



# FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

## *POLICE ADVISORY & OVERSIGHT BOARD*

# MINUTES

**Meeting:** Police Advisory & Oversight Board Regular Meeting

**Date:** 07.11.2024

**Time:** 5:00 p.m.

**Location:** City Commission Chambers

The Regular Meeting of the Police Advisory & Oversight Board of Fargo Police Department was held in the City Commission Chambers at City Hall at 5:00 p.m., Thursday, July 11<sup>th</sup>, 2024.

The Police Advisory & Oversight Board members present or absent were as follows:

**Present:** Scott Paul, David Hogenson, Joanna Johnson, Lucruchia King, Tonya Greywind.

**Absent:** Conrad Thomas, Todd Spellerberg.

**Item 1. Welcome and Introductions**

Chair Greywind welcomed Members to the meeting and introductions were made.

**Item 2. Approve or Amend Agenda**

Member Paul moved the Agenda be approved as presented. Second by Member Johnson. All Members present voted aye and the motion was declared carried.

**Item 3. Approve or Amend Minutes**

Member Paul moved the minutes of the June 13<sup>th</sup>, 2024 Police Advisory & Oversight Board meeting be approved as presented. Second by Member Johnson. All Members present voted aye and the motion was declared carried.

**Item 4. Pick a Date for a Brown Bag Meeting**

The date for the Brown Bag will be August 15<sup>th</sup> from 5:30pm to 7:00pm, location to be determined.

**Item 5. Public Comment Period**

- Faith Dixon is letting the Board be aware that the incident has caused her a lot of physical and mental trauma. She has no respect for the Fargo Police Department as of May 7<sup>th</sup>, 2023, since they put their hands on her for no apparent reason. The situation was not that chaotic for officers to be drawing guns and putting her into double handcuffs, causing injury to her wrists. She wants justice for what happened to her. She doesn't want a letter being

mailed to her. She wants a public apology. The City Attorney requested \$74,000 for information on an injury that was caused to her. There are still body cameras that are missing from that day from the officer who actually put hands on her.

**Item 6. Questions from Community Members**

- There were no questions under this category this month.

**Item 7. Police Department Updates – Chief David Zibolski**

- Academy 7 is completing week 6.
- Saturday, officers will be sent out to Republican National Conference.
- Sunday afternoon will be a one-year memorial service for the tragedy from last July.

**Item 8. Fargo Police Complaint Review FPC 2024-008 - Lt. Joel Erickson**

- Fargo Police Department complaint 24-008 is in reference to Fargo ICR 23-29172 from May 4<sup>th</sup>, 2023.
- Two complaint forms were turned into the Police Department in February, 2024 in regards to this incident. One was completed by Mr. Dixon and one completed by Ms. Dixon.
- The Professional Accountability Unit (PAU) received and assigned these complaints to be investigated on February 20<sup>th</sup>, 2024
- Several allegations were included.
  - Ms. Dixon alleged she was unlawfully detained, officers used force on her while grabbing her wrist causing severe pain and bending her thumb, and broke her Apple watch.
  - Mr. Dixon claimed Ms. Dixon was unlawfully detained, Ms. Dixon's watch was broken and her wrist was swollen and bruised, he was not provided medical care, and stated he and several other witnesses were not interviewed.
- Officers were initially dispatched for a disturbance. Dispatch reported to officers there "are about 6 people involved". Dispatch also informed officers they received information that it "looked like 2 vs 2"
- When the first officer arrived, there were approximately 7-8 people on scene, including a female who was stating a male inside an apartment complex had a gun
- Officers located a female who appeared to have some bruising around her neck. Officer Layman recognized the female and knew who she was and that she was/had been in a relationship with a male who lived in a nearby apartment. Officer Layman asked the female if the male had caused the injuries, which the female denied. The female's story as to what happened was difficult to understand, inconsistent, and not easy to follow. However, at one point early on during the interview, she made reference to Ms. Dixon causing the injuries. When the female made this accusation, Officer Layman asked Officer Pool to detain Ms. Dixon.
  - During the investigation, Ms. Dixon was in handcuffs from approximately 9:36pm to 9:46pm. Ms. Dixon received medical care in an ambulance from approximately 9:46pm to 10:06pm. When Ms. Dixon was in handcuffs, two sets of handcuffs were utilized and they were double-locked.
    - Two sets of handcuffs were used. This was for more comfortability, not more restraint, as using two sets of handcuffs allows it to not be as tight for the individual. They were also double-locked so they couldn't be tightened.
  - The male party did come down from the apartment and was detained, handcuffed, and placed in a squad car. He also made several claims of being assaulted, but that the female party was not the responsible party.
  - The first officer arrived on scene at appx 9:31 pm. Supervisor arrived on scene at approximately 9:42pm.
- At approximately 9:49pm, the supervisor received video surveillance of the incident on his cell phone from downtown cameras and reviewed it with Officer Layman. The supervisor spoke with Ms. Dixon while she was being detained in the ambulance and went over the video surveillance with her, getting her statement. The supervisor continued to speak with officers, as well as attempted to speak with another witness that was on scene, but the witness walked

away and didn't provide a statement. At 10:06pm, the supervisor was informed the female recanted her statement about Ms. Dixon and immediately Ms. Dixon was told she was no longer detained and free to leave.

- Based on the investigation on scene, Mr. Dixon and Ms. Dixon were determined not to be suspects in the case and no charges were filed against them. The female and male parties were both arrested for domestic simple assault. The male party pled guilty to disorderly conduct (fighting behavior) and charges were eventually declined against the female. Mr. Dixon was listed as a victim of simple assault, which the male party pled guilty to on August 29<sup>th</sup>, 2023.
- Lieutenant Erickson provided an overview of the PAU Investigation Process (Policy 1009).
  - When PAU received a complaint, it's assigned to be investigated
  - It's then determined which policy violations are being alleged
  - The employee is then notified of the alleged policy violation(s) as well as a brief description of the allegation
  - Body worn camera (BWC) and fleet camera is reviewed, interviews of involved officers, witness interviews, and any other relevant information.
  - Once completed, PAU will write an investigation report with the facts/findings. PAU presents their report to Executive staff, who makes a recommendation to the Chief, who makes the ultimate decision in regards to those reports.
- Alleged policy violations:
  - 320.5.10(b) – Conduct – Failure to perform their duties while demonstrating excellent judgment, discretion, and decision making ability
  - 320.5.10(c) – Conduct – Unreasonable and unwarranted force to a person encountered or a person under arrest
  - 320.5.10(d) – Conduct – Exceeding lawful peace officer powers by unreasonable, unlawful, or excessive conduct
  - 600.3.1(b) – Officer Responsibilities – Make reasonable attempts to locate, identify, and interview all available victims, complainants, witnesses, and suspects
- Once on scene, Officer Layman noticed bruising to a female's neck. At one point during the interview, when Officer Layman was asking the female who choked her, she pointed towards Mr. Dixon and Ms. Dixon and stated "they were." Officer Layman informed the female that she was very confused about her story. Officer Layman clarified with the female and asked if "Faith" did that to her. The female said "yes."
- BWC footage of Officer Layman's initial interview was played.
- Officer Layman asked Officer Pool to detain Ms. Dixon for aggravated assault. Officer Pool and Officer Lewis detained Ms. Dixon and placed her into two sets of double-locked handcuffs. There appeared to be no force utilized and Ms. Dixon was cooperative.
- BWC footage of the detainment was played.
- Officers Pool and Lewis walked Ms. Dixon to the squad car. While walking, she requested an ambulance and one was called. Officers allows Ms. Dixon to sit in the squad car on her own free will.
- BWC footage of Ms. Dixon going into the squad car was played.
- Once the ambulance arrived, Ms. Dixon was taken out of the squad car, the handcuffs were removed, and she entered the ambulance for care. This was approximately 10 minutes after detainment. Based on BWC, her watch was still intact (shown at 21:46:19 in the video shown next).
- BWC footage of the removal of handcuffs was shown.
- Ms. Dixon made an allegation that Officer Pool stated "stop resisting." Ms. Dixon said she immediately said, "I'm not resisting" and that Officer Pool bent her thumb and used force while grabbing her wrist, causing pain. Based on BWC, there is no evidence to support this.
- Ms. Dixon alleged Officer Pool stated "we have to protect ourselves against you." Review of BWC showed Officer Pool informed Ms. Dixon she was placed into handcuffs for officer safety concerns on top of her being detained for an assault investigation.
- In the complaint form, Ms. Dixon stated she was repeatedly coughing and feeling faintish in the back of the squad

car. Ms. Dixon was provided medical care. Based on BWC, there is no evidence to support Ms. Dixon was repeated coughing until she was in the ambulance.

- In the complaint form, Ms. Dixon alleged her Apple Smart Watch was broken. There is no evidence to support this allegation. In Officer Lewis' BWC recording, Ms. Dixon's watch can be seen intact when she is placed in handcuffs. As Ms. Dixon is being released from handcuffs by Officer Lewis, Ms. Dixon's watch is still intact on her wrist.
- A majority of the complaints Mr. Dixon made were made were addressed with Ms. Dixon's complaint.
- In his complaint, Mr. Dixon inquired about where all the BWC was about Ms. Dixon screaming that the officer hurt her. All BWC recordings for this incident have been logged into the Fargo Police Department evidence system.
- Mr. Dixon's statement and witness statements – Mr. Dixon was interviewed on scene. Witnesses who remained on scene were eventually interviewed. Initially, officers were concerned about the allegation an individual potentially had a firearm. Several officers were at the entrance and exit of the residence, which tied up officers from interviewing every individual right away. Several witnesses left the scene. Five individuals were eventually interviewed for this incident, as well as video from downtown camera and video from another witness that was on scene. Mr. Dixon was offered medical care when he was interviewed.
- BWC footage of part of the interview of Mr. Dixon was shown.
- Training
  - Previously, issues were identified in Fargo Police Department training in relation to the Contact and Temporary Detention Police. To address this, Chief Zibolski provided training to the department at a Quarterly Training session in October of 2022.
  - Policy 419 (Contacts and Temporary Detention), Policy 302 (Handcuffing and Restraints), and Policy 311 (Search and Seizure) were revised prior to this complaint.
  - Supervisors, training officers, and officers were trained on the new policies, which were published in January of 2024.
- Lieutenant Erickson provided a brief overview of Policy 419 (Contacts and Temporary Detention)
- Officer Layman – 600.3.1 & 320.5.10(d) – exonerated
  - Investigation discloses the alleged act occurred, but the act was justified, lawful, proper, and within the scope of the department policies, rules, procedures, directives, or the City of Fargo's employment policies
  - Officer Layman responded to a physical fight and noticed bruising to a female's neck who made claims Ms. Dixon assaulted her. Based on these articulable facts, Officer Layman had established reasonable suspicious to have Ms. Dixon detained. Officer Layman directed Officer Pool to detain Ms. Dixon; however, never directed her to be placed in handcuffs.
- Officer Lewis – 320.5.10(c) – not sustained
  - When the investigation discloses there is insufficient evidence to sustain the complaint or fully exonerate the member
  - Officer Lewis responded to a physical fight and assisted Officer Pool in detaining Ms. Dixon. Officer Pool received the information to detain Ms. Dixon and was the lead officer in detaining Ms. Dixon.
- Officer Pool – 320.5.10(c) & 320.5.10(b)
  - Not sustained on subsection c
  - Sustained on subsection b
    - The investigation discloses sufficient evidence to establish the act occurred and It constituted a violation of policy, procedure, or other prohibited misconduct
    - Officer Pool received an oral reprimand, training and policy review
    - While handcuffing during temporary detentions may be allowed, officers must use discretion based on the circumstances present. During the incident, the fight was concluded and Ms. Dixon was not showing signs she would be a safety risk to herself, police, or others.

**Item 9. Presentation Questions**

- Member Johnson asked how frequent is it that someone is detained before they're freed? Lieutenant Erickson said that he thinks it's a pretty common occurrence in which officers are trying to determine what exactly is going on. Member Johnson asked are some officers putting people in cuffs more often out of habit or learning? Lieutenant Erickson said the Fargo Police Department has been continuing to train on that with the revised policy that came out in January; however, there was training back in 2022 and it was one of the things that was identified that needed to be addressed as far as being able to articulate and have those articulable facts before placing someone into handcuffs. Member Johnson asked if policy 419 revised to reduce incidents of handcuffing. Lieutenant Erickson clarified that they're always trying to provide better guidance and direction to the officers, so it kind of lays it out. This policy is one that was revised to give them more specific guidance in regards to defining temporary detention and going into those specific circumstances to make it more clear for the officers while they're out on calls.
- Dr. Hogan is disturbed by what he saw and is curious. He asked if Lieutenant Erickson think she was handcuffed only because she was Faith Dixon. Lieutenant Erickson doesn't think that played into it, but he cannot say what the officer was thinking at that point in time. Dr. Hogan didn't see any resistance on the camera. Lieutenant Erickson agreed that she wasn't resisting.
- Member King said, based on the photos, bruises like that do not happen when handcuffs are not very tight. She is having a big issue with how Ms. Dixon was handcuffed and handled when she was helping in the situation. Member King asked what brought upon the policy change before the complaint was brought forward. Lieutenant Erickson said the training in October of 2022 identified that it was something they wanted to provide more guidance to officers with handcuffing. The changes were completed throughout 2023 and went into effect in January of 2024. Member King commented on how much damage an officer can do to innocent civilians by using substantial force. Civilians can be arrest and jailed and no one loses their job. She's had officers visit her at her job to let her know that they were one of the good ones. She commented on how, two presentations ago, it was demonstrated that officers can't distinguish between persons of color. She said there is an issue in the Fargo PD with use of force, and most of the cases are with persons of color. These events are public events. People's reputations are ruined, their jobs, they're injured. They are put in fear. When officers are found to have broken policy, the punishment is equal to a slap on the wrists. The events are public, the apologies should be public, as well. That is how trust is built in the community.
- Dr. Hogan asked how often training is done, and what kind of training is it where this is consistently and continuously going on.
- Chair Greywind asked for clarification on using two sets of handcuffs and double locking. Lieutenant Erickson explained that for one set of handcuffs, it's typically used for people who are more flexible and can get their hands behind their back. For two sets of handcuffs, it's more for comfortability, so it's not as tight for an individual since their arms won't be held as close together. For double-locking, it's so that once the cuffs are on, they won't get any tighter. Chair Greywind asked if it's a common occurrence for someone to get bruising from handcuffs. Lieutenant Erickson said it is not.
- Member King said you can see the impression of the cuffs on Faith Dixon's wrist in the video. Lieutenant Erickson said it is typical to see an impression of handcuffs when you're sitting back into a squad car. Member King commented that impressions do leave bruises. Lieutenant Erickson agreed that they can.
- Member Paul brought up that the policy that was presented today and how it was different from when this incident occurred. He asked what the policy was before. Lieutenant Erickson did not have the exact specifics, but it didn't outline necessarily the specifics in regards to handcuffing that the current policy does. Member Paul asked, in general, when this incident occurred, the policy was not as specific as it is today? Chief Zibolski said that the original policy did not have this section in there at all, so there was no differentiation between when someone could or could not be handcuffed during temporary detention, which should be a rare occurrence. The previous policy was much more discretionary in nature. Member Paul asked if this incident was the impetus for changing the policy. Chief Zibolski answered that it was not, this complaint wasn't brought forward until after the new policy was implemented. Member Paul asked if the Board was informed when the policy changed. Chief Zibolski said it was not. Member Paul asked if it is fair to request that the Board be informed of potentially controversial policy updates in the future. Chief

Zibolski agreed that the Board could be kept apprised.

- Faith Dixon requested the opportunity to speak, which the Board allowed. She said the only reason that the complaint form did not go in on May 4<sup>th</sup> was because she had sought an attorney and a lawsuit had already started for force. She had received a cease and desist order. She said CA Nancy Morris is very aware of the situation. She believes she was detained the way she was detained because of her activism. She said Officer Pool's body cam is missing. She would like that video to be released.

**Item 10.           Adjourn**

The time at adjournment was 5:58 p.m.