

Minnesota Working Group on Police-Involved Deadly Force Encounters

Public Hearing 3: Policy and Legal Implications

Thursday, Oct. 17, 2019

9:00 a.m. to 5:00 p.m.

Fond du Lac Tribal and Community College, Cloquet, MN

The Minnesota Working Group on Police-Involved Deadly Force Encounters was organized by co-chairs Minnesota Attorney General Keith Ellison and Commissioner of Public Safety John Harrington to explore strategies to address growing public concern about the loss of life during deadly force encounters in Minnesota. The working group will provide a framework for stakeholders statewide to have a voice in developing recommendations that may include policy, procedure, legislation, programming and training.

The goal is to identify meaningful actions that can be taken to reduce loss of life and improve police and community relationships, safety and wellbeing. Members of the working group are a cross-section of law enforcement and diverse community representatives, including families impacted by deadly-force encounters. The working group will hold four public hearings, including public comment and a series of community listening sessions, and they shall accept testimony or information submitted online from the public through the MN DPS website at: <https://dps.mn.gov/divisions/co/working-group/Pages/default.aspx>. The working group will produce a report in February 2020 with recommendations to address prevention, policy and law, training, investigations and accountability, community healing, and officer wellness.

On Thursday, Oct. 17, 2019, the Working Group on Police-Involved Deadly Force Encounters, co-chaired by Minnesota Attorney General Keith Ellison and Commissioner of Public Safety John Harrington, hosted the third public hearing, titled Policy & Legal Implications, at Fond du Lac Tribal and Community College in Cloquet, MN.

The hearing was opened at 9:00 a.m. with a blessing by Fon du Lac elder Ricky Defoe.

The hearing began with a presentation by Nate Gove, executive director of the Minnesota Peace Officer Standards and Training (POST) Board, on the role of the POST Board in establishing officer standards and training requirements. Minnesota is unique in that it certifies higher education facilities to deliver the standard training requirements for police officers. The working group asked numerous questions about the standards for both hiring and training content.

Superintendent Drew Evans, of the Bureau of Criminal Apprehension (BCA) followed with a presentation on the policy implications for the use of technology, particularly body cameras, which bring new resources to improve transparency, accountability and training. But they also bring specific challenges and costs that need to be addressed.

The third panel also addressed technology policy implications, but from a local law enforcement and local government perspective. Irene Kao, intergovernmental relations counsel for the Minnesota League of Cities, led off with a detailed policy analysis and review of the body camera legislation passed after significant input and negotiations. Sheriff Pat Eliason of Cook County spoke to the challenges that rural counties face when considering body cameras. The costs go far beyond the purchase of the cameras to include the cost of properly collecting, storing and managing the data. Irene Kao also emphasized that the

costs go beyond the law enforcement agency, imposing increased costs on the courts and prosecutors' offices.

Legal and policy implications of use of force were addressed through presentations by Fred Bruno, an attorney who often represents law enforcement officers; and Christy Lopez, a constitutional law professor at Georgetown University. Bruno addressed police rights and due process in deadly force encounters, a big question being why officers are told to wait to give their statements and whether they should be able to view the video before or after providing their statements or being interviewed by investigators. Lopez provided testimony on the movement to change policies that address proportionality and when deadly force is justified with a higher standard emerging that is currently being applied under the *Graham v. Connor* decision.

The final panel addressed disparities in policing and data as a tool to help understand and monitor progress. Chris Burbank, with the Center for Policing Equity, spoke about the work they are doing with the Minneapolis Police Department and Chief Arradondo through the Data Transparency Model to use data to better measure factors that get at the consistency and fairness with which police tactics are applied and how to get at systemic issues that contribute to disparate outcomes between racial and ethnic groups. He was followed by Jon Roesler with the Surveillance, Epidemiology and Analysis (SEA) Unit at the Minnesota Department of Health. Mr. Roesler reviewed the data sources available to track police-involved fatality data in Minnesota.

The meeting concluded with invited testimony of affected families and other public comment.

The hearing was closed by the co-chairs. All proceedings were live-streamed, recorded on video, and posted to the working group website.