



## Omaha Police Officers' Association

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### PRESS RELEASE

**For Immediate Release:**  
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**For More Information:**  
**OPOA (402) 393-6191**

The Omaha Police Officers Association (OPOA) and its members understand the pressure for answers regarding the unfortunate death of Zachary Bearheels at 60<sup>th</sup> & Center on June 5. The OPOA further understands the pressure felt by the Douglas County Attorney's Office, and specifically Don Kleine, to provide answers. However, the OPOA is disappointed that he and his office succumbed to the pressure and won't allow the statutorily mandated Grand Jury process to take place, which should include presentation of all evidence gathered by his office. This includes any consultation with defensive tactic experts who found the officers' actions as falling within accepted police standards and not excessive in nature.

This investigation has been rushed from the beginning and it has raced into the remarkable and unprecedented conclusion of criminal charges. The involved officers are entitled to the right of due process. The OPOA finds it troubling that they would instead be subject to a rush to judgment that is occurring outside of the Grand Jury process outlined and mandated by Nebraska State Statute 29-1401(4). It is particularly troubling that the County Attorney would describe the role of a mandated Grand Jury as "moot".

The involved officers are entitled to understand how their actions, according to a certified forensic pathologist, "were not the proximate cause of death" but were somehow worthy of criminal charges. The involved officers are entitled to understand how their actions that caused "no significant injuries" are somehow worthy of criminal charges.

The involved officers are entitled to know why after being called by a business owner to remove a unwanted party disturbing the peace of its business and being on scene calling command on two occasions, and the suspects family for over an hour and a half to gain direction on how to handle the mental health concerns of the suspect they were left to figure it out on their own.

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## **PRESS RELEASE (Continued)**

The involved officers are entitled to understand how actions deemed by the County Attorney as a “training issue” and would not support “an intent to harm” are worthy of criminal charges.

The involved officers are entitled to know why when attempting to control an actively resistive suspect who:

- Required four or more officers to control after he forced his way out of a police cruiser contrary to commands; and
- Who fought officers attempting to restrain him from harming himself by running through a parking lot in handcuffs towards the place of business he was asked to be removed from; are not required to utilize the Omaha Police Department’s use of force policy under which they are trained and which the department mandates including use of non-lethal electronic control devices, a TASER.

The involved officers are entitled to know how they engaged in excessive force if that non-lethal TASER was not successfully deployed, where both probes were not firmly within the suspects skin thereby ineffectively transferring an electrical charge (whether that is one or twelve attempts) sufficient to subdue and gain compliance of the suspect. The involved officers are entitled to know why a suspect who:

- Who they could not gain compliance through commands;
- Who attempted to gain compliance through use of a non-lethal TASER per department policy;
- Who was able resist control by four or more officers; and
- Who was able to physically pull his hand out of a handcuff thereby creating a deadly weapon raising that suspect to the level of a Assaultive/High-Risk Subject (swinging of a lose cuff is recognized to be fatal weapon to the suspect, or responding officers), were not allowed to follow the Omaha Police Department’s use of force policy under which they are trained and which recognizes that an Officer maintains a right to self-defense and mandates control of an assaultive high risk suspect through techniques including closed hand strikes used in this instance.

Due process is a right afforded to all Americans, and that includes police officers. The officers’ actions are not to be judged by 20/20 hindsight but based upon the reasonable perspective of an officer on the scene. These officers are entitled to a Grand Jury process and the ability to present a defense that includes all facts and evidence, not those cherry- picked for a press conference when the politics and pressure become too much to bear.

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