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REGULATE. DON'T "OBFUSCATE".

Tailor remedies to the workplace. And keep it real!



For Police Issues by Julius (Jay) Wachtel. Chasing after suspects on foot isn't something that should be thoughtlessly encouraged. In "[Want Happy Endings?](#)" we emphasized that such pursuits often end tragically. Our example, the June 18, 2020 shooting death of an armed eighteen-year old by Los Angeles County sheriff's deputies might have been resolved far more peacefully had officers sought to contain the youth and called for backup.

That's not the first time we've questioned foot chases. Over a decade ago [we summarized the problem thusly](#):

[Foot chases] place officers in unfamiliar surroundings. Often alone, lacking access to the normal tools of policing, they get wholly dependent on their guns for survival. Pumped up on anxiety and adrenaline, with little opportunity to observe or reflect, it's inevitable that their split-second decisions will occasionally prove to be tragically wrong...Unless academies can produce Supercops who are unaffected by stress and fatigue and can see in the dark, prohibiting one-on-one foot pursuits may be the only option.



Foot pursuits with tragic endings aren't just a problem in Southern California, where that essay focused. During the early morning hours of March 29, 2021 [a shot-spotter device alerted Chicago police](#) to gunfire. Two officers promptly arrived. An adult male and his young teen companion took off on foot, and the chase was on. A cop promptly corralled Ruben Roman, 21. Surveillance video would later confirm that the alleged gang member was indeed the shooter. Alas, he had apparently passed the gun to the youth, who kept on running. After a prolonged chase,

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the other cop cornered him. Adam Toledo [tossed the gun and raised his arms](#) as if to surrender (see image). But as he did so the officer opened fire and shot the youngster dead. (Click [here](#) for our half-speed version of the pursuit's final moments and [here](#) for the official collection of videos of the encounter.)

Two days later, on March 31, it was Déjà vu all over again. For unconfirmed reasons – their quarry had supposedly eluded them a day earlier – [two Chicago police officers furiously chased](#) a twenty-two year old man through a residential area at about one in the morning. Anthony Alvarez entered a townhome complex, and as he reached a set of stairs an officer opened fire and shot him dead. Video footage provided and edited by Chicago PD supposedly shows that during the chase Alvarez produced a gun, which some say he dropped just before the shooting (the videos aren't clear about that.) In fact, his pistol *was* recovered; best we can tell, though, Alvarez never pointed it at his pursuers. (Click [here](#) and [here](#) for our extracts from Chicago PD bodycam videos.)



Given the gunplay that typically rocks Chicago, the lethal encounter with Mr. Alvarez, an adult, was vastly overshadowed by the shooting death of thirteen-year old Adam Toledo. So [just why was a boy running around with an armed felon](#) at two-thirty in the morning? One-time Chicago police commissioner Garry McCarthy (he was chief through 2015) [blamed the child's violent death](#) on the gang members that infest his city. “They have the ‘shorties’ who they give the gun to,” he told *WBBM* radio. Former Commissioner Eddie Johnson, a Black officer who succeeded McCarthy, offered the officer who killed the boy [some words of support](#):

...I don't see anything that would dictate that the officer would be prosecuted for anything. It's a tragedy. All of this happened in less than a second...Tossing a weapon and turning around in a split second doesn't give your brain time enough to process. Reality isn't like Hollywood. It's much different...

Outside the law enforcement community such “explanations” fell on deaf ears. Adam Toledo's killing was widely and near-reflexively condemned. “It could have been any one of my students,” [said an eight-grade teacher](#). “I don't think there's enough training for cops, especially white cops dealing with Black and brown kids,” she added. “They're

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acting out of fear.” *Chicago Tribune* columnist Rex Huppke [summarized the prevailing sentiment](#) in an uncompromising piece:



There is only one side here, and it’s a side that should be almost instinctual in all of us as human beings, a thread woven into our DNA: What we saw in that police body camera video is wholly, wildly, unnaturally unacceptable.

Perhaps sensing a very ill wind, city officials quickly jumped on the bandwagon. Instead of pointing fingers at the officer – his predicament, we suspect, was too complex and legally charged to allow for a tidy scolding – they blamed police policies. Those, they pledged, would be promptly reformed. [Mayor Lori Lightfoot demanded it](#): “We cannot and will not push the foot pursuit policy reform off for another day.”

Full stop. By “reform” she must have meant meant “change.” Chicago P.D. had issued a [foot pursuit policy](#) in January 2018. Revised last year, the rules comprehensively set out the requirements and justifications for a foot chase. A prominently boxed warning informs officers that foot pursuits are only authorized when there is “reasonable articulable suspicion to conduct an investigatory stop or probable cause to arrest.” Officers are sternly reminded about the risks that foot chases present to everyone, including the suspect. They’re advised to exercise great caution in deciding whether and how to pursue and discouraged from giving chase except in cases of violent crime. Among other things, officers are instructed to interact with suspects in ways that prevent flight, warned against separating from colleagues, and urged to contain fleeing persons by establishing a perimeter. Use of force, including deadly force, is addressed at some length. Here’s an outtake:

Deadly force may not be used on a fleeing subject unless the subject poses an imminent threat of death or great bodily harm to the officer or another person. Force used on a subject who is fleeing, or who is being or has been apprehended, must, as in all use of force, be objectively reasonable, necessary, and proportional.

In all, the advice seems fully consistent with Supreme Court decisions about pursuits (e.g., [U.S. v. Arvizu](#)) and use of force (e.g., [Graham v. Connor](#).)

	Chicago Police Department	General Order G03-07	
FOOT PURSUITS			
			
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But then police shot and killed a boy. Two months later, on May 26, the mayor and Commissioner Brown announced a new, comprehensive foot chase

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policy. (Click [here](#) for its “highlights,” [here](#) for its full text, and [here](#) for our compilation.) And be sure to grab a snack. With a word count of 5,777 it’s about *three times* the length of the original version. (By way of comparison, the [foot pursuit policy of the La Verne police department](#), which the L.A. County Police Chief’s Association recently cited as a model in [Lange v. California](#), takes about 1,613 words.

Its massiveness aside, Chicago PD’s new foot chase policy is a polished piece. While it studiously avoids mentioning the assumedly “bad, old” directive the policy addresses most of the same concerns. Its advice, though, is far more detailed. For example, the perils of becoming separated from one’s partner, or of running with a firearm in hand, are set out in police-academy precision. Ditto coordinating pursuits with superiors and support staff. When it comes to rulemaking, the policy considers issues that transcend chases. For example, it specifically prohibits using force “as punishment or retaliation (e.g., force used to punish or retaliate for fleeing or resisting arrest)”. Throughout, many examples are given to demonstrate how the rules would apply to a variety of field situations

So Chicago got its money’s worth, right? Not according to its [embattled police union president](#). John Catanzara complained that the new rules in fact amount to a “no-foot-pursuit policy” that [could preclude chases altogether](#). Mr. Catanzara, a suspended officer who endorsed the Capitol assault, is no friend of city hall. Yet his concerns can’t be easily dismissed. While the original policy didn’t require that suspected criminal behavior meet any certain level of severity to justify a chase, its replacement forbids foot chases when “the established reasonable articulable suspicion or probable cause is solely for a criminal offense less than a Class A misdemeanor (a sentence of less than one year of imprisonment) and the person...poses no obvious threat to the community or any person [or] has no obvious medical or mental health issues that pose a risk to their own safety.”

Mr. Catanzara’s objection brings up our recurring emphasis on the police workplace. Consider the rapidly-changing, stressful situations that officers often encounter. If they happen on a lawbreaker who suddenly bolts, must they instantly and precisely assess the severity of his conduct – say, class of misdemeanor – before chasing? (Say, maybe they could carry this handbook!) To this long-retired practitioner that seems a bit of a stretch. Happily, the new policy adopts the flexibility of the [original rule’s](#) “Whether to Pursue” section by making special allowances should a suspect pose an “obvious” threat.



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Across from Mr. Catanzara sit the civil libertarians. And they object to the new regulations for precisely the opposite reason. Given cops' self-interest, accommodating the rules of the chase to the workplace could in practice mean that no rules exist. Here's how Illinois ACLU legal director Nusrat Choudhury [feels about the new version](#):

It's vague and at times even self-contradictory. But what a policy needs to do is give clear and easy to understand guidance on when not to chase someone on foot. When you look closely it is not going nearly as far as it should...even with the bar on Class A...I think this policy leaves a lot of room for officers to still exercise discretion. There needs to be more guardrails.

We're skeptical. George Floyd's killing and the criticism and increased oversight that followed [have been widely credited for inspiring "police pullbacks."](#) These retrenchments may have [contributed to the surge in violence](#) that's beset cities across the U.S. During the June 4-7 weekend [at least sixty persons were shot in Chicago](#), including eight in a single incident. Among the wounded were an 11-year old girl and a 15-year old boy. Police commissioner David Brown blamed the gunplay on "gang cultures, revenge, retaliation and street justice."

Policing is consumed with risk, uncertainty and a chronic lack of accurate information. Stirring in a bucketful of restrictions may produce a brew that practitioners of the demanding craft may find too toxic to consume. Say that foot chases get the ax or its tightly-written equivalent. Cops become reluctant to test the rules, and word gets out. What might the Windy City's denizens then face?