearm at, into, or from a moving vehicle unless there is an immediate threat of death or serious injury to the officer or another person. Officers have an affirmative obligation, based upon the totality of the circumstances, to move out of the path of an oncoming vehicle whenever possible, and to never intentionally place themselves in the path of an oncoming vehicle where the use of deadly force would be a likely outcome.

In 1972, NYPD radically changed its policy on shooting at vehicles. After implementation of that policy change and others, total police shootings decreased by half *in one year*, with no increase in injuries to officers.¹⁶ NYPD’s new policy (still in effect today) said:

*Members of service **SHALL NOT:** Discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the member of service or another person present, by means other than [the] moving vehicle.*

FCPD’s policy is much more permissive and contains unnecessary, vague verbiage; the policy lacks clarity and we recommend that FCPD replace it with clear language like that found in NYPD’s policy.

8. ***Recommendation:*** *FCPD should update its policy on shooting into vehicles. The current policy is unclear and contains vague and unnecessary language. FCPD should use NYPD’s policy as guidance.*

III. FCPD’S FAILURE TO OUTFIT ITS STREET CRIMES UNIT WITH BODY-WORN CAMERAS

¹⁶ See, <http://www.policeforum.org/assets/reengineeringtraining1.pdf> (at page 20 - John Timoney).

Unlike nearly all other members of FCPD who may interact with the public, members of the Street Crimes Unit are not required to wear body-worn cameras (BWCs) under FCPD's BWC policy. Because of that, there is no visual or audio recording of a shooting that took place on August 2, 2022. As noted in the following section, BWC footage from that incident would have been particularly useful and may have provided answers to questions the investigation failed to ask.

Chief Davis informed PERF on March 24, 2023, that he intends to require members of the Street Crimes Unit to begin wearing BWCs soon. When that happens, FCPD should also update its departmental policy to reflect that specialized units are required to wear BWCs.

9. ***Recommendation: FCPD should update its body-worn camera policy to require members of specialized units to wear BWCs. According to Chief Davis, FCPD plans to outfit specialized teams with BWCs as soon as possible. When that happens, FCPD should update its policy.***

IV. FCPD'S INVESTIGATION OF ITS MEMBERS

FCPD investigates its own officers' critical incidents.¹⁷ When PERF asked about this, staff members said they are objective and best suited to conduct major investigations. PERF chose to closely examine FCPD's investigation of the August 2, 2022, shooting in Falls Church, because **it was the only PSI not captured on BWC**. For every other incident, the BWC footage corroborated the officers' version of what took place, making the analysis somewhat more straightforward. But when an incident is not captured on BWC footage, the investigation requires a more probing analysis to resolve questions the absent footage might have answered.

PERF found that FCPD's review of the incident missed some investigative opportunities. For instance, it does not appear that FCPD tried to obtain surveillance footage from any businesses in the area; in failing to do so, FCPD missed the chance to fill in some gaps generated by the lack of BWC footage. Additionally, FCPD investigators did not document their efforts to corroborate the shooting officer's purported justification for firing his weapon. Finally, FCPD does not appear to have thoroughly reviewed the (however brief) vehicle pursuit that took place just before the shooting to determine whether it was within FCPD policy.

When a police officer uses deadly force, regardless of whether it ends in death, the incident demands a comprehensive and objective investigation. It is becoming common for outside entities to conduct independent investigations or reviews of an agency's PSIs. In Maryland, for example, the Attorney General's Independent Investigation Division investigates PSIs and turns the completed investigation over to the local prosecutor.¹⁸ The reverse takes place in New York, where the Attorney General's Office of Special Investigation reviews all fatal PSIs regardless of which agency conducted the underlying incident.¹⁹ Under both systems (MD and NY), an entity

¹⁷ The use of "officer" in this section is meant generally. The shooter in the incident PERF describes was a sergeant.

¹⁸ Md. Code, State Gov't § 6-602.

¹⁹ New York Executive Law § 70-b.

other than the local police agency and local prosecutor is involved in the process by law; Virginia has no similar legislative mandate. ***FCPD should consider a mechanism to incorporate an objective perspective into its PSI investigations.***

10. Recommendation: *When conducting an administrative investigation of a PSI, Internal Affairs detectives should examine all related actions to determine whether personnel acted according to departmental policy. The shooting itself is not the only act that may or may not have fallen within FCPD policy. In the August 2, 2022, incident, there was also a vehicle pursuit that should have been evaluated.*

Performance Review Board

FCPD announced the creation of a Performance Review Board (PRB) on February 1, 2022, with the publication of an SOP governing its purpose, structure, and responsibilities. The stated purpose of the PRB is to review critical incidents from a training, tactical, equipment, and policy standpoint and then provide "timely, comprehensive, and objective assessments" to the police chief.²⁰ Unlike a sentinel event review, which includes all stakeholders and focuses on system-wide changes, the PRB is a confidential, internal review process and focuses on improving officer safety and performance.

According to its SOP, the PRB shall convene within 45 days of a shooting incident. Yet, it has only met on three of the six PSIs that have taken place since its creation: the February 15, 2022, shooting in Lorton, the March 15, 2023, shooting in Tysons Corner, and the July 7, 2022 shooting in McLean. The PRB's failure to meet and review the three other shootings in a timely manner is a missed opportunity to mitigate organizational risk and improve organizational performance.

In the case of the August 2, 2022, PSI, the PRB could have noted the issues PERF raised in its review and recommended corrective action to address them. FCPD's PRB should always take the opportunity to learn and improve from these incidents in a timely manner, no matter how straightforward they might initially appear.

According to FCPD, it took some time to form consistent processes under the new SOP. As of this writing, FCPD has scheduled the three outstanding incidents for PRB evaluation, an action it took independent of PERF's review.

11. Recommendation: *FCPD should commit to meeting the 45-day time period for convening the PRB in the aftermath of any PSI and the PRB should promptly report its findings to the chief of police. Review by the PRB represents an opportunity to evaluate institutional action (or inaction) and advise the chief about matters that need remediation or additional action.*

Tactical Debriefing and Monday-Morning Quarterbacking

²⁰ Fairfax County Police Department. (2022, February 1). SOP 21-063: Performance Review Board.

Notwithstanding the PRB, the FCPD should ensure that a tactical debrief takes place no more than 72 hours after an officer-involved critical incident or in-custody death. The purpose of such a debrief would be to quickly identify potential issues in training, policy, and/or equipment that should be addressed immediately, without having to wait until the Performance Review Board meeting, completion of the official shooting investigation, or a sentinel event review.

12. Recommendation: FCPD should require that a tactical debrief take place no later than 72 hours after an officer-involved critical incident or in-custody death. The purpose of the tactical debriefing would be to identify training, policy, and/or equipment issues that require immediate attention.

On February 4, 2023, after the release of BWC footage from the Memphis police shooting of Tyre Nichols, PERF's executive director challenged law enforcement executives to gather their command staffs and front-line supervisors together and ask some potentially uncomfortable and difficult questions.²¹ He also offered to facilitate these discussions, which he called "Monday-morning quarterbacking" (MMQB). Several agencies took him up on that offer, leading to some very robust, honest, and positive conversations.²²

MMQB sessions should not be limited to viral, national incidents. In the wake of *any* critical incident in an agency, **regardless of whether that incident appears legally justified**, the organization must confront some essential questions, such as:

- ***Were there any reasonable ways the incident might have been avoided?***
- Were officers' actions consistent with agency policy and training? Did the incident reveal policy and training deficiencies that need to be addressed?
- Was a supervisor on scene? If not, how might the outcome have been different had a supervisor been on scene?
- If BWC footage exists, is it consistent with officers' initial statements?
- Was medical care provided as soon as possible?
- Were there opportunities for other officers to intervene?

The questions will change depending on the nuances of the incident, but the above list provides a good starting point.

For far too long, agencies asked only whether incidents were legally justified; if they were, the inquiry ended. But prioritizing the sanctity of life demands more — agencies need to determine whether and how PSIs could have been avoided altogether. MMQB sessions are a meaningful

²¹ Police Executive Research Forum. (February 2023). Monday-morning quarterbacking the Memphis incident. <https://www.policeforum.org/trending4Feb23>.

²² Police Executive Research Forum. (March 2023). Lessons from "Monday-morning quarterbacking" sessions across the country. <https://www.policeforum.org/trending25mar23>.

way for law enforcement to engage in these difficult but necessary conversations and PERF remains committed to facilitating them.

13. Recommendation: *FCPD should engage its command and front-line supervisory staff in MMQB sessions in the wake of its PSIs. For each incident, staff should thoughtfully parse the facts and answer questions designed to prevent similar events in the future. PERF is committed to staying involved and potentially facilitating an MMQB session at FCPD's request.*

V. FOOT PURSUITS

As noted previously, PERF did not evaluate paperwork surrounding the most recent PSI because it is under criminal review by the county prosecutor. However, FCPD provides regular updates after its critical incidents and has released video of the incident,²³ so PERF is aware that the shooting took place after a foot pursuit.

In the previously referenced 2021 University of Texas at San Antonio report, researchers noted that:

"[FCPD should] consider adopting a foot pursuit policy to help reduce force and injuries to officers and suspects."

FCPD has not yet adopted a foot pursuit policy. PERF encourages the agency to do so.

Foot pursuit policies are relatively new, and many agencies have not yet adopted one. However, PERF found several consistent themes in those policies and recommends that the following points be included in any policy adopted by FCPD:

- **Acknowledge that foot pursuits carry inherent risk to both the subject being chased and the officer.** For example, the Austin Police Department's foot pursuit policy requires officers to balance the objective of apprehending a subject with *"the risk and potential for injury to department personnel, the public, or the subject."*²⁴ The Santa Ana, CA Unified School District Police Department's policy on foot pursuits similarly requires that officers "continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public, or the suspect."²⁵
- **Note that officers should consider alternatives to foot pursuits,** such as aviation, canine, and containment. For instance, Baltimore Police Department's policy states, *"Surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a Foot Pursuit, members should*

²³ Fairfax County Police Department News. (February 23, 2023). Officer-Involved Shooting in Tysons. <https://fcpdnews.wordpress.com/2023/02/23/officer-involved-shooting-in-tysons/>.

²⁴ Austin Police Department General Order 215, *Foot Pursuits*. https://www.austintexas.gov/sites/default/files/files/Police/General_Orders.pdf

²⁵ Santa Ana USC Police Department General Order 425, *Foot Pursuits*. <https://www.sausd.us/cms/lib/CA01000471/Centricity/Domain/9/SASPD%20Department%20Policy%20-%20January%202022.pdf>

*continuously consider reasonable alternatives based upon the circumstances and resources available.”*²⁶ The Las Vegas Metropolitan Police Department’s foot pursuit policy notes that “*When deciding whether to initiate or continue a foot pursuit, officers should consider other possible, reasonable alternatives such as pursue to apprehend vs. pursue to contain.*”²⁷

- **Provide officer, subject, and environmental factors** that should inform the determination of whether to chase. Dallas Police Department General Order 311.00: Foot Pursuits, notes, for example, “*In deciding whether to initiate or continue a foot pursuit, officers should consider the following risk factors:*
 1. *Whether the officer is acting alone*
 2. *Familiarity with the area or an area that is hostile*
 3. *Dangers of pursuing suspects who are known to be or suspected of being armed*
 4. *The ability or inability to obtain backup in a timely manner*
 5. *The dangers of pursuing in inclement weather, darkness, or reduced visibility conditions*
 6. *Whether the officer is in adequate physical condition to conduct a foot pursuit*
 7. *Geographic and physical hazards that could endanger the officer.*”²⁸

The City of Madison, WI Police Department’s foot pursuit policy begins in a similar manner.²⁹

- **Emphasize the need to continuously reassess the decision to engage in the pursuit.** The New Orleans Police Department’s foot pursuit policy is a good example of this, noting, “*Officers must continually reevaluate the decision to pursue in light of changing circumstances during the pursuit.*”³⁰

Based on PERF’s review of the video released by FCPD, showing a sergeant who appeared to have his gun at the ready while chasing a man who stole sunglasses, the following provision found in the Houston Police Department's policy would be relevant:

Under most circumstances officers shall have their firearms holstered when involved in a running foot pursuit. Although circumstances may dictate that officers may need to pursue a suspect fleeing on foot with an un-holstered weapon, special caution shall be given to running with a

²⁶ Baltimore Police Department Policy Number 1505, *Foot Pursuits*.

<https://www.baltimorepolice.org/transparency/bpd-policies/1505-foot-pursuits>.

²⁷ Las Vegas Metropolitan Police Department Policy 5/212.05, *Foot Pursuits*. https://www.lvmpd.com/en-us/InternalOversightConstitutionalPolicing/Documents/UODE/LVMPD_POLICY/POLICY_5_212_05_Foot_Pursuits_1_20.pdf.

²⁸ Dallas Police Department, *Foot Pursuit Policy Update*.

https://dallascityhall.com/government/Council%20Meeting%20Documents/2015/PS_Foot_Pursuit_Policy_Update_01262015.pdf.

²⁹ City of Madison Police Department Standard Operating Procedure, *Foot Pursuits*.

<https://www.cityofmadison.com/police/documents/sop/FootPursuits.pdf>.

³⁰ New Orleans Police Department Operations Manual Chapter: 41.4, *Foot Pursuits*.

[https://nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-41-4-Foot-Pursuits-\(1\).pdf](https://nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-41-4-Foot-Pursuits-(1).pdf).

*firearm in hand. When handling a firearm, officers shall always follow indexing procedures by keeping the trigger finger outside of the trigger guard until the officer has made the conscious decision to fire the weapon.*³¹

FCPD recently began requiring its members to write “foot pursuit” in their reports if they engaged in such a pursuit during an incident; this was not previously required, so members may have described a foot pursuit with words that are not as easily searched, such as “ran after subject” or “chased person.” This new requirement will help FCPD to understand the number of foot pursuits its members currently engage in. And from conversations with members of the department, PERF understands that FCPD intends to draft a foot pursuit policy to go along with this new requirement.

12. Recommendation: FCPD should adopt a foot pursuit policy. The policy should acknowledge the inherent dangers of foot pursuits and establish guidance and alternatives for FCPD members. The policy should guide officers when deciding whether the risks inherent in pursuing a subject on foot, weighed against the alternatives, justify a pursuit. The policy should list factors that officers should consider in determining whether to pursue on foot and stress the need to constantly reassess the decision of whether to pursue. FCPD should incorporate a provision into the policy advising officers that under most circumstances, they should not pursue with their guns drawn.

VI. COLLECTING AND MANAGING MENTAL HEALTH DATA

FCPD reports 4% of its calls for service are mental health related. This may be a reporting error, attributable to shortcomings in the way incidents are currently tracked. The original call may be dispatched as one type of incident (e.g., disorderly conduct or family violence) that masks the root cause of the disturbance (a mental health crisis). Often, only after an officer is on the scene does the underlying reason for the call become clear. Further, some officers may write that there was a mental illness component to a call in the narrative of their incident reports, and other officers might enter the “mental case” option in FCPD’s records management system (RMS), but there is no requirement and therefore no consistency.

To better evaluate the quantity and quality of FCPD’s responses to calls involving mental or behavioral health-related issues, and more accurately determine the community’s need for an array of behavioral health services, FCPD should require its officers to record any time a mental health issue, including substance use, is part of a call in the department’s RMS. Additionally, FCPD should change its RMS designation to something other than “mental case” when processing these types of calls. While the designation likely developed to describe cases involving mental health, using that terminology is offensive, out of step with best practices, and stigmatizing to people living with mental illness.

³¹ Houston Police Department General Order 600-11, *Foot Pursuits*.
https://www.houstontx.gov/police/general_orders/600/600-11%20Foot%20Pursuits.pdf.

13. **Recommendation:** *FCPD should require officers to capture all calls that include some type of mental health or behavioral health component in the RMS. Further, FCPD should use a designation other than “mental case” — such as “mental health” or mental/behavioral health” — to categorize these calls.*

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