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Assessing the need to amend the Grand Prairie Police Department
Pursuit Policy to allow for the use of tire deflation devices

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TABLE OF CONTENTS

| Section | Page |
|--|-------------|
| Abstract | |
| Introduction | 1 |
| Historical, Legal or Theoretical Context | 3 |
| Review of Literature or Practice | 7 |
| Discussion of Relevant Issues | 10 |
| Conclusion / Recommendation | 15 |
| Bibliography | 17 |

ABSTRACT

Studies show that nearly one-third of police pursuits end in accidents. When Such accidents occur the police are faced with the human suffering and loss associated with the accident but also often face severe penalties resulting from liability judgements.

Police administrators are faced with drafting policies that offer direction for the officers, provide for the swift apprehension of suspects, protect the public, create a safe working environment for the officers and limits the departments exposure to liability claims. The Grand Prairie Police Department pursuit policy has has failed to address the use of spike strips as a safe and effective way to end a pursuit. Top administrators have defined spike strips as a road blocking technique. Road blocks are expressly prohibited by present policy.

The research in this proposal will examine the policy of other agencies, recommendations of national police organizations on the use of spike strips, liability concerns, and the experience of users of spike strip devices.

This proposal will conclude with the recommendation that the policy of the Grand Prairie Police Department be amended to endorse the use of spike strip devices to stop police pursuits. It will further recommend the GPPD budget sufficient funds to purchase spike strip systems for all patrol supervisors vehicles, and train all patrol officers and supervisors in the use of spike strip systems to end police pursuits.

Spike strip systems are safe, effective and can save lives.

Introduction

Police pursuits are one of the most dangerous of all police activities. Studies have shown that one third of all police pursuits end when either the suspect's or the police vehicle is involved in an accident. The longer a pursuit last, the more likely a traffic accident will occur. Such accidents have resulted in injury and death to suspects, officers and innocent third parties who just happen to be in the wrong place. In addition to the personal injury or death, these tragic accidents have resulted in substantial monetary judgments against police officers and police agencies.

Police officers over the years have employed many methods to stop fleeing vehicles. These techniques have included forcing suspects off the road, boxing the suspect's vehicle in between several police vehicles and then slowing to a stop, setting up road blocks, shooting at the suspect's vehicle in an attempt to disable it, and ramming the suspect's vehicle to disable it. All of these pursuit termination methods can be effective but present a high degree of risk to the safety of the suspect, the officer(s) and often to uninvolved third parties. As a result most police agencies have adopted policies which forbid an officer from using any of the above mentioned techniques to stop a pursuit. The safe termination of the pursuit is the goal of police officers and administrators. But without the use of some device to disable the fleeing vehicle, officers have little control on where and when the suspect will end the pursuit. Often the only decision the pursuing officers or their supervisors will make in ending a pursuit is to discontinue their involvement, allowing the successful escape of the suspect. The use of tire deflation devices have proven to be an effective tool in bringing many police pursuits to a safe end.

This research is intended to provide the administration of the Grand Prairie Police Department, the Grand Prairie City Council, City Staff and officers of the Grand Prairie Police Department with information on the use of spike strips as a tire deflation device to terminate police pursuits. This information may also be of value to other law enforcement agencies in Texas and throughout the United States in developing policy on the use of spike strip tire deflation devices.

The research contained in this work will be derived from several sources. These sources will include the policies of police departments in the Dallas metroplex area, professional journals, personal interviews with officers, the manufactures printed guidelines on the use of spike strips, and studies of the use of these devices.

The purpose of this research is to augment the present policy of the Grand Prairie Police Department to allow the use of spike strip tire deflation devices in terminating police pursuits. It is the intent of this research to provide police administrators with factual information relevant to the formulation of policy, that will minimize the potential liability of the Grand Prairie Police Department, reduce the probability that the pursuit will end in accident, provide a greater measure of safety to the suspect, officers and the public by reducing the length of police pursuits, and increasing the potential for arrest of the suspects.

HISTORICAL, LEGAL OR THEORETICAL CONTEXT

In 1980, Police Chief John Whetsel of the Choctaw Oklahoma Police Department was dispatched to assist an Oklahoma Highway Patrol Trooper in a pursuit related accident just west of Choctaw. The Trooper had pursued a vehicle through a stop sign at a speed of 100 mph. The Trooper's vehicle struck a passenger vehicle that had just entered the intersection, totally demolishing the vehicle and killing 2 of the three passengers and critically injuring the third, a young boy. Imagine the shock and horror Chief Whetsel felt when, after 15 minutes at the scene, he realized the passenger vehicle was his own private vehicle and was occupied by his wife and two small children (Whetsel and Bennett 30).

Police pursuits all too often end in tragic accidents that forever change the lives of suspects, officers, innocent third parties and their families. Studies of pursuits show, depending on the study, that 1 to 3 percent of all pursuits end in death, 5 to 24 percent end with an injury, and 18 to 44 percent end in accidents (Falcone 59).

"The police pursuit, a custom long accepted by both the police and the public, is undergoing close scrutiny. This was further evidenced following seven police pursuits in Los Angeles County during November 1992, that resulted in 10 fatalities; these pursuits were followed by editorials and articles advocating a variety of emotions and solutions. Subsequently, the issue of police pursuits and their management is gaining the attention of the public, the courts and the police themselves" (Grimmand 43).

In the United States for the period 1980 through 1989, 2,885 persons were killed in police pursuits for a yearly death toll averaging 288. This number includes suspects, police officers, and innocent third parties. In 1988, 58 police officers were killed during police pursuits, 38 percent of the total killed in the line of duty that year (43).

The cost of police pursuits are high not only in the loss and suffering of human life and property damage but also in the cost of defending lawsuits and paying liability judgments. "Interest in suits against police officers, police supervisors and governmental agencies is on the rise, due in part to the fact that the courts have awarded six and seven figure settlements to plaintiffs seeking redress for pursuit related accidents. This interest has been further fueled by recent court decisions affecting officer and supervisor liability. As Joseph Koonz and Patrick Regan noted, 'Not only is a police officer's negligence actionable, but so is improper training and poor supervision' (Falcone 60).

Some states have enacted legislation granting immunity to officers and police agencies from liability resulting from a police pursuit, however the courts have concluded that this governmental immunity may be waived when a police officer negligently commences and **maintains** a high speed chase of a suspect (21 UBALR 363 11). The mere fact that the court in this case ruled the state's immunity may be waived, should cause concern to police administrators. Policy must be written, enforced and officers adequately trained in the mechanics of pursuit driving and termination.

In adopting policy, administrators must weigh carefully the inherent risk of high speed pursuit against the duty to arrest fleeing suspects and the obligation to protect the public.

One leading authority on police pursuits, Maurice J. Hannigan, Commissioner, California Highway Patrol, has stated, "I am convinced that well regulated police pursuits are necessary, otherwise, if law enforcement agencies were to adopt an absolute no pursuit policy, more criminals would have an incentive to flee, and possibly go on to commit more crimes. Pursuits are necessary for the swift and efficient apprehension of violators, and can be successfully carried out with proper supervision, enhanced training and a comprehensive, consistently enforced written policy."

California Highway Patrol statistics show that over 70 percent of those involved in CHP pursuits were wanted for felony or serious misdemeanors. Each year officers arrest numerous drug traffickers after observing minor traffic violations. These individuals attempt to flee precisely because they had committed offenses more serious than a traffic violation (Hannigan 46).

Both criminal and civil law regulate police pursuits. The legal theory underlying many pursuit related lawsuits is that of negligence. These suits focus on reasonable care that must be taken by an officer and are based on the duty owed by the officer to the injured party not to engage in certain conduct, the fact that the breach of duty was the proximate cause of the injury, and that the injured party suffered actual and preventable damage.

Factors usually considered in liability of the parties include the purpose of the pursuit, use of excessive speed, use of warning signals and police disregard of traffic signals (Alpert453).

Considering these factors one might also conclude that failure to terminate a pursuit by use of technology not available or practiced in 1988, when Alpert wrote his article may constitute another liability factor. Spike strip tire deflation devices would fall into this area of consideration.

Review of Literature or Practice

Recognizing both the risk and necessity of police pursuits, police administrators have attempted to equip officers with the best equipment. They have provided direction through written policy and training. They have also lobbied law makers to increase punishment of fleeing drivers.

We will examine some of these efforts and then suggest policy makers can be more effective by writing policy allowing for the use of spike strip tire deflating devices. Such policy change will serve public interest by giving police officers another tool to shut down police pursuits.

In August 1990, the IACP drafted a concepts and issues paper on police pursuits. The purpose of this paper was to provide police chiefs with the background to draft effective pursuit policy. The paper recognized the importance of clear pursuit guidelines that promote the police mission of enforcing the law, protect life and property, and at the same time minimize police liability.

The IACP recognizes that a "no pursuit" policy may well encourage violators to flee, decreasing the probability of apprehension. The IACP suggest three distinct types of pursuit policies.

1. Judgmental or discretionary - allowing officers to make all major decisions relating to initiation, tactics, and termination.
2. Restrictive - placing certain restrictions on officers judgment and termination.
3. Discouraging - severely cautioning or discouraging any pursuit except in the most extreme circumstances.

The concept paper recommended a restrictive police. A model policy dated December 1989, was attached to the paper (IACPI).

The IACP model policy restricts officers from pursuits except for felony or serious misdemeanor violations that would normally **require** a full custody arrest, thus prohibiting pursuits for minor traffic offenses where a citation only, would be the normal enforcement action (Model 1).

Officers are cautioned in the model policy to consider the following factors in initiating or continuing a pursuit: performance of pursuit vehicle, road surface and condition, traffic - vehicle and pedestrian, and weather conditions. Guidelines are also given for communications and supervisory roles during the pursuit. The policy forbids unauthorized officers from joining the pursuit and intentional bumping or ramming of a suspects vehicle to force it from the roadway. It requires strict adherence to department policy governing deadly force (2).

Many agencies in North Central Texas used the model as a guide. However most added even more restrictions including: limiting the number of units involved in a pursuit to the primary unit, back up unit and a supervisor, prohibiting road blocks, shooting at the suspect vehicle except to protect against unlawful deadly force, pursuing on the wrong side of a freeway, and no running code 1 or code 2 while pursuing (Grand Prairie Police 6).

At the 1996 IACP convention in Phoenix, Arizona, the IACP proposed a new sample pursuit policy. The 1990 model had never been accepted by vote of the IACP membership. The proposed 1996 sample policy included a statement on the use of spike strips. "All intervention tactics short of deadly force such as spike strips, low speed tactical intervention techniques, low speed channeling with appropriate advanced warning should be used when possible to do so safely and when officers utilizing them have received appropriate training in their use"(IACP 3).

The Grand Prairie Police Department written directives do not address this endorsement of spike strip systems and top administrators have interpreted the use of spike strips as a form of a road block which is prohibited by policy.

Police leaders in the greater Dallas area recognized the need for an inter-jurisdictional pursuit policy. At present 116 agencies in the north central Texas area are participating in an agreement governing inter-jurisdictional pursuits. This agreement while similar to the GPPD policy does not address the use of spike strips, nor does the policies of Irving, Dallas or Arlington police departments (Inter-jurisdictional 1).

Stinger Spike Systems Inc. developed a portable, light weight spike system in 1989. Marketing of this system began in 1990 to police agencies throughout the world. Presently these systems are in use by police agencies in the United States, Canada, Austria, Finland, the United Kingdom, Switzerland, and Hong Kong. To date Stinger Spike Strip Systems have not been sued over a liability issue, nor have there been any deaths (Benson).

The Stinger System is deployed by one officer. It comes in 10 through 24 1/2 foot lengths. It has withstood speeds up to 130 mph and can be deployed 30 feet from the street by the use of the attached pull cord. Spikes on the Stinger System are mounted on a "rocking arm", tilting the spikes into the tire at the correct angle. The system was designed to be bi-directional, can be repaired after use by officers in the field and is reusable up to 30 times. Its spikes are designed to slowly and evenly deflate tires allowing the driver to maintain control of the vehicle. The Stinger

System stores in a compact case and can easily be carried in the trunk of a patrol vehicle (Stinger3).

Other spike strip manufactures include Stop Stick and Porcupine Spike Systems. The Stop Stick design is a series of snap together sticks containing spikes. The sticks are bi-directional and can be deployed by a single officer. They are a one time use item and are not repairable after use.

The Porcupine System is expandable to 25 feet. It is very similar in design to the Stinger System. It is deployed by one officer and is repairable in the field by an officer for repeated use. No lawsuits have been filed in connection with the use of the Porcupine System nor have any deaths been reported when the system is successfully deployed (Porcupine 2).

Discussion of Relevant Issues

Tragically 1 to 3 percent of police pursuits end in the death of the suspect, officer or an innocent third party. Consequently, it has been argued in the courts that police pursuits constitute a form of deadly force. In a 1985 landmark case, the Supreme Court ruled that deadly force is unjustified against an escaping, non-violent felon and called for the law enforcement community to develop appropriate equipment to apprehend suspects safely (Boyd 2).

Many liability lawsuits arise not from the use of firearms but from police pursuits. Police leaders, in an effort to reduce agency liability must search for emerging technologies that can safely stop a pursuit.

One national laboratory is developing technology to allow police to activate, by remote control, strips of needles that pop out of the road and puncture the tires of fleeing vehicles. Then the police will retract the needles to chase the suspect. The ability to activate the system remotely will prevent injury to law enforcement and civilians (Boyd 4)

Futurist and Police Chief Robert Moore, has suggested development of an electronic disabling device. Vehicle manufactures would install a receiver designed to respond to a specific radio frequency relayed, on command, from transmitters located in police cars. The signal transmitted by the police would activate a relay in the suspect vehicle's electrical system, shutting it off (Moore 28).

Technology such as remote control barrier strips and electronic vehicle disabling devices may prove effective in the future, or due to cost restraints they may never be fully developed. On the other hand spike strip tires deflation devices have been available since the early 1990's They are in use today by police agencies world wide.

Sheriff Don Hozempa, Wright County Minnesota, was prompted to purchase a spike strip system after a lengthy pursuit in 1992. The pursuit traveled through three jurisdiction and resulted in \$15,700 damage to six Wright County squad cars. Since then the spike systems have been used eight times. Each time the system was deployed the suspects terminated the chase and were arrested without accident or injury. The most dramatic example on the effectiveness of the system occurred on June 20, 1993. North Dakota State Troopers had attempted to stop a semi truck. Troopers had no way to stop the truck due to its size. The chase continued for 150 miles until entering Wright County. Deputies deployed the spike system and the pursuit ended without accident or injury (Hozempa 31).

The Grand Prairie Police Department is not a user of spike strips. However officers involved in pursuits entering jurisdictions of agencies who do use spike strips can give similar testimonials on the effectiveness of spike strips in stopping pursuits safely.

Sergeant Tim Chapman supervised a pursuit of a stolen Corvette. The pursuit continued at speeds over 100 mph for 85 miles and was terminated when 4 Texas DPS Trooper deployed a spike stripe system on 1-356 miles south of the Oklahoma border. The suspect was taken into custody without accident or injury. Had the Grand Prairie Police been a user of spike systems,

this pursuit could have easily been terminated within the Grand Prairie city limits as the suspect drove by Sergeant Chapman as other units pursued him (Chapman).

The use of spike strips has been recommend in a training class I attended taught by the Public Agency Training Council. The instructor made a comparison on the use of force continuum of spike strips to pepper spray. He encouraged police agencies to add spike strips as a resource to safely stop police pursuits (Gallagher).

Spike strip systems range in price from \$399 to \$799 per unit depending on length. A mid range system is comparable in price to that of a bullet resistant vest. If one accident, injury, or death is prevented by the use of a spike strip system the benefit clearly justifies the expense.

The fact is, pursuits are going to continue. During the period of November 15 - April 15 Grand Prairie police reported 28 police pursuits (Grand Prairie Police Department). This period is arguably slower in the terms of traffic enforcement due to weather conditions. One might expect even more pursuits during the spring and summer months. Knowing pursuits are occurring and will continue the department has an obligation to provide appropriate tools to limit exposure to injury and liability.

Training in the use of spike stripes can be accomplished at minimal cost. Training will be conducted on a regularly scheduled training day, eliminating the need to adjust schedules or pay overtime. The city shop will mount worn discarded tires on a vehicle for demonstration of the system. Systems are repairable at a minimal cost of about \$10 and are reusable.

There is no panacea when it comes to police pursuits. Some pursuits are necessary, it comes with the turf. However, the addition of spike strip systems might reduce the risk involved (Whetsel, Bennett 31).

Conclusions/Recommendations

This research proposal has been written with the intent of providing factual information to the administration of the Grand Prairie Police Department on the use of spike stripe tire deflation devices.

The goal of the research is to cause administrators to amend the written policy of the Grand Prairie Police Department, to endorse the use of spike strip tire deflation devices. This goal is consistent with the mission of the department in protecting the public, enforcing the law, and providing officers with the proper tools to accomplish this mission.

Police administrators are faced with many questions and problems. Among those are how can the department limit exposure to liability suits. Is the department current with available technology. Is the department providing equipment to reduce risk to the public and the officers.

Upon examination of present pursuit policy and practice, one must conclude that the department is deficient. Recent IACP policy recommendations on pursuit intervention tactics, i.e. spike strips, have not been incorporated into written policy. The department has failed to budget for the purchase of spike strip systems or planned for training in their use.

It is recommended that the department amend current pursuit policy to include the

endorsement of spike strip tire deflation systems. The department is also urged to purchase five spike strip systems at a cost of \$499 per unit. It is recommended that one system be placed in each patrol supervisor's car. Training in the use of spike strip systems should be developed and given as part of the regularly scheduled training days to patrol officers and supervisors. An actual demonstration of the system should be included in the training.

Spike strip technology can provide a tool to make law enforcement more efficient, effective and improve safety for the police and the public. It can save lives (Boyd 5).

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