



# 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:** 09.08.2022

**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 Commission Chambers at City Hall at 5:00 p.m., Thursday, September 8<sup>th</sup>, 2022.

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

**Present:** Scott Paul (by phone), David Hogenson, Joanna Johnson, Conrad Thomas, Lucruchia King, Tonya Greywind.

**Absent:** Todd Spellerberg.

**Item 1. Welcome and Introductions**

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

**Item 2. Approve Order of Agenda**

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

**Item 3. Approve Order of Minutes**

Vice Chair King moved the minutes of the August 10<sup>th</sup>, 2022 Police Advisory & Oversight Board meeting be approved as presented. Second by Member Hogenson. All Members present voted aye and the motion was declared carried.

**Item 4. Public Comment Period**

1. Christopher Coen spoke about the police-involved shooting. He believes the officer violated FPD policy and training and believes the Attorney General's decision regarding the officer-involved shooting disregarded the facts. He believes that the body camera video shows that the officer was not in imminent danger at the time of the shooting.
2. Faith Dixon believes the Board was formed to improve community relations by building a relationship with the community. She believes the presentation will be a one-sided view of the officer-involved shooting. She wants the community to be able to ask questions. She wants the Board to allow the community to come in and talk about what's happening.

3. Wess Philome provided a definition of manslaughter as someone's negligent actions leading to the loss of life. He believes Officer O'Brien decided to take negligent action and those decisions and actions led to the loss of life and a true and just court would find Officer O'Brien guilty of manslaughter.
4. Brian Glaeske is very disturbed by the officer-involved shooting. He believes it's a homicide or manslaughter. He questioned specific decisions made by the officers and if the race of the occupants of the vehicle affected the outcome.

**Item 5. Police Department Updates**

1. The presentation relative to the May 2020 riots has been pushed to the October agenda.
2. Member Thomas has been participating in the sergeant promotional interview panel.
3. Those going through the January Police Academy will be hired staff at the time. Applications will be opening around next week.
4. There is an engagement event in collaboration with Fargo Cass Public Health and the 463 Foundation on resiliency, mental health awareness, and suicide prevention. There will be two Nights of Hope, on the 13<sup>th</sup> at 7pm at Bethel Church, and on the 14<sup>th</sup> at 7pm at the Sanctuary Event Center.
  - This is the second phase to a similar presentation held last spring.

**Item 6. Officer Involved Shooting Review**

1. Incident Review by Deputy Chief Joe Anderson
  - The Fargo Police Department's Professional Accountability Unit has conducted an internal review of the incident and determined that no use of force policy violations occurred.
  - Officers were dispatched to an unknown problem. Dispatch informed officers there was a minivan backed into an apartment garage occupied by three possibly deceased individuals and a bullet hole in the windshield.
  - A frame-by-frame playback of the three officers' body-worn cameras and Officer O'Brien's squad car video was shown, while discussing critical decision points.
  - DC Anderson provided excerpts from two witness statements that were supplied through interviews with the North Dakota Bureau of Criminal Investigation and an excerpt from Officer O'Brien's statement.
  - The video was shown uninterrupted.
  - Member Hogenson asked at what point Officer O'Brien fired in relation to the vehicle accelerating (before or after acceleration). The shot was fired roughly less than two seconds after the vehicle can be heard accelerating.
  - Member Thomas asked what was Officer O'Brien moving to increase/allow line of sight to. Officer O'Brien moved to allow the three officers the ability to see into the garage and the interior of the vehicle. Member Thomas commented that it appeared that Officer Thiedeman was more in the line of the vehicle when compared to Officer O'Brien. Officer Thiedeman was never directly in front of the vehicle. Member Thomas commented that it's hard to tell where the officers are in relation to the vehicle and it's hard to tell if the acceleration of the vehicle was due to deliberate action or as a result of the impact of being hit. The vehicle began to accelerate at 08:15:17, and the shot was fired at 08:15:18. Member Thomas believes that a view outside of the law enforcement umbrella is needed for decisions that are made in these types of situations, as to when lethal force is warranted.
  - Member Greywind asked how much time elapsed between the shot being fired and Mr. Netterville was given assistance. Roughly two minutes and thirty-three second elapsed between the shot being fired and pressure being applied to the wound. Roughly five minutes and thirty-eight seconds elapsed between the shot and when CPR was started by Sanford Ambulance. It was roughly five minutes between Officer O'Brien requesting EMS and Sanford Ambulance's arrival on scene.
  - Member Hogenson asked if it was known if Officer O'Brien was still in front of the vehicle at the time the shot was fired or if he was off to the side and the front of the vehicle had moved past him. From the perspective of the body camera, it appears that Officer O'Brien was at the right front of the vehicle. Member Hogenson specified that he was wondering if the angle of the projectile could be used to ascertain where Officer O'Brien was

standing. The camera gives a rough relative location, but does not give the distance between Officer O'Brien and the vehicle.

- Member Greywind commented that Officer Thiedeman was trying to enter the vehicle at the time of the acceleration. Officer Thiedeman's statement was that he was going to try to pull the driver out of the vehicle.
- Vice Chair King asked why the end of the video had only audio, when they're taking him out of the vehicle and giving him CPR. That was a decision made at the executive level out of sensitivity.
- Chair Johnson commented that, from the audio, it seemed the other officers were unsure of where the gunshot came from. Officer Thiedeman has asked something about a gun, and then Officer O'Brien said that he (Officer O'Brien) had shot him (Mr. Netterville).
- Member Thomas asked when it is accepted to use lethal force. There are any number of different scenarios and factors that come into play when deciding whether to use deadly force.

## 2. Information about Next of Kin Notification by Captain George Vinson

- The Police Department is tasked with notifying a family member or emergency contact for someone who has passed away during unattended deaths (deaths that occur outside of a medical facility).
- Captain Vinson explained the timeline/facts found in relation to this incident.
  - This incident occurred at approximately 8:15 a.m.
  - Sanford Ambulance arrived and took over lifesaving measures.
  - Lifesaving measures were taken over by medical professionals at the hospital emergency room. During this time, police officers are not allowed in the room due to privacy laws and the fact that the officers do not provide aid at this time.
  - Lifesaving measures continued until approximately 12:45 p.m., at which time Mr. Netterville was pronounced deceased by doctors. At that point, officers and detectives entered the room to attempt to positively identify the individual. The individual was believed to be Shane Netterville, but that had not yet been confirmed. Mr. Netterville's identity was positively confirmed at approximately 1:00 p.m.
  - Finding next of kin identification initially proved difficult. There were 59 separate entries in the Fargo Police Department computer system with the last name of Netterville. It was unknown which of these might be related to Shane Netterville. This information was handed off to the Intelligence and Analysis Unit.
  - A crime analyst from the Intelligence and Analysis Unit came across an obituary for a family member with a different last name which listed Mr. Shane Netterville and another individual as survivors of that family member. Cross-referencing that with the Fargo Police Department computer system and contacts, contact information for that individual was found.
  - Contact was made with that individual at 3:19 p.m. by patrol officers in order to make next of kin notification.
- Member Greywind asked if there is a protocol in place for if somebody is injured or shot, not deceased but in the hospital, is it hospital staff that identifies the individual and notifies the family? Hospital staff has access to the medical records which may include emergency contact information. Captain Vinson can't speak to hospital procedures, but stated that it is common for them to reach out to family in medical emergencies. It would not be common for the Police Department do so.
- Mayor Mahoney stepped in and provided some insight into hospital procedures. As a trauma surgeon, when a patient comes in as a John Doe, lifesaving measures are the entire focus. A head nurse or charge nurse in the emergency room would be asked to identify the patient and find the family.

## 3. Update on the two remaining criminal investigations outside of the officer-involved shooting by Captain Vinson.

- There were two criminal investigations which were investigated by the Fargo Police Department outside of the officer-involved shooting (which was investigated by the North Dakota Bureau of Criminal Investigations).
  - Drugs were found with one of the other occupants of the vehicle. Those charges have been referred to the Cass County State's Attorney's Office.
  - The vehicle that was used in this incident was a stolen vehicle. The investigation led to information that alleges that one of the occupants of the vehicle (not Mr. Netterville) was in possession of the stolen vehicle

prior to this incident and that individual was involved in an altercation with a female prior to this incident where a gun was fired and accounts for the bullet hole that was initially found in the windshield. That matter also has been referred to the Cass County State's Attorney's Office for their consideration.

**Item 7. Discussion on Future Agenda Items**

1. October Meeting Date Change
  - It was suggested to move the October meeting from October 13<sup>th</sup> to October 27<sup>th</sup>, 2022. Member Hogenson moved to approve the change. Member Greywind seconded. All members present voted aye and the motion was carried.
2. Future agenda items
  - How access to the Police Advisory and Oversight Board can be offered to the community.
  - It was proposed that the Board meet with activists in the community.
  - It was suggested that it be considered that there be a way for members of the community to reach members of the Board directly, rather than going through the Fargo Police Department.
  - Member Thomas moved that it be put on a future agenda a meeting to figure out how the community can better communicate or contact Board members for concerns. Member Hogenson seconded. All members present voted aye and the motion carried.

**Item 8. Adjourn**

The time at adjournment was 6:16 p.m.