

OPS-IA INVESTIGATION REPORT

IA Case Number: 2020-007
Employee Involved: DC Todd Osmundson
Alleged Violation: Violation of Fargo Police Department policy 320 Code of Conduct, Sections 320.5.1 (f), 320.5.9 (k) (3), 320.5.10 (n), 320.5.11 (a), 320.5.12 (c), 1027.6.1 Transitional Duty Assignments, Employee Responsibilities
Date Opened: 04 June 2020
Investigating Officer: OPS Sgt. Shane Aberle

SYNOPSIS

On 30 May 2020, the downtown area of Fargo was the location of a protest, which eventually turned into a violent riot. DC Osmundson went into the crowd to attempt to gather intelligence by observing rioters. DC Osmundson was also photographing the protestors, rioters and officers. At the time of DC Osmundson's actions, he was in a transitional duty status from a work related injury.

No one from the department was aware DC Osmundson was acting in an undercover capacity. No one from the department authorized DC Osmundson to act in this capacity. These actions created significant risk to the public, DC Osmundson and other officers.

DC Osmundson is also alleged to have consumed alcohol while acting in this capacity. Consumption of alcohol while on duty is expressly forbidden unless authorized by a supervisor.

On 04 June 2020, DC Osmundson submitted his resignation via email to the entire police department.

DOCUMENTATION

DC Osmundson sent various emails to the entire department regarding this incident. These emails have been added to the complaint file. The emails have also been printed and attached to this report for review. Here are some key points DC Osmundson made in his first email dated 01 June 2020 at 2205 hours:

- DC Osmundson stated, "Jess had the PIO duties and I had no assignment in the FS OPS plan".
- DC Osmundson stated he was still on light duty. He stated this in his email, "...even in my light duty status,..."
- DC Osmundson initially was in the Tactical Operations Center (TOC) and stated, "In the TOC I was just making Social Distancing not a thing by being in the small FS Sgts room being used for the TOC, (Masks were still a thing at that time) so I decided to go get a camera from Jess office and took pictures of the crowd to document from Chiefs office as

I wasn't aware of any photos being obtained from high or on the ground." He goes on to explain he likes to take photos in his off time so this is a passion of his.

- DC Osmundson stated he felt an obligation to protect the building and called the Chief to ask him if they both should go outside of the building to speak with the protestors. DC Osmundson stated, "(yes, no riot gear on, but I knew the risk/reward-hoped the standard uniform would at least help in a somewhat normal conversation if that would be possible)."
- DC Osmundson goes on to discuss more protestors coming to the building, going through the line of officers and going on top of our planter. DC Osmundson stated he had civil and genuine conversations with the individuals at the planter. DC Osmundson also stated during these conversations he was asked why we do not have more black officers and DC Osmundson stated he told them he wished we did also and encouraged them to apply.
- DC Osmundson stated he was asked if he would chant "black lives matter" and he asked if he could say, "All lives matter." However, after saying that, DC Osmundson stated he saw a sign that stated, "One Race-Human Race." DC Osmundson stated he agreed to hold that sign, as we are all human and not defined by color. DC Osmundson also stated he was asked if we are taught to kneel on the necks of people in handcuffs and he stated we were not. DC Osmundson also stated he was asked if law enforcement could improve on the issues of equality and bias. DC Osmundson stated he believes we can improve nationwide on these topics.
- DC Osmundson stated, "As the group left our location, they (sic) plan became to disrupt traffic flow by planning to kneel in major intersections while making their way to WFPD, I informed Jess who was in the TOC that I would go out and grab more photos so we could inform the public that this event has gone from 'March' to a 'Protest.'" I changed into civilian attire to be able capture photos without drawing attention. Being solo in uniform in unpredictable situations is not a good choice, hence why I changed."
- DC Osmundson discusses the protestors going back downtown and his concern for the Officer's safety. He went on to say, "So since nobody seemed to care who I was while in civilian clothes, just another participant, I broke from normal officer safety protocol and continued to walk around with the group taking photos for those who may need to be ID later and primarily watching individuals for weapons." DC Osmundson also stated he knows a few officers were aware he was down there wearing sunglasses and surgical mask the whole time. He also stated he took some close ups of the officers for "historical purposes."
- DC Osmundson stated as time went on, the march had turned into a protest and new people were coming that had not been involved in the previous march. DC Osmundson also stated he was near what he felt were agitators. DC Osmundson stated these individuals were separate from the group. He went on to say, "They sat back smoking weed (sic), drinking and playing hate cop music from their vehicles. With intel of weapons among the crowd, again, didn't have to be very smart to know these individuals had the highest potential for destruction and harming our officers in a serious way."
- DC Osmundson goes on to discuss various groups of "good guys" pushing protestors back and other protesters continuing to agitate the crowd. DC Osmundson also stated he saw counter protestors shout "bad things" primarily directed at black people. DC Osmundson stated there were people that would step in front of the crowds to get the mobs to stop and "they would direct those redneck outs(sic) of the area."

- DC Osmundson stated after the “full blown destruction began,” he wanted to be near the agitators as he feared weapons coming out of a vehicle. He also stated, “The crowd became thinner and my ability to walk by close to their vehicles and casually look in, required extra UC efforts IMO.” DC Osmundson stated he grabbed an empty Coors light can from the street as he was trying to fit in. He stated, “And yes, they would shout/scream “Fuck the Police,” so I would walk by them, look in their vehicle and give a casual, low voice, yah, fuck those police.”
- DC Osmundson went on to say that, “...I took actions that forever many within this department will call me stupid. That is probably just, I can’t argue that.” DC Osmundson later in the same paragraph stated, “So to all by(sic) fellow brothers/sisters in Blue, I apologize for going off protocol and lack of information shared or pre-planning, even at my age, new to riots so I just went with 32 years of street knowledge and made safe calculated decisions based on that.”

The second email from DC Osmundson came on 01 June 2020 at 2225 hours. This email was much shorter and went into more depth that is personal. This email was sent to all department members.

- In this email DC Osmundson discusses a conversation he and DC Anderson had and quotes “my reckless actions this wknd(sic)” was only to protect other officers.

The third email DC Osmundson sent dated 04 June 2020 at 1613 hours was sent to the entire department. In this email, DC Osmundson apologized for losing the trust of all in the department. He stated he was not mad or angry and stated he understood why the email was forwarded to Rob Port. He apologized for his actions and stated his intent was just to help keep everyone and himself safe. This is also the email where DC Osmundson announced his resignation.

On 01 June 2020 in the morning hours, I had a conversation with DC Osmundson. This conversation took place before anything relative to a complaint or concerns had been brought to my attention. DC Osmundson was speaking with me in the hallway outside of my office. DC Osmundson stated he had yelled at the Police, that he had taken pictures of rioters in the crowd, was attempting to fit in and that he had consumed alcohol while downtown. I cannot remember verbatim what he said in regards to this, but I do remember him stating he would go around, sneak pictures and “drink my beer” or something very similar to that. Again at this time, I was unaware he had not been assigned or permitted to do the undercover work.

INTERVIEWS

Person: PIO Jessica Schindeldecker

Interview

Date/time: 10 June 2020/ 0807 hours

I met with PIO Schindeldecker in the OPS office. I informed PIO Schindeldecker that she was not the subject of the investigation; however, I needed to speak with her as a potential witness for DC Osmundson’s actions on 30 May 2020. I also informed PIO Schindeldecker our conversation would be recorded.

A copy of the recording was added to the complaint file. The following is a summary of the interview:

- PIO Schindeldecker stated she was assigned to the TOC (Tactical Operations Center) at 0900 hours for the planned protest. She stated this was after briefings had been done. She stated she was working with the Incident Commanders ensuring they were pushing out information. She stated she was unaware of where DC Osmundson was.
- PIO Schindeldecker stated at some point she realized the protestors were going to march to the Police Station. As this was occurring, DC Osmundson informed PIO Schindeldecker he was going to go outside and try to join the protestors. PIO Schindeldecker stated she was unsure why DC Osmundson wanted to go join the protestors.
- PIO Schindeldecker asked DC Osmundson if he could get some pictures and he agreed he would do this. They both went to PIO Schindeldecker's office to obtain her camera. PIO Schindeldecker stated that after she gave DC Osmundson her camera, she did not see him again. I asked PIO Schindeldecker where this conversation took place and if anyone overheard DC Osmundson stating what his intentions were. PIO Schindeldecker stated she believes she was the only one who knew what DC Osmundson was going to do at that point.
- PIO Schindeldecker asked if she could reference her text messages from 30 May 2020. I told her she could do that. She stated she did not even remember communicating with DC Osmundson on that day after handing him the camera until she had looked at her text messages later. PIO Schindeldecker stated she does not recall DC Osmundson ever coming back into the TOC and speaking with her.
- PIO Schindeldecker stated at 1422 hours she received a text message from DC Osmundson talking about traffic moving on 13 Ave and 45 St S. DC Osmundson also stated in this text message people needed to slow down. PIO Schindeldecker stated she had already been pushing the messages out for traffic to be aware and slow down. PIO Schindeldecker stated she responded to DC Osmundson the protestors were headed to West Fargo PD and Chief Todd and Chief Boyer were going over to WFPD. PIO Schindeldecker stated at this point she assumes she recognized DC Osmundson was out there, but was never advised of what DC Osmundson's plan was.
- PIO Schindeldecker stated at 1729 hours DC Osmundson sent her a text stating, "phone going to die, running home to charge and change my clothes. Airplane mode to charge faster. I was questioned a few times who I was. Might put on airplane mode to charge. This will go all night. A few bent on destruction and smoking weed and drinking now. Heat, dehydration recipe for bad behavior and potential medical issues as evening progresses."
- PIO Schindeldecker also stated DC Osmundson sent her a screenshot of a Facebook post. PIO Schindeldecker stated she replied to DC Osmundson telling him there was information the protestors were going to regroup at 2200 hours.
- PIO Schindeldecker stated she received another text message from DC Osmundson at 1815 hours stating, "A few are saying they are coming through the line." At 1829 hours, he stated he was "imbedded with tough crowds back by pounds." PIO Schindeldecker stated she asked DC Osmundson about the age of the people he was around and he replied with 35-45 years of age. PIO Schindeldecker stated she asked that question, as she knew Mayor Mahoney was wondering about the age groups.

- At 1834 hours, DC Osmundson sent a text to PIO Schindeldecker stating, “Crowd going south in alley, black on black, tossed out a troublemaker down the alley, good guy taking action.”
- At 1918 hours DC Osmundson texted PIO Schindeldecker again stating, “A couple saying lets go alley to north to get around them, many going. Its slow, maybe 40 went north in alley.”
- At 1925 hours PIO Schindeldecker texted DC Osmundson and stated, “Chief Justice made video and I posted order to disperse.” This was a typo and was supposed to say the Chief just... PIO Schindeldecker stated this was the last communication with DC Osmundson for the evening.
- PIO Schindeldecker stated she believes she relayed this information from DC Osmundson to others in the TOC, but cannot be sure.
- I specifically asked PIO Schindeldecker if at any point DC Osmundson asked her to tell the Chief he was out there or to tell the Chief to call him. She stated she did not receive anything like that from DC Osmundson. I asked PIO Schindeldecker to see if she had made or received any calls with DC Osmundson on May 30 2020. She went to her phone and stated she only had call history going back to June 04. She stated she does frequently delete her call history.
- PIO Schindeldecker stated she was frustrated that day, as she believed DC Osmundson was supposed to be her “back-up” PIO. She stated when he initially left, she thought he was just going to take pictures and come back so he could help her with PIO duties.
- PIO Schindeldecker stated she expressed her frustration to DC Osmundson about his lack of helping her with PIO duties. She believes this occurred the morning of June 02, prior to departing for a funeral. She stated she told him she was frustrated because she did not have any help and she had no idea where he was. I asked her how DC Osmundson responded after she told him she was frustrated with him. She stated he made the comment something as if he was just trying to help and in her opinion, it did not seem as though he validated her concerns.
- I asked PIO Schindeldecker if DC Osmundson was assigned as her back up PIO or if that is something that is just understood throughout their division. She stated she assumed he would be her back up, as DC Osmundson was not given any other assignment. PIO Schindeldecker stated typically that they work closely together in the PIO role. She also pointed out prior to May 30, she was supposed to be out of town but felt she needed to be in Fargo for this event.
- PIO Schindeldecker stated initially DC Osmundson allowed Lt Vinson to go to the lake so DC Osmundson would be helping her. She stated this is common for them to do in order to make sure we are sending out the right message and she does not have to bother someone in charge of something else to screen the message.
- PIO Schindeldecker believes DC Osmundson was ever given an assignment or if he did, it was never communicated to her. We also both agreed this was one of the most dynamic PIO events the FPD has ever had.
- PIO Schindeldecker stated it never really registered with her regarding this until she found out DC Osmundson was not supposed to be out there.

Person: [REDACTED]

Interview

Date/time: 10 June 2020/ 0934 hours

I spoke with [REDACTED] in the OPS office. [REDACTED] was informed this conversation would be recorded. A copy of this recording has been added to the complaint file. [REDACTED] also provided some documentation of operations plans, which were added to the complaint file. The following is a summary of that interview:

- [REDACTED] was listed on the Operations Plan as being in charge of all the undercover (UC) operations. [REDACTED] confirmed he was in charge of all the UC operations for the event. I asked [REDACTED] if he directed DC Osmundson to conduct any UC operations for this event. [REDACTED] stated he did not.
- [REDACTED] stated he was made aware DC Osmundson was out amongst the crowd on Sunday May 31. He stated they were having a briefing for another surveillance event and a Detective notified him that DC Osmundson had been amongst the crowd during the riot. [REDACTED] passed this information on to his supervisor, DC Anderson.
- I asked [REDACTED] if DC Osmundson would have been assigned a UC role, would there have been [REDACTED]. [REDACTED] stated that was correct. [REDACTED] went on to say if DC Osmundson were working UC, [REDACTED] stated this is procedure on any type of UC operation. [REDACTED]
- [REDACTED] stated the Operations Plan was created, evaluated and approved the day prior to the protest. [REDACTED] stated he was in contact with DC Renner and DC Anderson about their plans as well. [REDACTED] stated he believed everyone was "on the same page" for this operation.
- I asked [REDACTED] if at any time did anyone else tell him DC Osmundson was going to act in a UC capacity [REDACTED] stated, "no." I also asked if [REDACTED] was notified DC Osmundson was going to act in a UC capacity, but it was not to be discussed or be reported and DC Osmundson was being sent out into the crowd to incite anything. [REDACTED] stated, "No one ever told me that."
- I asked [REDACTED] if DC Osmundson ever contacted him and stated he had information or that he was out there. [REDACTED] stated DC Osmundson did not.
- [REDACTED] came back to my office a short time later. He stated he had found another Operations Plan, which was supplemental to the original plan. This was due to the changing events of Saturday May 30. He provided me a copy of this plan.
- [REDACTED] stated at some point the UCs were removed from doing UC work. [REDACTED] stated the UCs were removed from the event at the end of the march as the march was scheduled to end.

- ██████ stated once people started protesting again and making their way to the downtown area, there were not any UCs in the crowd. They had transitioned to surveillance at this time. As things became more dangerous, ██████ stated he decided not to insert anyone into the crowd due to the danger level and the fact that he felt they could be better utilized as surveillance.
- ██████ stated he certainly could have redeployed UCs into the crowd, but that is something he would have had to send up the chain of command because the initial event was supposed to be peaceful. He also stated he would have needed to get clearance to send them back into the crowd.

Person: Deputy Chief Joseph Anderson

Interview

Date/time: 10 June 2020/ 1254 hours

I spoke with DC Anderson in the OPS office. I informed DC Anderson our conversation was going to be recorded. A copy of the recorded conversation has been added to the complaint file. The following is a summary of that conversation:

- DC Anderson stated initially he did not have an assignment in the command post and observed DC Osmundson in the command post. DC Anderson heard over the radio the “Burlington Northern” train arms were down. This was going to affect the start of the march. DC Anderson contacted Chief Todd and asked if he needed help due to the train arms being down. Chief Todd stated he did and DC Anderson went and assisted.
- DC Anderson stated he also assisted at Broadway and Main Ave by directing traffic. At the conclusion of the march, DC Anderson stated he drove around the downtown area and reported to the PD. DC Anderson stated after he got back to the PD, he was asked by DC Renner to assist in the garage with the staging area for incoming officers.
- DC Anderson was not needed in the garage and went outside to help with security of the PD. DC Anderson stated he engaged in some discussion with some males after the protest had left the PD. However, he noted traffic was backed up and he went out and directed traffic. DC Anderson returned and spoke with the three males again. These males requested a ride to downtown and DC Anderson provided them a ride to downtown.
- After dropping off the males, DC Anderson returned to the PD. When he returned to the PD, he had heard the marchers had made their way to 13 Ave S and 45 St S. DC Anderson took some coolers of food and water to the officers located in that area.
- DC Anderson stated as the protest broke, the protestors started going north on 45 St and towards WFPD. At this time, DC Anderson went back to the PD and spoke with some officers outside. DC Anderson stated he observed DC Osmundson leaving the PD in plain clothes.
- DC Anderson stated he went back downtown to see if any officers needed water or anything else. DC Anderson stated he observed numerous officers near Broadway and NP Ave. DC Anderson stated at approximately 1530 hours; he observed whom he believed to be DC Osmundson in the crowd. However, he was unable to verify it was him so he asked Lt Crane if it was in fact DC Osmundson. DC Anderson stated Detective Mathson overheard the conversation and stated it was DC Osmundson.

- After observing DC Osmundson in the crowd, DC Anderson called Chief Todd at 1537 hours and asked if DC Osmundson was given permission to be in the protest in plain clothes. DC Anderson stated Chief Todd told him he did not give him permission. Chief Todd asked if DC Osmundson was out there and DC Anderson stated he was. Chief Todd asked DC Anderson if he felt comfortable going out and removing DC Osmundson from the crowd. DC Anderson stated he was not comfortable with trying to do that since DC Anderson had already observed people throwing water bottles, a pop can and people screaming their point at the Police. DC Anderson did not want to agitate the crowd anymore by going out into the middle of it.
- DC Anderson stated the protestors from WFPD had made it back downtown and noted the tension of the crowd seemed to change. DC Anderson directed the other officers near him to get the squad car off NP Ave and get it moved. After this was completed, DC Anderson left that area and went to Fire Station One. Once there, they reorganized and then he took a group of officers to go protect squad cars on South Broadway. DC Anderson stated they stayed there until approximately 2000 hours.
- DC Anderson stated people started to leave after the gas was launched into the crowd. DC Anderson stated some of the conversation was the peaceful protest was done and those left behind were not peaceful. DC Anderson then assigned other officers to get the squad cars out of the area for fear of them being damaged. After shuttling some officers around and squad cars, DC Anderson came back to the PD and stayed until approximately 0200 hours and he went home.
- DC Anderson stated at some point later in the evening he noticed he had received a text message from DC Osmundson. He believes this message was sent to DC Renner, himself and Chief Todd. It stated something to the fact that DC Osmundson had walked from the 200 block to 600 block of Broadway and no windows broken. DC Anderson stated that was the only contact DC Anderson noticed that evening.
- DC Anderson stated he heard some grumbling about DC Osmundson's actions that Sunday and Monday. He stated two different lieutenants came to him upset with what DC Osmundson had done. They were concerned because it added another layer of danger, and why was he there when he is on light duty. DC Anderson stated he discussed this with DC Renner and they agreed it should go to a complaint.
- DC Anderson stated before he initiated the complaint, he felt he needed to talk to DC Osmundson regarding the concerns the officers had. DC Anderson stated he did fail to notify Chief Todd about the complaints from officers until later. DC Anderson stated he did go speak with DC Osmundson and addressed the concerns he had and the concerns the officers had. DC Anderson stated he told DC Osmundson that he should not have been there, that he was not listed on any operations plan and is still on light duty. DC Anderson also addressed the potential risk for having to do an extraction. DC Anderson stated DC Osmundson agreed, but seemed to brush it off and try to rationalize and justify his actions. DC Anderson stated he and DC Osmundson discussed in theory what DC Osmundson did is good, but the execution of it was horrible. DC Anderson stated they discussed that DC Osmundson was supposed to be in the command post and a DC should not be the one taking photos in this type of situation.
- DC Anderson stated they ended their discussion and about 1800-1830 hours, DC Osmundson texted DC Anderson and asked if he (Osmundson) should send out an email to the Criminal Investigations Unit (CIU) apologizing for his actions. DC Anderson

stated the entire department is upset with him. DC Anderson stated DC Osmundson texted or emailed himself and Chief Todd stating he was going to send out an email to the entire department regarding his conduct. DC Anderson believes Chief Todd responded that was ok, but did not know the full extent of DC Osmundson's actions at that time.

- DC Anderson stated he should have told Chief Todd earlier than he did.
- I asked DC Anderson about his initial assignment. He stated he did not have one and went to the command post and awaited an assignment. He was assigned to go help direct traffic due to the train arms. DC Anderson stated he asked the Chief for an assignment in a situation like that, no one should self-dispatch. We discussed as a DC, he is allowed to make executive level decisions except in unique situations such as this. However, since this is an entire department operation, he felt he needed to get an assignment from the Chief.
- DC Anderson stated at one point he was in contact with an organizer and a group of protestors formed a "wall" between other protestors and officers to essentially protect the officers.
- I asked DC Anderson about conducting UC operations. He stated the expectation would be to approach CIU detectives who are within DC Anderson's division. DC Anderson stated if DC Osmundson would have had that discussion with him, he would have shut it down, especially if it was going to be DC Osmundson as the UC. The first reason being DC Osmundson was on light duty. Second, CIU has people that are trained to do UC operations. DC Anderson stated DC Osmundson would not be the best selection for that type of job.
- We again discussed the expectation and necessity of operations plans and assigning duties.
- I asked if an extraction of DC Osmundson could have been done. DC Anderson stated the crowd was not violent yet, but they were very agitated and in fact, he had a male yell at him not to get any closer. DC Anderson was not even talking to this male. This type of energy re-enforced the better choice of not to walk into the crowd in uniform to extract DC Osmundson. DC Anderson stated with all that was going on, he lost track of DC Osmundson as he was trying to keep the officers and himself safe.
- DC Anderson stated when he spoke with DC Osmundson about the concerns; DC Osmundson stated he did tell them what he was doing. DC Anderson stated text messages was not the way to try to notify people. We also discussed how DC Osmundson's text message about windows being clear does not automatically show he was with the crowd. DC Osmundson frequents downtown and walks around there.
- DC Anderson stated he never observed DC Osmundson with a beer can and never saw him chanting anything. DC Anderson stated he asked DC Osmundson about chanting and drinking a beer while in the crowd. DC Osmundson stated he was trying to blend in with the crowd. DC Anderson stated DC Osmundson told him he found a beer bottle and emptied it. DC Osmundson did not say he had consumed alcohol while in the crowd. However, DC Osmundson did admit to DC Anderson he took a knee and participated in chanting with the group.

Person: Deputy Chief Ross Renner

Interview

Date/time: 10 June 2020/ 1445 hours

I spoke with DC Renner in the OPS office. I informed DC Renner our conversation was going to be recorded. A copy of the recorded conversation has been added to the complaint file. The following is a summary of that conversation:

- DC Renner began by telling me what his duties were. DC Renner was in charge of Incident Command (IC). DC Renner stated he and the others in the IC were struggling to keep up once it went from a gathering to an unruly protest.
- DC Renner stated at one point in what he believed to be early afternoon, he saw DC Osmundson outside the IC door. DC Renner does not recall if DC Osmundson had any conversation with anyone at that point. DC Renner said he did not see DC Osmundson again after that point.
- DC Renner stated at one point he did receive a text message from DC Osmundson. DC Renner stated he looked at it quickly and “that’s the extent of it.” DC Renner stated he was too busy to pay attention to a text message from someone who was not assigned to provide intelligence or information.
- DC Renner believed DC Osmundson’s assignment was to assist PIO Schindeldecker with PIO duties. He felt this way as DC Osmundson is in charge of the administrative division, which is the division, the PIO is assigned.
- We discussed the autonomy, the Deputy Chief’s position and the authority they are given. I also asked DC Renner if he was going to integrate into a crowd of rioters, would he seek permission from the Chief first, and DC Renner stated, “That is not something I would do.” He went on to say, “That is not something anyone should do.” I asked DC Renner again to answer this question in theory and he stated he would absolutely get permission from the Chief before conducting this type of operation.
- We discussed the latitude the Deputy Chiefs are given to make decisions for their respective divisions. They are afforded latitude and autonomy, but not to the point where they are outside of policy. DC Renner believes the Chief would not approve that.
- I asked DC Renner if he was made aware of any clandestine operation by the PD to incite or encourage a riot. DC Renner stated, “No, we wouldn’t do that.”
- We also discussed who made the overall operations plans and how it was divided by assignment. We also discussed the majority of everything we did prior to the all call back, was pre-determined and assigned. We try to prepare as much as we can for contingencies. We discussed how it is not safe to do a UC operation without knowledge, especially in a dynamic situation like that.
- To DC Renner’s knowledge, DC Osmundson never contacted him or notified DC Renner that DC Osmundson had self-deployed. DC Renner stated there was so much going on, he did not have time to pay attention to texts from DC Osmundson. DC Renner went to discuss how stressful this event was and how far reaching decisions like these are. DC Renner discussed not having the resources he needed and he continued to try to stay

ahead of the riots. We discussed everyone has a part to play and will not just go out and do their own thing.

- DC Renner stated he did not have any officers directly contact him with concerns about DC Osmundson other than DC Anderson.
- DC Renner stated he could never have imagined someone of DC Osmundson's level going out and doing something like that. We discussed that we all make mistakes, but this was beyond a small mistake or just being human.

Person: Chief David Todd

Interview

Date/time: 11 June 2020/ 1052 hours

I spoke with Chief Todd in the OPS office. I informed Chief Todd the interview would be recorded. A copy of the recording has been added to the complaint file. The following is a summary of that conversation:

- Chief Todd stated there was a lot of planning by many members of the department preparing for that day. Chief Todd stated there were many operations plans for the site, the march and Incident Command.
- Chief Todd stated he came to work early that day and checked in with DC Renner. After doing this, Chief Todd stated he went out on the street to try to get a feel for how people were who were walking down to that event.
- Chief Todd stated DC Osmundson had reached out to him that morning via text stating DC Osmundson felt Chief Todd should insert himself into the speaker lineup. Chief Todd was not sure this was appropriate since they had not asked him to speak. However, he stated he was willing to consider it, but wanted to get a "temperature" on the overall situation first.
- In order to do this, Chief Todd began speaking with people as they were heading to Island Park. Chief Todd stated it was "kind of a hostile reception to me". This made Chief Todd believe him speaking at the event might cause it to derail.
- Chief Todd stated he met up with Mayor Mahoney and Mayor Judd at NP Avenue and Broadway and they continued to greet people as they were walking by. They also were going to watch the march and be encouraging. However, before the event was going to happen, the railroad stop arms went down at Main Ave and Broadway and they wouldn't go back up. There was not a train. Chief Todd stated there was some talk amongst people that maybe the PD had caused this to happen.
- Chief Todd notified dispatch to contact BNSF. This happened and dispatch came back and said the arms were going to be down for an extended period of time and there was nothing BNSF could do. Chief Todd stated he became worried at this point and had officers come to that intersection to direct people around the arms. Chief Todd even was directing traffic there himself. Chief Todd also asked dispatch to stop all trains coming into the downtown area until the march was over. Shortly after all this happened, the march started.
- The march ended up going up 4 St instead of Broadway from Island Park. They took NP Ave to Broadway and then went north on Broadway. Chief Todd stated it was a large group of marchers and was more than we had anticipated. He stated the crowd was "amped up" and there appeared to be "hostile energy" amongst the crowd. Chief Todd

stated there were many expletives directed towards the officers and people giving us the middle finger.

- Chief Todd stated the march started to really go off route and this caused him to think he should go back to IC so he could watch from the traffic cameras and adjust as needed. Chief Todd stated he was also concerned about the officers possibly doing something that could be seen as “provocative” or something that could give hostile people any reason to react to us. Because of this, he had officers try to get ahead of the march to try to stop traffic or at least in the area to help keep things under control.
- Chief Todd got back to IC and conferred with DC Renner. Chief Todd stated the march came to the PD. He stated the crowd was very amped up and he was concerned people getting right up next to our building. Chief Todd stated he was concerned about that because he did not want to happen to the PD what happened in Minneapolis.
- Chief Todd stated the crowd probably could have done whatever they wanted to do because of the limited numbers of officers. Chief Todd stated both mayors arrived and he accompanied them out there with the crowd and began holding some of their signs. Chief Todd stated this seemed to settle them down a little. He also noted DC Osmundson was out there holding signs as well.
- Chief Todd stated DC Osmundson had told him that he had been in Chief Todd’s office and was taking pictures for documentation. DC Osmundson came outside and was interacting with the crowd. Chief Todd stated he had given DC Osmundson permission to be in uniform even though on light duty. His reasoning behind that was he is in charge of the PIO responsibilities. This was a significant event so his PIO may need help. Chief Todd also stated DC Osmundson could help with on camera things if that were necessary.
- Chief Todd stated he did not anticipate DC Osmundson leaving the station as he assumed DC Osmundson would help with the PIO. After the crowd left the PD, Chief Todd stated he went back into IC and he saw DC Osmundson walk past the door to the IC. Chief Todd stated he did not see him again. Chief Todd stated DC Osmundson had spoken with him previously about having family in town or at the lake. Chief Todd stated since he did not see DC Osmundson again, he just assumed DC Osmundson had gone home. Chief Todd stated he did not really think about it “because we were so wrapped up in what’s happening.” He also stated they were watching on the monitors through cameras and live drone feeds. Chief Todd stated it went through the day like that.
- Chief Todd stated the protestors went over to West Fargo and they marched back. Chief Todd stated he was just trying to control traffic and behavior the best we could. Chief Todd stated some of his rationale in letting them march was he wanted the protestors to “kind of walk it out.” Chief Todd was referring to the negative energy and hostility. Chief Todd stated that eventually people got back downtown.
- Chief Todd stated it seemed like wherever we had officers is where hot spots or things would arise. Chief Todd stated several times we moved officers out of an area to see if the problem would dissipate. Chief Todd stated sometimes this would work and sometimes it would not.
- Chief Todd stated at some point in the afternoon, he received a phone call from DC Anderson. Chief Todd stated DC Anderson asked him if he knew where DC Osmundson was. Chief Todd stated he replied that he thought DC Osmundson had gone home, but he was not sure. DC Anderson told Chief Todd that he had seen DC Osmundson walking

around downtown. Chief Todd stated he acknowledged that, but did not think any more of it. His reasoning for thinking this is because DC Osmundson does frequent downtown.

- Chief Todd stated he was disappointed that DC Osmundson did not stay and help in IC. However he did state, “but was I surprised, because that’s kinda who he is sometimes. I wasn’t surprised, I just didn’t think about it that much and I could see Jessica was right around us and she was handling stuff, so I just didn’t, I didn’t think about it much more.”
- Chief Todd stated as the day went on, he saw the crowd getting up into our officer’s faces on Broadway. Chief Todd stated he tried to get the officers to back away, but he thinks we may have done that too quickly as protestors were able to surround two squad cars very quickly. Chief Todd stated at this point in his opinion is when this became a riot. Chief Todd stated this is when he really became concerned.
- Chief Todd stated he began receiving calls from the governor and the National Guard General. Chief Todd stated he was also requesting other agencies throughout the state for help. Chief Todd believes this is about the time the crowd was being kind of aggressive and hostile. Chief Todd stated he was speaking with the governor and the mayor about when the order to disperse should be given. Chief Todd stated he remembered wanting to do that before it got dark outside. Chief Todd stated himself, the governor, the mayor and the general came to the conclusion 2000 hours would be a good time for that.
- Chief Todd stated he notified Lt Helmick about when the announcement would be coming and did social media posts about the dispersal order. Chief Todd stated he wanted that order passed on the ground as well. Chief Todd stated after the order to disperse was given and most did not leave, he gave Lt Helmick the order to deploy gas. This was done to drive the people back from the officers.
- Chief Todd stated shortly after the chemical munitions launch, the rocks and objects started being thrown at the officers. This caused Chief Todd to give Lt Helmick the authority to use chemical munitions and less lethal munitions as he saw fit. Chief Todd stated he was observing the monitors and taking phone calls. Chief Todd stated he remembers receiving two different text messages from DC Osmundson.
- Chief Todd stated one was about a group of people running up into a parking ramp. Chief Todd stated he believes he asked DC Osmundson, “How many.” Chief Todd stated he was concerned about people getting high ground on the officers and throwing things down at the officers. Chief Todd stated the second text was a picture of someone with a backpack on and had some type of sledgehammer or maul inside of it. Chief Todd stated these are the only texts he remembers getting from DC Osmundson. Chief Todd stated he did not really know where DC Osmundson was or what kind of role DC Osmundson was playing. Chief Todd assumed DC Osmundson was standing on the side and watching all of this happen.
- Chief Todd stated, “ I didn’t really have time to pay attention to him, I mean it was just crazy and Ross (DC Renner) and I were and the mayor and the governor were talking about ok what do we do now, how do we get people down there to assist, where do we stage other officers that are coming from other agencies, how do we transport them down there. We got a couple of city buses to do that. Um and ah making sure we had gear for those officers that we transporting them down because now it was a gas environment...” Chief Todd went on to discuss more of the decisions he and the others in IC were trying to make. Chief Todd stated there was just a lot of conversations and managing of what they were seeing and hearing.

- Chief Todd stated at one point he remembers people breaking into Vinyl Taco and JL Beers. Chief Todd stated gas was being launched to try to protect those businesses. Chief Todd was concerned if we pushed too far, we were exposing ourselves to threats from the roof from on top of the Hotel Donaldson.
- Chief Todd stated he saw on video footage someone grab something that was on fire and bring it towards JL Beers and Vinyl Taco. Chief Todd stated he is aware there are apartments above those businesses and did not want anyone burning buildings, especially with people inside of them. Chief Todd stated he notified Lt Helmick about what he was seeing.
- Chief Todd stated there was a lot going on with managing all the people coming in and giving them assignments. Chief Todd stated that eventually many of the rioters had left so we held our ground downtown. However, IC was still receiving information about other possible riot locations in the city.
- Chief Todd stated as things settled down they began discussing plans for keeping the IC open and getting people relieved. Chief Todd stated he and the DCs divided who would take IC. Chief Todd stated he called DC Osmundson and told DC Osmundson he was to come in at 0600 to take IC and relieve DC Renner. DC Osmundson agreed to do that.
- Chief Todd stated he went home about 0230 and was back around 0730. Chief Todd stated he met with the Deputy Chiefs just to discuss anything that had happened while he was gone. Chief Todd stated DC Osmundson was there and he began talking about some of what he (DC Osmundson) had been doing the previous night. Chief Todd stated DC Osmundson began showing pictures of the riot and explaining what he saw. DC Osmundson was discussing people being supplied gloves and other equipment. Supply vehicles full of milk, water, gloves etc. DC Osmundson discussed seeing backpacks with rocks in them being handed out. DC Osmundson stated he had also been listening to the protestors and they were discussing going to different cities.
- Chief Todd stated that at this point he began to realize DC Osmundson was not just a bystander; he was right in the middle of it. Chief Todd stated he did not really know what to think about it, but he was preparing for the coming press conference he was expected to speak at. Chief Todd stated he went to the press conference and then went downtown and spoke to the business owners. This was Sunday May 31.
- Chief Todd stated while he was downtown, a kid came up to him and shook his hand. Chief Todd stated the kid told him something to the fact of just so you know; they packed up and are already headed to Sioux Falls. Chief Todd asked the kid how he knew that. The kid stated it did not matter how he knew that and that is all he said.
- Chief Todd stated he did not have much more contact with DC Osmundson that day. Chief Todd stated DC Osmundson reached out to him later on and shared with him the list of concerns DC Anderson had brought forward. DC Osmundson stated he felt like he needed to address these with the officers. Chief Todd stated after he saw the list of issues brought forward by the officers is when he became concerned about what DC Osmundson had been doing.
- Chief Todd stated he had no idea DC Osmundson was walking around with a beer and yelling "F the police." Chief Todd stated DC Osmundson was right in the middle of these things, in a light duty status without any approval from any command or listed on any operations plan.

- Chief Todd stated any undercover operation we do we have [REDACTED] [REDACTED]. DC Osmundson went and did this all on his own without talking to anybody and without any type of operations plan in place and on light duty.
- On Tuesday June 02, Chief Todd informed DC Osmundson his actions were going to lead to the initiation of a complaint because what he did was wrong. Chief Todd stated DC Osmundson replied with, "I know, I accept responsibility, I shouldn't have done it. Whatever I've got coming, I got coming." Chief Todd stated that Tuesday morning was also when a majority of the department was going to Grand Forks for Officer Cody Holte's funeral. Chief Todd sent out an email to the department stating that today was about Cody Holte and Brady Holte and the DC Osmundson situation would be addressed the next day.
- On Wednesday June 03, Chief Todd stated he had some meetings and when he got back to the station, he observed the Rob Port article in The Forum. This article was written because someone had forwarded DC Osmundson's email to the PD to Rob Port. Chief Todd stated he was, "frustrated and a little bit angry." Chief Todd stated he had told people he was going to address it, but apparently, they did not trust he would. Chief Todd stated he was also angry because there was operations and intelligence information that was not appropriate to send outside of our department.
- Chief Todd stated, "Unfortunately I took my unhappiness and put that in another Police all email, which then quickly got forwarded out to Rob Port also."
- On Thursday June 04, Chief Todd stated he was meeting with the mayor and the city attorney regarding open records requests. In this meeting, the mayor asked Chief Todd what his plan was for discipline for DC Osmundson. Chief Todd told the mayor DC Osmundson had already admitted he was wrong and emailed that to the entire PD. Chief Todd stated he told the mayor he would be looking at a one-week suspension. Chief Todd stated the mayor told him to implement that discipline now.
- Chief Todd stated he knew DC Osmundson was supposed to be at a meeting at 0800 with the Community Engagement Team and he did not want DC Osmundson there because of the controversy surrounding what was happening. Chief Todd stated he called DC Osmundson into his office and informed him he would be suspended for one week. Chief Todd stated DC Osmundson asked him if he thought the right thing for the department was for him to resign then he would resign. Chief Todd stated the mayor said this is not what we want or what the Chief is asking for. Chief Todd stated DC Osmundson left and later that day everyone received DC Osmundson's email stating his resignation.
- I specifically asked Chief Todd about the autonomy and decision making abilities of Deputy Chiefs. He agreed they are afforded autonomy and are allowed to make executive level decisions. I confirmed these decisions must be within policy, just like every one of us at the PD. I asked, "Are they allowed by their rank to just self-deploy to just do things like this?" Chief Todd stated, "In some cases, yes, but I would those would be usually non-threat situations. Community engagement situations, going out and speaking to groups, taking your team to go do something that benefits the community, absolutely."
- Chief Todd stated, "A critical incident is a completely different thing in my mind." He feels this way because in a critical incident there is an IC that is set up to run that incident. If someone is off doing their own thing, it creates confusion and danger. Chief

Todd discussed if DC Osmundson had gotten himself in trouble, officers on the ground would have to insert themselves in an already dangerous position.

- Chief Todd stated DC Osmundson has done UC work in the past during his career and, “He knows that we have operations plans for that kind of work and he did not communicate anything to anybody about what he was going to do.”
- Chief Todd stated they knew DC Osmundson was in the area, but they did not know what he was doing after the rocks and bricks were being thrown.
- I asked Chief Todd about downtown being DC Osmundson’s passion and Chief Todd stated, “It is.” I asked Chief Todd if it would be uncommon to get a text from DC Osmundson after DC Osmundson was downtown. Chief Todd stated that would not be uncommon. Chief Todd went on to say, “I don’t know how you get a text like that, and then somehow equate that to be standing in the midst of people that are rioting and walking around with an empty beer can and doing some of the things that you’re, putting yourself in that position.” Chief Todd stated, “That’s not acceptable.” Chief Todd stated it is not a safe thing to do and DC Osmundson was on light duty.
- Chief Todd stated DC Osmundson would say he was given permission to put on a uniform or “suit up.” Chief Todd stated this was to help with PIO functions, which is DC Osmundson’s job. Chief Todd stated he did not want DC Osmundson to go out on the frontline, not to go out in some type of undercover capacity. Chief Todd just wanted DC Osmundson to do his job, which is PIO.
- I asked Chief Todd, “So at any point did you, the mayor, the governor, anyone that you are aware of direct him to go out and do this clandestine operation completely off, without an operations plan or anything like that?” Chief Todd stated, “Absolutely not.”
- I asked Chief Todd if DC Osmundson had an assignment in the initial ops plan. Chief Todd believed he did not except for PIO.
- I asked Chief Todd if DC Osmundson was on light duty [REDACTED]. Chief Todd stated, “Yes.” Chief Todd and I discussed the employee responsibilities in policy about how the employee must provide documentation to their supervisor from a medical provider stating they can perform the minimum functions of their job prior to being released to full duty. I asked Chief Todd if DC Osmundson had given him any such documentation since he is DC Osmundson’s supervisor. Chief Todd stated DC Osmundson had not. Chief Todd stated DC Osmundson did not provide him anything from DC Osmundson’s doctor.
- Chief Todd stated, “I guess if I did anything wrong woulda been allowing him to put a uniform on um but again that was with the thought of him perhaps needing to do some on camera things in support of Jessica and PIO functions, not beyond that.” Chief Todd and I discussed it’s reasonable to think the second in command of our agency should not need to be monitored constantly due to their position or responsibility and the autonomy they are afforded. Chief Todd stated, “I do give my Deputy Chiefs ah quite a bit of latitude on how they run their divisions, of course expect communication from them on decisions that they’re making so that I’m in the know, but they’re in those positions because of experience and trust, but also the higher you go within a department, the higher accountability you have if you make a mistake.”
- Chief Todd stated it was a crazy night with the mayor hanging over one shoulder, the governor over the other shoulder and the general. Chief Todd discussed that until you are

in the situation of a full-scale riot, it is hard to understand all of the information coming in.

- Chief Todd also discussed the responsibility of making those decisions and knowing the wrong decision could lead to millions of dollars of damage to serious injury or death.
- I asked Chief Todd if in his 30- plus years of law enforcement, was this the most dynamic situation he had been in IC for and he stated it was. He stated, "It was intense, and ah intense because I knew the ramifications and consequences of every decision and the buck stops on my desk."

CONCLUSION

Fargo Police Department 320 is the "Standards of Conduct" policy. There are several subsections of that policy for this report. Fargo Police Department 1027 is the "Transitional Duty Assignments" policy. The subsections are in bold:

320.5.1 LAWS, RULES AND ORDERS (F)

- a. Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- b. Disobedience or undue delay of any legal directive or order issued by any department member of a higher rank.
- c. Violation of federal, state, local or administrative laws, rules or regulations.
- d. When traveling outside of the United States, failure to comply with the laws and regulations of the host country.
- e. Failure to inform their immediate supervisor and the department's Office of Professional Standards (OPS) as soon as possible or practical if they are aware of being the subject of any criminal investigation, if they are arrested, and/or convicted of any criminal offense, or if they receive a summons for any criminal traffic violation, regardless of the location or jurisdiction.
- f. Engaging in any conduct, to include any physical act or verbal expression which threatens, exhibits, or implies any violence towards another department member or any person within the workplace.**
- g. A conviction for violating any law shall be prima facie evidence of a violation of this subsection.

Note: The lack of a criminal complaint or an acquittal of an alleged violation of law shall not preclude the department from taking any administrative disciplinary action against an employee.

320.5.9 PERFORMANCE (K), (3)

- a. Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- b. The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- c. Failure to participate in an investigation, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of

- authority, in connection with any investigation or in the reporting of any department-related business. Upon the order of the Chief of Police or the Chief's designee, members shall truthfully answer any questions relative to a personnel complaint or other administrative inquiry.
- d. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members. However, in the lawful performance of an officer's duties it is permissible to use reasonable forms of deception as an investigative technique.
 - e. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
 1. Department members shall not publicly criticize the department, its policies, practices, administrative decisions/determinations, or its employees (regardless of rank or assignment) by speech, in writing, or any other expression, where such information is defamatory, obscene, unlawful, or impairs the operation, efficiency, effectiveness, or image of the department, or is made with wanton disregard for the truth.
 - f. Members are not prohibited or precluded from discussing or dissemination information which may be of public interest and is not otherwise prohibited by department policy.
 - g. Feigning any illness or injury, or falsely report themselves or any member of their family ill or injured, or otherwise deceive or attempt to deceive the department as to their health or ability to report for duty due to illness or injury. A member sustaining any injury while on-duty shall immediately report such injury to their immediate or other on-duty supervisor.
 - h. Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 1. While on department premises.
 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
 - i. Improper political activity on duty, to include:
 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this department, except as expressly authorized by City policy, an employment agreement, or the Chief of Police.
 3. Managing, organizing, or financing any political party, club, campaign, or other political organization.
 4. Soliciting votes for or against any candidate or cause.
 5. Serving as a political party delegate.
 6. Endorsing or opposing a candidate or cause through advertisement, broadcast, or campaign literature.
 7. Initiating or circulating a petition.
 8. Organizing or actively participating in any fundraising functions for political candidates, parties, or causes.
 9. Addressing political or religious gatherings on topics unrelated to the official business of the department
 10. Soliciting participation or endorsement of a political or religious belief, position, or denomination.
 - j. Engaging in political activities during assigned working hours except as expressly authorized by City policy, an employment agreement, or the Chief of Police. Except for inclusion in stating their qualifications for political office, department members shall not use their position with the

department for any political purpose and shall not hold any political position which may be incompatible or of conflicting interest towards their duties as a department member.

- k. Failure to maintain sufficient competence to adequately perform their duties and responsibilities in a professional and efficient manner. Unsatisfactory performance may be demonstrated by, but is not limited to, the following:
 1. A lack of knowledge of how to apply or enforce laws and/or other regulations, or;
 2. An unwillingness or inability to perform assigned tasks, duties, or to otherwise meet job performance expectations, or;
 3. **Failure to conform to the work standards established for the member's rank, position, or assignment, or;**
 4. Failure to take the appropriate action to deal with crime, disorder, or other conditions requiring or otherwise deserving police attention, including addressing and/or reporting violations of department policy which come to a members' attention, or;
 5. Being absent from duty without approved leave.
- l. The following shall be *prima facie* evidence of unsatisfactory performance:
 1. Repeated poor performance evaluations.
 2. Documented evidence of repeated violations of department rules, regulations, procedures, orders, or other directives.
 3. Failure to satisfactorily complete the department's police training program for newly hired officers or the initial introduction training provided to civilian personnel.
 4. Failure to satisfactorily complete any in-service training, a performance improvement plan, or other

320.5.10 CONDUCT (N)

- a. Failure to remain patient, courteous, and respectful when interacting with members of the general public, co-workers, or others in the performance of their duties.
- b. Failure to perform their duties while demonstrating excellent judgment, discretion, and decision making ability.
- c. Unreasonable and unwarranted force to a person encountered or a person under arrest. Failure to respond to any resistance they encounter, either real or perceived, by using only the degree of force (physical or otherwise) which is necessary and reasonable in the lawful discharge of their duties and in accordance with established department policy.
- d. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct. Sworn officers shall only make an arrest or search/seize any person when they know, or should know, it is lawful, and only accordance with established department policy and/or procedure.
- e. Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- f. Engaging in horseplay that reasonably could result in injury or property damage.
- g. Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- h. Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- i. Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- j. Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- k. Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

- l. Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any employment agreement contract to include fraud in securing the appointment or hire.
- m. Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- n. **Any other on or off-duty conduct which any member knows or reasonably should know is unbecoming for a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.**
 - 1. On or off-duty members shall not solicit from alcohol establishments for alcohol donations for any department event or any event which could reasonably be associated with the department, unless approved by a Division Commander or Chief of Police.

320.5.11 SAFETY

- a. **Failure to observe or violating department safety standards or safe working practices.**
- b. Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- c. It is highly encouraged officers maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- d. Unsafe, negligent, reckless, careless firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- e. Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the Chief of Police.
- f. Unsafe or improper driving habits or actions in the course of employment or appointment.
- g. Any personal action contributing to a preventable traffic accident.
- h. Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.
- i. Members shall report any suspension, revocation, or cancellation of their driver's license, or if they are arrested, convicted, or issued a summons for any criminal traffic violation, to their immediate or on-duty supervisor, and the departments Office of Professional Standards (OPS) as soon as possible.
- j. Prohibited from engaging in any conduct, to include any physical act or verbal expression which threatens, exhibits, or implies any violence towards another department member or any other person within the workplace. (*Note: This item is not applicable to any act which is consistent with the department's policy or procedures relative to the lawful use of force.*)

320.5.12 INTOXICANTS

- a. Reporting for work or being at work while intoxicated or having any detectable sign of alcohol consumption to include an odor of an alcoholic beverage, physical or mental impairment.
- b. Reporting for work or being at work when the members ability to perform assigned duties is impaired due to the use of , medication or drugs, whether legal, prescribed or illegal.
- c. **Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment, and only when acting under the direction or orders of a command officer or supervisor. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance. Members in**

department approved uniforms are prohibited from consuming alcohol or any other intoxicating substances.

- d. Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site except when it is legally prescribed and/or administered. Over the counter (OTC) medications which do not cause mental or physical impairment are permitted when taken as directed by the manufacturer.
 1. If it becomes necessary for a member to use a controlled substance in the workplace or while on-duty, the member shall notify their immediate or on-duty supervisor as soon as possible if the member's ability to perform their duties *may* be impaired due to the member's use of the controlled substance.
- e. Members shall not store or bring into any police facility or police vehicle any alcohol or other intoxicating substance or any controlled substance except those taken and held as evidence, secured as seized or found property, used for authorized training purposes, or legally prescribed and/or administered to an employee, without authorization from a command officer or supervisor.
- f. Off-duty members shall refrain from consuming any alcohol or intoxicating substance to the extent it results in behavior which discredits the member or the department, or renders the employee unfit to report for the member's next scheduled work shift or assignment.
- g. Members are prohibited from using any smoking or tobacco product, to include any smokeless tobacco product, E-Cigarettes, or any other smoking device within any department facility, department vehicle, or anytime the member is on-duty and in public view.
- h. Members may use tobacco products only in the duly designated area(s) outside of any department facility, or when it is necessary and/or reasonable with the performance of their duties and when acting under the direction or orders of a command officer or supervisor.

(Note: Department members are also required to follow all City of Fargo employment policies relative to alcohol, drugs, or tobacco use in the workplace.)

1027.6.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- a. Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- b. Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals. Any deviation by the employee from a prescribed restriction or limitation may be cause for the department to immediately end the employee's transitional duty assignment.
- c. Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- d. Submitting a written status report to the Division Commander that contains a status update and anticipated date of return to full-duty when a transitional duty assignment extends beyond 60 days.

Prior to being released from any transitional duty assignment for non-work related injuries, the employee must be evaluated by the City of Fargo Employee Health office to ensure the employee is fit to return to their regular assignment. Only after the physician approves the employee's return to their regular work assignment may the employee's Division Commander return the employee to that assignment.

Prior to being released from any transitional duty assignment for work related injuries, the employee must be cleared by their attending physician to ensure the employee is fit to return to their regular assignment. Only after the employee's attending physician approves the employee's return to their regular work assignment may the employee's Division Commander return the employee to that assignment.

If an employee elects to utilize their sick time in lieu of a transitional duty assignment for work related injuries, the employee must be cleared by their attending physician to ensure the employee is fit for return to their regular assignment.

If an employee elects to utilize their sick time in lieu of a transitional duty assignment for non-work related injuries, the employee must be evaluated by the City of Fargo Employee Health office to ensure the employee is fit for return to their regular assignment

By his own admission, DC Osmundson stated he was involved with the group of rioters yelling expletives at the Officers. This is prohibited by policy, especially when involved in an operation of this magnitude. While DC Osmundson may not have verbally or physically threatened the officers, he engaged in conduct which aided in threats towards the Officers. This was done by yelling "F... the Police." Again, he admitted to saying this in his department- wide email.

DC Osmundson failed to adhere to his work performance or standards during this event. He is the DC of the administrative division of the Police Department. Within that division is the PIO. The PIO, the other Deputy Chiefs and Chief all believed DC Osmundson should have assisted the PIO since this falls within his division. At no point was he assigned to do anything outside of his normal scope of employment. The scope of his employment does not entail undercover work.

DC Osmundson admits in his email he made a mistake and the conduct reflected unfavorably upon himself and the Police Department. It is reasonable to believe a Deputy Chief with 31 years of experience should know the difference between acceptable and unacceptable conduct. DC Osmundson's actions were contrary to good order and morale. DC Osmundson's conduct has eroded some of the positive steps this department and city have taken to make this community great. His actions do not reflect the values and quality service standards of this Police Department.

DC Osmundson failed to adhere to safe working practices. DC Osmundson admits in his email, "my reckless actions this weekend." It is clear DC Osmundson understood the magnitude of his decisions, but made them anyway. Understanding hindsight is usually 20/20, but it is reasonable to have known at the time he made these decisions, they were very unsafe.

In his email, DC Osmundson stated he held an empty beer can and walked around with it. It is unknown if this can was empty or not. However, in a conversation he had with me prior to the initiation of the complaint, he admitted to walking around and drinking the beer. This conduct also begs the question of where was the beer obtained. If DC Osmundson had observed people breaking into JL Beers and removing alcohol and he himself picked up one of those cans, this again shows extremely poor judgement and a potential criminal violation. If he in fact consumed alcohol while on duty, he is outside of policy, as one must seek permission to do this even in a controlled environment.

DC Osmundson admitted he was on “light duty” which is the common term for transitional duty as mentioned in policy. He went on to say he knew this was dangerous due to his light duty status. In policy, it clearly states under employee responsibilities, that one must obtain a release from their provider, provide said release to their supervisor before being released from light duty. DC Osmundson admitted his transitional duty status. Chief Todd confirmed DC Osmundson was on transitional duty at the time and DC Osmundson had not provided proper documentation to be assigned full duty.

DC Osmundson’s actions were outside of numerous policies and are not in keeping with the highest traditions of the Fargo Police Department. While his intentions may have been good, the end does not justify the means by which they were obtained. There are set protocols and procedures in place to avoid these types of situations and DC Osmundson did not follow them.

This was an unprecedented event for all involved. By his own admission, DC Osmundson created further jeopardy and peril to his fellow officers by his actions. He conducted an operation on his own without proper notification or planning. His consumption of alcohol on duty was not authorized because no one knew of this operation.

These are the facts obtained and outlined in this investigation. This report has been submitted to Mayor Mahoney and other members of city government on 16 June 2020 for their review.