

January 28, 2020

Elmer J. Hitt
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Steven Rand
Jackson County Sheriff
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Re: Foot pursuit policies

Dear Chief Hitt and Sheriff Rand:

On this first anniversary of the police-involved killing of 29-year-old Joey Ramirez, the ACLU of Michigan recommends that your officers employ methods designed to diminish the potential for loss of life and injury if circumstances comparable to those that preceded the Ramirez shooting recur in future police encounters with the public. According to reports, police officers responded to a woman's complaint that Mr. Ramirez was attempting to break into her home. When officers arrived, Mr. Ramirez fled, and officers gave chase and eventually shot him, acting in what the prosecutor concluded was self-defense.

Analyses of the Ramirez matter might prompt a variety of recommendations, and our recommendations are not a specific review of that encounter. However, our general observations regarding law enforcement policies are prompted by the fact that police officers and Mr. Ramirez were engaged in a protracted foot chase before he was finally fatally wounded by police gunfire. We presume the chase was consistent with your policies, and that relevant policies have not changed.

As you may know, police departments across the country are examining their policies on foot pursuit and in some cases revising them with an eye toward greater safety for their officers and the public. After reviewing the foot pursuit policies of other departments, we believe there are policies and practices that might be not only useful to your respective organizations, but also better suited to preserving public safety.

One feature of some new foot pursuit policies that we believe should receive greater emphasis is the option of non-pursuit. Language from a draft Baltimore Police Department's policy captures the idea:

“In deciding whether to initiate or continue a foot pursuit, [officers] should continuously consider reasonable alternatives based upon the circumstances and resources available, such as: ... apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.”¹

Similarly, the language in Cincinnati’s policy says: “If the suspect’s identity is known and he is not an immediate threat to the safety of the public or other officers, consider terminating the pursuit and apprehend at a later date.”²

As you have likely heard, methods of de-escalating conflicts are enjoying ever-increasing favor in the law enforcement community. This is because violence often occurs when encounters are tense and emotions are raw. If arrest and other law enforcement measures that will have a detrimental impact on a member of the public are postponed until emotions and tempers have cooled, the chances are greater that the encounter will end peacefully. To this point, Mr. Ramirez’s name was already known to the officers. Likewise, if his address was not already known to them it could possibly have been obtained from the young woman who made the emergency call. We can’t know for certain, but a standard unannounced pre-dawn arrest at Mr. Ramirez’s residence may have created less of a chance of a violent conflict.

Law enforcement’s abandonment of the foot chase as a method of apprehension would be welcomed by many. The use of alternative methods such as aerial monitoring of a fleeing suspect (via helicopter) is just one example of how an individual might be tracked and located for later arrest under controlled conditions. We therefore encourage you to adopt a foot-pursuit policy that emphasizes the option of non-pursuit whenever possible to minimize the risk of violence and injury.

Given the probability that foot pursuit will continue under at least some circumstances, we also urge you to consider other de-escalation techniques. Baltimore’s policy contains the following language: “When a foot pursuit terminates, [officers] shall not use more force than is necessary to arrest the suspect. It is prohibited to use force to punish persons for fleeing, resisting arrest, or assaulting [an officer].” This language contemplates the understandable if not inevitable anger of officers who have risked life and limb to chase a disobedient, uncooperative suspect. The urge to impose summary punitive justice on a captured fugitive might be overwhelming for some officers, even though they might have a completely different perspective when their emotions are cool.

At the end of most chases the high emotions of all involved make the earlier mentioned de-escalation approaches particularly useful. This case ended with Mr. Ramirez on the ground

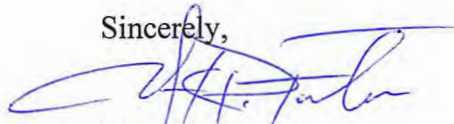
¹ Baltimore Police Dept. draft Policy 1505 (Oct. 29, 2018)
<https://www.baltimorepolice.org/1505-draft-foot-pursuits>

² Cincinnati Police Dept. policy 12.536
<https://www.cincinnati-oh.gov/police/assets/File/Procedures/12536.pdf>

after a chase that involved shooting. Officers were positioned a distance away, and the emotion in their voices as they shouted orders at the suspect was palpable. We can only speculate about whether there would have been a different outcome if instead a trained negotiator had been present on the scene who might have addressed Mr. Ramirez in a calm, reassuring tone. In the mind of a runaway suspect the only options can appear to be: a) surrender to obviously angry police officers who are likely to administer immediate violent punishment; b) resist – violently if necessary – because there is nothing to lose; or c) take a chance on cooperating with the reasonable-sounding negotiator who can probably keep the angry officers away and provide at least a chance for a courtroom defense. We encourage you to make option “c” available whenever possible.

We hope you will seriously consider these recommendations if you have not already revised your policies with these considerations in mind. The concern that grows out of the Ramirez killing is heightened because, in the current era, the death of a person of color at the hands of law enforcement inevitably creates a high risk of social and racial tensions. If you are interested in references to resources that might be helpful in the redesign of any of your policies, please advise and we will provide whatever we can. Thank you for your time and attention to these important matters.

Sincerely,



Mark P. Fancher

Staff Attorney – Racial Justice Project

Cc: Audrey J. Forbush, Esq.