



# 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:** 10.27.2022

**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, October 27<sup>th</sup>, 2022.

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

**Present:** Scott Paul, Todd Spellerberg, David Hogenson, Joanna Johnson, Conrad Thomas, Lucrachia King, Tonya Greywind.

**Absent:** None.

**Item 1. Welcome and Introductions**

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

**Item 2. Chair to provide overview of PAOB ordinance and scope**

1. Chair Johnson reviewed sections 2, 3, and 9 of City of Fargo Ordinance 5327.
2. Section 2 is regarding the purpose of the Fargo Police Advisory and Oversight Board.
3. Section 3 is regarding the specific duties of the Fargo Police Advisory and Oversight Board.
4. Section 9 is regarding the review of post discipline, administrative, and citizen concerns.
5. Chair Johnson clarified that the Board is not an investigative board and does not have access to current investigative information. The Board is not a subset of the Police Department.

**Item 3. Approve Order of Agenda**

Member Spellerberg moved the Agenda be approved as presented. Second by Vice Chair King. All Members present voted aye and the motion was declared carried.

**Item 4. Approve Order of Minutes**

Member Spellerberg moved the minutes of the September 8<sup>th</sup>, 2022 Police Advisory & Oversight Board meeting be approved as presented. Second by Vice Chair King. All Members present voted aye and the motion was declared

carried.

**Item 5. Public Comment Period**

1. Reverend Karen Manafossen spoke of her understanding that the Human Rights Commission is asking the PAOB to take up an independent investigation into the death of Shane Netterville. She believes it's within the Board's purview and moral responsibility to call for and do the work required to make an independent investigation happen.
2. Faith Dixon agreed with Reverend Karen about allowing an external investigation. She stated the public expects the Board to be able to hear the comments and complaints of members of the community. She hopes that the Board can add their opinions to what should be done and not just allow the Department to investigate themselves. She wonders how the public can add topics to the agenda.
3. Wes Philome stated the Board is not meeting up to vision of it he had during formation. He wonders how Chair Johnson is able to identify with how people of color are treated by the police and be able to advocate for them. He pointed out that the Board can only be contacted by emailing the Police Department and believes that's a conflict of interest. He believes the Board should be independent and not controlled by the Fargo Police Department.
4. Christopher Coen wants the Board to extend the public comment length to 3 minutes or at least 2.5 minutes. He would like for contact information for the Board put on the website. Regarding the officer-involved shooting of Shane Netterville, he believes the officer had time to step out of the way. He commented that the officer arrived with his gun extended and doesn't think that the officers thought they were dealing with dead bodies. He wants to be able to contact the Board for public comments or to place items on the agenda.

**Item 6. Police Department Updates**

1. Chief Zibolski brought up that the first six months of the Board need to be reviewed. That will be posted as a meeting.
2. Sergeant Jacobson discussed the additional training that was provided to Board Members. Four members of the Board attended, three did not due to scheduling complexities. Other training opportunities will be forthcoming.

**Item 7. Presentation of internal use of force review of Netterville incident by Lieutenant Aberle and follow up questions from Board Members**

1. This was not released along with the body camera review.
2. Lieutenant Aberle provided a brief overview of the incident.
3. The BCI interviewed additional witnesses during their investigation.
4. Based on the review, the body camera footage, Officer O'Brien's statement to the BCI, it was found that the use of deadly force was reasonable within the confines of the law.
5. Member Thomas questioned Mr. Netterville's ability to harm the officer at any time.
6. Member Hogenson commented on what he believes it means for the Board to properly support the Police Department. He stated that the Board is tasked with providing review and input of completed investigation and advising the Police Department about community concerns. He provided a quote from the Fargo Police Department and North Dakota Attorney General's joint press conference and asked Chief Zibolski to explain to the Board what shooting Mr. Netterville accomplished. Chief Zibolski provided the legal standard for deadly force and a reminder of the circumstances of the incident.
7. Member Thomas asked if Chief Zibolski believes the officers exhausted all other options before the use of force.
8. Vice Chair King commented that the call came in as a suspected injured person and asked at what point did the officers figure out if there was anyone injured or in need of assistance. Chief Zibolski stated that there was no opportunity to do that.
9. Member Hogenson read FPD policy 300.4.1 (moving vehicles). He provided quotes from the September presentation regarding the officers' positions in relation to the vehicle and asked how the shooting didn't violate policy.
10. Member Hogenson asked that policy 300.4.1 be analyzed to see if it needs to be amended. He asks that information about what kind of support is being provided to Officer O'Brien and others be provided to the Board. Chief Zibolski responded that the Training and Development Unit has looked at the instances to evaluate for potential additional

training. He also commented on what support services Officer O'Brien has access to.

11. Member Hogenson commented that the Board is tasked with advising the Department on community concerns and how confidence and trust in the police has been lost by the community. He believes it's a prudent step in restoring confidence and trust with the goal of transparency to recommend that another set of eyes be put on this and would like to reach out to the US Attorney for North Dakota to look at this. He questioned if he can make a recommendation or a motion. City Attorney Nancy Morris stated that the Board's role is to promote the oversight of the Police Department and recommendations can be made to the City Commission. Proper protocol would be to have it on an agenda and have further discussion on it.
12. Member Hogenson wondered if it would be appropriate to make a recommendation to the City Commission to reach out to the US Attorney. Chair Johnson reiterated that it needs to be on an agenda and this meeting's agenda is already set.

**Item 8. Officer-Involved Shooting review from Mapleton by Deputy Chief Anderson**

1. The Fargo Police Department Professional Accountability Unit determined after an internal review that no Use of Force policy violations occurred.
2. DC Anderson provided an overview of the incident.
  - a. This was a multi-jurisdictional response with involvement from the regional North Dakota law enforcement agencies, Sanford Ambulance, the Fargo Police Department, and the West Fargo Police Department.
  - b. FPD involvement started when Sergeant Moser received a request for mutual aid from the Cass County Sheriff's Office. Five members of the Street Crimes Unit responded as part of the mutual aid.
3. Video clips from the Fargo Police Department Officers' body worn cameras was shown.
4. Chair Johnson asked about if the Crisis Intervention Team was on the phone with Sergeant Moser. DC Anderson clarified that the negotiations unit, which is a multi-jurisdictional team, was on the phone at various times with Mr. Martinez. Sergeant Moser trying to employ crisis intervention techniques when speaking with Mr. Martinez and the negotiators being on the phone with him were two separate things.
5. Chair Johnson asked if the Department ever utilizes a third party such as a social worker to speak with someone in a crisis. DC Anderson answered that it depends on the situation. Case managers have been utilized in the past. In this case, Mr. Martinez had displayed the potential for deadly force by firing a firearm and putting a civilian in the mix would create a liability.
6. Member Paul asked if there is a joint review of the situation in a multi-jurisdictional situation in addition to the internal review. DC Anderson responded that each agency conducts its own internal review for its members.
7. Member Thomas asked about what the polices are for officers when they encounter someone with a firearm, what their choices are, what the policies are which authorize the use of lethal force. DC Anderson referred to Chief Zibolski's response during the discussion of the Netterville incident and the complexities involved. Chief Zibolski stated that the specific policy is Policy 300 – Use of Force, which is available for public review on the Police website.
8. Dr. Hogan asked how long that policy has been existing. Chief Zibolski replied that it predated his start, but adjustments have been made in the last two years, as well. Policies are reviewed from a legal perspective by the organization Lexipol Policies.
9. Dr. Hogan commented that the City of Fargo is continuously evolving and therefore we need to evolve with it, including looking at policies and procedures on communication and de-escalation, or finding a way to improve on how the policies are being implemented. He agreed with Member Hogenson's opinion on having other eyes looking at what is being implemented. Dr. Hogan made a recommendation at the Human Rights Commission meeting that it be pushed back to the Police Advisory and Oversight Board and thinks that it should have been on the agenda.
10. Member Hogenson asked that another review of this be put on the agenda for the next meeting as there is a lot of information.

**Item 9. November date for 6 month review**

1. Sergeant Jacobsen invited the Board to a coffee/brown bag question and answer session.

2. Member Greywind requested some education on how the communication between Boards happens.

**Item 10. Adjourn**

The time at adjournment was 6:22 p.m.