



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: 07.13.2023

Time: 5:00 p.m. (90 minute meeting)

Location: Carl Ben Eielson Middle School (1601 13th Ave S, Fargo, ND)

The Regular Meeting of the Police Advisory & Oversight Board of Fargo Police Department was held at Carl Ben Eielson Middle School at 5:00 p.m., Thursday, July 13th, 2023.

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

Present: Scott Paul, Joanna Johnson, Lucruchia King, Tonya Greywind, David Hogenson (arrived late)

Absent: Todd Spellerberg, Conrad Thomas.

Item 1. Welcome and Introductions

Chair Johnson 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 Vice Chair King. All Members present voted aye and the motion was declared carried. NOTE: Member Hogenson was not present at the time of the vote.

Item 3. Approve or Amend Minutes

Member Paul moved the minutes of the July 11th, 2023 Police Advisory & Oversight Board meeting be approved as presented. Second by Member Vice Chair King. All Members present voted aye and the motion was declared carried. NOTE: Member Hogenson was not present at the time of the vote.

Item 4. Fargo Police Department Presentation on Use of Force and De-escalation by LT Hannig and Officer Kristan

- The Training and Development Unit (TDU) is comprised of a lieutenant, two sergeants, and three officers.
- What is Force?
 - Force; the application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.
 - Deadly force; 12.1-05-12; Force which a person uses with the intent of causing, or which he/she

- knows creates a substantial risk of causing death or serious bodily injury
 - Bodily injury; any impairment of physical condition, including physical pain
 - Substantial bodily injury; a substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ
 - Serious bodily injury; Bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs
- History of Law Enforcement
 - Sir Robert Peel; “Father of modern policing”
- Law Enforcement’s Legal Authority to use force.
 - NDCC 29-06-13. When defendant resists, force necessary may be used to make an arrest.
 - If, after notice of intention to arrest the defendant, the defendant either flees or forcibly resists, the officer may use all necessary means to effect the arrest
 - FPD Policy
 - Officers shall use only that amount of force that reasonably appears to necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose
 - Case Law
 - Graham v. Connor (1989)
 - Tennessee v. Garner (1985)
- FPD Use of Force Policy (Policy 300)
 - 300.3; Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose
 - The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation
 - Officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.
 - It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the department. In such circumstances, the use of any improvised device or method must nonetheless be reasonable
 - While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed o possible physical injury before applying reasonable force
- De-Escalation
 - Per FPD policy, when circumstances reasonably permit, officers should use non-violent strategies to decrease the intensity of the situation and improve the
 - Two de-escalation programs at FPD
 - Crisis Intervention Training (CIT)
 - Nationally recognized communication and intervention program
 - FPD partners with Prairie St Johns (PSJ) to put select officers through the training
 - Focuses on the cycle of communication, active listening skills, and recognizing barriers to communication

- Specifically trained officers may be asked to respond to necessary calls for service
 - ICAT
 - Developed by the Police Executive Research Forum
 - All of the FPD officers have been through ICAT training, and it's integrated into the Academy
 - Focuses on subjects in mental crisis who are armed with edged/blunt weapons
 - Advocates for a decision-making process, slowing down incidents, and challenging conventional law enforcement officer thinking
 - Program provides multiple case studies and scenarios for officers to participate in
- Pathway of a Use of Force Investigation
 - Reporting Uses of Force
 - There are several circumstances in which a supervisor shall be notified of a use of force
 - Supervisor Responsibility
 - Ensure necessary medical treatment is received
 - Interview all involved parties
 - Obtain photos of the areas where force was used
 - Review case reports related to the incident
 - Document all findings in a Use of Force report
 - These reports are not utilized in any criminal charges
 - If there appears to be criminal conduct on the part of an officer, an outside agency will be brought in to investigate.
 - Professional Accountability Unit (PAU) Review
 - PAU will review all related reports, statements, photos to obtain a clear account of the incident
 - They will then review the BWC of the incident
 - TDU is present during this viewing to identify any training opportunities from the incident
 - PAU will take into account totality of circumstances and determine if the UOF was within policy
 - Determination is made within 96 hours
 - Training Role with UOF Reports/Reviews
- How frequently is FPD using force?
 - On average, the calls for service (CFS) per year (over past 5 years)
 - 88,790 CFS per year
 - 72 incidents resulting in a use of force
- Community member questions
 - For decision-based training, is it based on subject response?
 - Try to avoid if-then-that training. There are several different tools that can be used to simulate situations.
 - Opined that FPD doesn't use de-escalation, particularly Downtown with the homeless.
 - If this is seen, the community member should definitely report it to a supervisor so it can be addressed.
 - If someone is handcuffed, is it okay to threaten them with a Taser?
 - What is the understanding of FPD for people who don't have the ability to respond to commands?
 - Training stresses to slow situations down.
 - For less-than-lethal options, the community member doesn't see how de-escalation was used in the Netterville case.

- Lieutenant Hannig and Officer Kristan will not be discussing past incidents.
- Is implicit bias training part of the Fargo Police Department?
 - An outside implicit bias trainer was brought in and that training was provided to entire agency
- For the complaint process, is there paperwork that can be filed that goes to someone other than a supervisor?
 - If you don't want to speak with an officer's supervisor, you can call during regular business hours and speak directly with the PAU.
- Why does not everyone go to CIT?
 - It's a weeklong class and a more abbreviated version is given in the Academy.
 - It's very specialized training. The people who have gone through that training become the department's subject matter experts (SME). They come up with curriculum to pass along that knowledge. They are still considered the experts.
- What is the percentage of officers trained in CIT?
 - Doesn't have the exact numbers at the moment. Usually each shift will have someone with CIT training, but that's not a given.
- Is there a plan or expectation that Fargo will expand the number of people with CIT training?
 - Fargo Police Department is always looking to increase training.
- Is there a strategic plan or a goal for a specific number?
 - There is not a specific plan at this time.
- ICAT all officers have been through? Is this done as part of Academy or on-boarding?
 - Yes, all officers have been through ICAT training, and it is included as part of the Academy/on-boarding.
- ICAT seems more mechanical while CIT seems more about communication and soft skills. That seems more important that tactical.
 - ICAT does have some of those principals, it's not as robust as CIT in the communication aspect.
- Are CIT and ICAT perishable skills? Are they retrained?
 - Yes to perishable, the Fargo Police Department looks for opportunities to refresh or continue training, those skills are also used on an ongoing basis.
- Who makes up the Professional Accountability Unit?
 - Lieutenant Shane Aberle and Sergeant Matt Siders
 - Part of the Professional Standards Division, not part of Patrol or Investigations. It is in the same Division as TDU.
- What is available through open records to the public?
 - Anyone can reach out to the Records division for requests.
- It is possible to get statistics for each officer's use of force?
 - If it is something that the Department tracks and has created already.
- Is training for each officer accessible?
 - ND POST Board maintains all of the certified training records for each officer. Should be available through open record. It may be easier to go directly to the ND POST Board rather than going through the Fargo Police Department.
- Is CIT conducted by staff at Prairie St. Johns?
 - The condensed curriculum is developed by CIT-trained officers. Full weeklong training is put on by PSJ. To the best of Officer Kristan's knowledge, they are an independent organization.
- To what degree are the communication and listening skills stressed to officers with officer-led training?
 - There are training modules and an online training platform through the city which may be

- easier to use than in-person training. Always looking for other avenues.
- Commented that it feels like a deficiency in the department that not everyone is trained in CIT.
 - Has a report ever come back where an officer has used unreasonable force that has instigated a change in procedure?
 - Unsure if there have been changes to the manual or Standard Operating Procedure, but training modules have been influenced by reviews.
 - Commented that it is not uncommon to have abbreviated versions of training for most staff.
 - Commented that if it's a target goal, then the questions become about "are there staffing and budget", rather than "we would always love to have more"
 - By the nature of crisis intervention, the key is to have it available. It is the community member's impression that the complexity of situations that officers are dealing with is growing as the community grows.
 - Do you partner with other agencies to help and aid in situations for training or crisis intervention?
 - The Fargo Police Department has been in touch with Sanford about some of the FPD SME doing training for them.
 - Where do things fall with the body cams, what is your stance on the usefulness on accountability for all parties?
 - Lieutenant Hannig loves them. The incident can be reviewed after the fact and point out opportunities for improvement. In terms of UOF review, body worn camera footage provides additional perspectives of the incident.
 - Officer Kristan agrees. Can use to review officers' interactions with the public.
 - Is it officer discretion as to when the BWC is used?
 - Policy is in place that they shall be used.
 - Can it be turned off/on, or mic vs camera?
 - If it's turned off and then on, that's registered. Any buttons pressed trigger documentation.
 - Was the Netterville case used as an opportunity for training?
 - Always look at every incident reviewed, try to learn from every call.

Item 5. Adjourn

The time at adjournment was 6:44 p.m.