

## MINUTES

Civilian Review Board  
Ruth Bascom Room, Eugene Public Library  
100 West 10th Avenue

May 8, 2018  
5:30 p.m.

PRESENT: Maurice Denner, Chair; Rick Roseta, Carolyn Williams, Jim Hargreaves, Heather Marek, Civilian Review Board members; Mark Gissiner, Leia Pitcher, Vicki Cox, Police Auditor's Office; Lt. Ron Tinseth, Eugene Police Department.

ABSENT: Steve McIntire

Mr. Denner convened the Civilian Review Board (CRB) at 5:31 p.m.

### 1. AGENDA AND MATERIALS REVIEW

Mr. Denner announced the meeting was being recorded by an audience member. Majeska Seese-Green would provide community members with recording upon request.

Ms. Pitcher confirmed a professional stops update would be occurring later in the meeting. Mr. Denner said another change to the agenda was that they would bifurcate issues between the two officers, as one was accused of single allegation while the other officer was accused of two allegations.

### 2. MINUTES APPROVAL – APRIL 2018

Mr. Hargreaves said he was mistakenly identified as “Ms.” on page 9, line 4 and he would prefer to be called “Mr.”

Ms. Williams requested a change to page 7, where it read “~~Ms. Williams wondered what the policy was on touching students.~~” It should have read, “**Ms. Williams wondered what the school policy was on touching students.**”

Mr. Denner had a change to page 8 in the first full paragraph. The last sentence should have read “**good rapport and communication**” and instead of “~~repertoire.~~”

Mr. Denner deemed the minutes approved as amended. Ms. Marek abstained as she was absent from the April 2018 meeting.

Mr. Gissiner thought since Mr. Wig was no longer part of CRB, members should elect a vice chair in case Mr. Denner was absent, until the next election happened in October 2018. Mr. Denner thought that was a good suggestion and opened the floor for nominations. Mr. Roseta nominated Mr. Hargreaves, who declined. Ms. Williams offered to act as vice chair. Mr. Denner asked for a vote; there were no oppositions and he closed nominations. Ms. Williams was confirmed as vice chair to serve until October 2018.

### **3. COMMENTS FROM BOARD MEMBERS, HUMAN RIGHTS COMMISSION LIAISON AND POLICE COMMISSION LIAISON**

There was no public comment.

### **4. TRAINING TOPIC: PROFESSIONAL STOPS UPDATE**

Ms. Marek commented she was recording the meeting and the audio recording would be uploaded online at [www.tinyurl.com/crbaudio](http://www.tinyurl.com/crbaudio).

Mr. Denner asked whether the recordings from previous meetings were there as well. Ms. Marek said yes; she added that next month would be her last meeting since her time on board would expire and she did not reapply. She thought it would great for CRB to consider how to make future meetings available to the public who couldn't attend meetings; she thought audio was a very easy and accessible tool for them and for minutes takers'. Ms. Marek stated her belief that recording audio increased transparency and accountability, which was what CRB was fundamentally about. Ultimately, she encouraged CRB to consider recording meetings in the future.

Ms. Williams interacted with a school resource officer that past week in her professional capacity and was impressed with their performance; she liked the interface of being on CRB. She wished the inner workings of the EPD were more transparent to the public.

Mr. Denner noted Mr. McIntire was absent; he asked Ms. Pitcher if there was anything CRB should be aware of from Police Commission (PC), and asked if PC had moved forward with the code of conduct. Ms. Pitcher said the code of conduct had not been presented at PC in some time; previously, PC spent four months working on the code of conduct. It was currently in Sgt. Williams' hands.

Mr. Denner attended the Human Rights Commission (HRC). He reported the most significant issue in from of HRC was a summary of crimes reported as hate or bias crimes during the first quarter of 2018. Rather than overwhelm CRB members with numbers, Mr. Denner passed each CRB member a document.

### **5. EPD CHIEF CHRIS SKINNER INTRODUCTION**

Mr. Gissiner introduced Chief Chris Skinner. Mr. Gissiner explained Chief Skinner had been in office since April 30, 2018, and was selected by the City Manager. Mr. Gissiner had previously met him during the interview process, and appreciated Chief Skinner attending the CRB meeting.

Chief Skinner said it was his privilege to be in Eugene and at the CRB meeting. He was excited to get embedded in community and organization, to identify a path forward. Chief Skinner explained that he recently met with editorial board at the Register Guard (RG), and one question he was asked revolved around accountability and transparency. He believed that, even though from time to time people had the perception or misperception the review process was cumbersome, 21<sup>st</sup> century policing was creating a model for others to follow in terms of accountability. He looked forward to working with Mr. Gissiner and to better understanding the review process. Chief Skinner hoped through the process, they preserved the brand and reputation of EPD, while building community trust.

Mr. Denner said CRB was happy to have Chief Skinner at the meeting, and added he was always welcome. Mr. Denner said he received an email from National Association for Civilian Oversight of Law

Enforcement about a fall training, and it struck him that for those relatively new to CRB, the training could be useful. He added the training was in Seattle, WA. He asked if Mr. Gissiner planned to attend. Mr. Gissiner did not.

Mr. Gissiner explained the process of CRB, in regard to meetings and material received by members.

## **6. TRAINING TOPIC: PROFESSIONAL STOPS UPDATE**

EPD Lt. Ron Tinseth provided an update on professional stops. Lt. Tinseth explained program goals were to be minimally intrusive, to have 100% participation, and to ensure accuracy. He explained officers had to ensure they tracked qualifying stops. Qualifying stops were a person or traffic stop; they were not a dispatch duty, or a reported crime. It was when the officer observed a violation, and took action based on their discretion.

Lt. Tinseth explained House Bill 2355 (HB 2355) was enacted on August 15, 2017, and it required all Tier I police agencies to report to the state their racial profiling stops by July 1, 2018. Lt. Tinseth explained he was lucky enough to participate on the advisory committee for HB 2355 for the state of Oregon. The committee met monthly.

Lt. Tinseth said HB 2355 included all traffic and all person stops. They collected data in the Computer Aided Dispatch (CAD) system, and there was automatically a computer mask for the officer to complete later. The mask was fairly short and they could complete the form then or later in their shift, if needed. The form asked minimally intrusive information and was quick to enter. Officer submitted the form in same way they would submit an arrest report.

Mr. Hargreaves thought about foot patrol officers downtown; he wondered if those forms popped up on a cell phone. Lt. Tinseth responded he would address the question later in his presentation.

Lt. Tinseth shared a slide of the screen officers saw in their car. He explained part of the form was automatically filled out with information, such as the officer's name and badge number. The officer filled out details around the purpose of the stop and the demographics. Mr. Gissiner wondered if officers asked people for race. Lt. Tinseth said no, officers filled the form all based on the officer's perception. Lt. Tinseth added the form collected results of the stop, and the form was consistent with state standards.

Mr. Roseta asked if officers had options from a drop down menu. Lt. Tinseth confirmed they did use drop down lists. Mr. Gissiner wondered if there was a field for passengers. Lt. Tinseth said yes, and directed CRB members to where the demographic area for passengers was entered. However, he added it was originally built for traffic stops only, so for foot patrol downtown, officers often contacted multiple people; in those instances, only the first person stopped would have their information taken. Then, if other persons had a reason to be searched, the officer would input their information.

Lt. Tinseth explained challenges to input information included non-tablet users downtown (foot patrol), because they didn't have an immediate way to complete data entry; it had to be done later at the office. Foot patrol officers could be provided with tablets, so EPD was looking at methods to easily remember crucial information, in order to return to the office later and enter data.

Lt. Tinseth said every day, he received an audit of each stop made, which were then reconciled with matching reports. If any reports were missing, the officer and Lt. Tinseth received an automatic notification. EPD was approaching 5,000 stops for the year; as of then, there were only 10 or 15 reports not turned in or that needed to be amended. In response to a comment from Mr. Hargreaves, Lt. Tinseth said the duties were given to him when he was a watch commander and the project followed him throughout positions.

Lt. Tinseth said from time to time, dispatch put an officer on a wrong call. In that case, officers could use an error box on the form. Then, those records were not reported to the state. He shared a slide of the automatic notifications shared to officers. Mr. Gissiner asked how often EPD reported the records to the state. Lt. Tinseth responded annually, but EPD planned to report monthly. He provided a summary of the previous month's reports.

Mr. Gissiner asked if there was any link between the system and the law enforcement contacts committee that did racial profiling complaints. Lt. Tinseth said no. Lt. Tinseth said when it went through the lawmaking process, it was designated to the criminal justice commission. Lt. Tinseth shared the daily report he received. Ideally, the auto-emails encouraged officers turn reports in. He thought as the process became more engrained in culture, everyone would be doing reports and they would become second nature.

Lt. Tinseth said the reporting format was ready to be synched with the state. He explained all reports were automatic. They were scrubbed of the officer's ID and they were exempt from public records when reported to the state. Ms. Marek asked if there was any numeric identifier to track so that if there was a pattern someone could know. Lt. Tinseth said EPD knew both. They would consider data internally.

Mr. Denner asked how motorcycle officers were inputting information. Lt. Tinseth said it was intended there would be e-ticketing but they were behind. Lt. Tinseth had put in a request for funding for the motor team to purchase tablets. He was hopeful that by the end of the year, would find money for the investment. Chief Skinner was frustrated that the capacity was there for e-ticketing but wasn't being utilized by EPD. He wanted to improve efficiency and workflow. They hoped to use unexpended funds on priorities like tablets for downtown and motor officers.

Mr. Roseta asked if the legislature helped fund departments. Lt. Tinseth said no, they provided \$250,000 and provided funding for a contract on data such as an iPhone application. The state believed it should be a representative sampling as opposed to a 100% count. Lt. Tinseth said EPD had different standard than that; transparency and 100% participation on reporting was important.

Ms. Marek noted the 2017 legislation included homelessness, so she wondered if EPD tracked housing status. Lt. Tinseth said they did not, but EPD did track zip code of residency which was important with areas having seasonal fluctuation, such as Seaside or Bend. EPD chose not to do track that data because Portland was not; it wasn't required to track people's zip code, and they thought it would open argument that officers could be picking on the homeless. Officers would then collecting actual information rather than collecting their observations.

Mr. Denner noted EPD was likely about year from having massive data; he wondered if there was any plan to share data with leadership. Lt. Tinseth said EPD would get methodology from the Criminal Justice Commission (CJC) but EPD could also do their own reporting. The first CJC report to the legislature was not until 2019 so they would collect data throughout the year. Mr. Denner thought if they would be in position to act on data. Lt. Tinseth said there would be statewide report; EPD could do other things with their data and he was unsure if they would, as those decisions hadn't been made.

Chief Skinner provided some background and explained in the late 1990s, Hillsboro was one of the first agencies statewide to track professional stops data. One successful practice was to consider whether officers were stopping a disproportionate amount of minorities to the population served. Chief Skinner thought it would serve EPD well to do a check in annually and possibly release an annual report. It was an easy data dump to do because EPD could look at census data for a baseline, and compare whether stops are healthy or disproportionate. Mr. Denner thought if a report were complete, it would be good to share it at a joint meeting of PC and CRB.

## **7. BREAK**

CRB took a break from 6:15 p.m. until 6:28 p.m.

## **8. CASE REVIEW: ALLEGATIONS OF EXCESSIVE FORCE, DISCOURTESY, AND UNCONSTITUTIONAL ARREST**

Ms. Pitcher provided a narrative on the case. The PowerPoint was not presented at the meeting due to technical difficulties.

- Summary of Facts
  - Officer A witnessed a man push a woman to the ground in a parking lot. Officer A contacted the woman (Reporting Party 2) while other officers detained the man.
  - Reporting Party 2 tried to walk away from Officer A and stated that she had fallen
  - Officer A ultimately informed her that he was investigating something and she was not free to go; he also instructed her to sit on a nearby curb.
  - Officer A asked Reporting Party 2 for her name several times; he later switched to asking for her ID.
  - Reporting Party 1 approached the scene and was stopped by Officer B.
  - Eventually, Officer A changed tone with Reporting Party 2 and told her to shut up. He then stated, "Give me your ID, or you'll be arrested for interfering." He repeated this statement and then grabbed Reporting Party 2's wrists and ultimately placing her in handcuffs.
  - Officer A continued to ask for Reporting Party 2's name and reiterated that if she did not give him her name, she would go to the jail and be arrested for interfering.
  - Officer A placed Reporting Party 2 in the back of his patrol car. Someone on scene offered to help her with her shoe, and Officer A stated "No, she didn't have to take it off."
  - Officer A asked Reporting Party 2 about weapons or contraband, and then asked if she wasn't going to answer him. She stated that she did not understand English. Officer A responded "Yes you do, you answered tons of questions that I asked you in English."

Reporting Party 2 later asked Officer A if she could ask him a question. Officer A replied “You can’t ask me anything if you don’t understand English, right?”

- Reporting Party 2 was eventually taken to the jail and lodged for interfering.
- Meanwhile, Officer B was interacting with Reporting Party 1. She was asking what was happening, and he initially attempted to explain, but the conversation was not constructive. Officer B ordered Reporting Party 1 to walk away, and she replied that she wouldn’t.
- As Reporting Party 2 was being taken into custody, Reporting Party 1 began yelling and telling the officers to stop. Officer B told her to stop and stated that she was interfering with the police.
- Reporting Party 1 moved towards Officer B’s right side. She stated “Don’t touch me” and Officer B repeated his order for her to walk away. Officer B then began to physically move her away from the location of the arrest (which appeared to be approximately 5 feet behind him).
- Officer B and Reporting Party 1 moved together approximately 15 feet (with RP1 moving backwards), at which point Officer B pushed RP1 and she fell backwards.
- Reporting Party 1 was eventually cited for interfering.
- A supervisor was called to the scene to intake the Reporting Parties’ complaints.
- The women also came to the Auditor’s Office, where we conducted another intake interview.

- Allegations

- Officer A:
  1. Courtesy: that Officer A was discourteous to Reporting Party 2 during her detainment and arrest
  2. Search and Seizure – that Officer A violated Reporting Party 2’s constitutional rights when he arrested her and lodged her at the jail.
- Officer B:
  1. Use of Force – that Officer B used excessive force when he pushed Reporting Party

Mr. Roseta said the incident happened downtown at closing time for bars. Everyone seemed to be affected by alcohol to some degree. RP 1 was irrational and aggressive, and the use of force was not excessive. He said the person ultimately charged claimed the officer pushed her, but he thought from the body camera footage he observed the officer grabbed her sleeve and kept her from walking away. Ms. Pitcher offered that RP 1 was ultimately cited for interfering, but was not arrested. There was excellent body camera footage from both officers and bystanders. Ms. Williams added RP1 repeatedly called RP2 her sister. Ms. Pitcher thought they were cousins. Ms. Marek noted there could have been some language barrier.

Mr. Denner said RP2 kept denying the altercation with the male, and did not offer any explanation other than her shoe caused her to fall. Even once in custody, she did not offer an explanation. Mr. Denner said it was closing time for bars, and the officers thought there could likely be a crowd gathering and some kind of event could occur if many people were intoxicated. Mr. Denner went through the timeline of events on the body camera. Mr. Denner thought it was a rush to judgment by the officer. Mr. Gissiner clarified the officer saw her get pushed to ground, so they only had the male’s report. Mr. Gissiner said the male was

arrested for possession of cocaine and disorderly conduct. Ms. Marek said the situation with the male was not very relevant.

- **Officer A complaint:**
  - Complaint Intake and Classification
  - Classification: Allegation of Misconduct

Ms. Marek did not have concerns about intake and classification; however, she was curious about search and seizure policy and if it was adequate. Ms. Pitcher recalled search and seizure policy discussed seizure of persons as well as things, but the policy focused a lot on whether there was a search warrant and seizure of items. To her, the constitutional rights policy seemed more applicable for seizure of people. Ms. Marek wondered if it was an area the policy could improve. Ms. Pitcher said yes; it was looked at when she first started eight years ago but could be further revised. Additionally, she thought wording could be improved within the section around constitutional rights.

Mr. Denner had an issue with intake, and said the situation started as an event that should have been entered into Blue Team because there was report of an injury. The report was not taken or not submitted by the supervisor, however, he believed the issue was dealt with. Then, the summary dismissed allegations against both officers as unfounded and was approved by a lieutenant and captain.

Mr. Hargreaves said he didn't know enough about internal processes, but he agreed and was struck that the case made it all the way to acting chief before anyone caught it. Mr. Denner thought the police auditor saw the report and asked them to enter it in Blue Team. Mr. Gissiner explained that Blue Team was the cornerstone of EPD's reporting system; had the auditor not received a citizen complaint, he suspected it wouldn't have risen to surface.

Mr. Roseta asked what required entry into Blue Team. Mr. Gissiner said use of force or claimed racial profiling were automatically entered, for example. Mr. Roseta clarified the reporting party complained about hitting her head. Mr. Hargreaves said within the memorandum, it said they did not concur with the sergeant's adjudication. Mr. Denner said intake and classification did not occur at the supervisor level, where he believed it should have. Ms. Pitcher said there was discussion around whether the sergeant's actions should be addressed as a performance issue or misconduct.

Mr. Roseta said the case was classified a search and seizure but it was an arrest case. He thought the analysis concerning the search and seizure was unhelpful. Ms. Marek said stops and arrests were technically search and seizure cases for seizure of a person, and clarified the constitution protected people from unreasonable arrest. Mr. Roseta said to him, search and seizure meant the ability to go look for and take something as evidence. Ms. Marek agreed, but clarified there were two different types of seizure. Mr. Gissiner said the two areas were blended in the policy manual when they should have been bifurcated.

Ms. Pitcher said there were multiple policies that could have been relevant. To her, a search and seizure policy should include arrests. Current EPD search and seizure policy focused on items and didn't really address arrest. There was a separate arrest policy, but again, Ms. Pitcher found wording problematic. Ms. Pitcher thought the blanket constitutional rights provision seemed more applicable. Mr. Roseta said for purposes related to the court, search and seizure protected individuals from evidence wrongly seized.

Ms. Williams said to her, it didn't matter as much what the classification was, because it was clear something was handled inappropriately. She thought it was a gray area. Mr. Denner agreed, and explained as he was considering the case, he viewed it as a lawful or unlawful arrest.

- Complaint Investigation and Monitoring

Mr. Hargreaves said there were lots of reports from various people, and he thought that was the core of the problem. Mr. Denner ended up taking all of the different memos and considering them chronologically, starting with the incident on September 17, 2017. There was reference in the notes about the watch commander reviewing the report that evening but he did not believe anything happened because the files were returned without comment. Mr. Denner thought that was a bit of an issue.

Mr. Denner said the internal affairs sergeant did a good job of organizing facts so the information could be flushed out. The sergeant's report was initially rejected from chief; within a week, Ms. Pitcher's memo was delivered and gave legal framework to the case. Mr. Denner did not have a problem with what IA did, but thought it was enhanced with Ms. Pitcher's analysis. Mr. Denner was okay with his little concerns, however, he didn't like that he saw the body camera footage but was unable to hear the car audio. He had a file but could not open it. Mr. Roseta noted the patrol sergeant thought the officer's actions were within policy. He had some disagreements with the findings.

Ms. Marek thought the police auditor's office handled the case well. She liked the analysis, and shared that even after being a member on CRB for a while, she was still learning how internal investigations worked. Ms. Marek thought the interviews were also good. Mr. Roseta said body cameras were extremely helpful, although there were times audio was cut off for tactical discussion. Mr. Gissiner said the compliance rate on body worn cameras was far greater than he originally expected. Mr. Roseta thought as time went on, officers would probably see body worn cameras helped protect officers, too. Ms. Williams also thought the footage was helpful for the officers in this case.

- Relevant Department Policies and Practices
  - 1101.1.B.7 Courtesy
  - 322 Search and Seizure
  - 1101.1.B.6 Constitutional Rights

Mr. Denner said there was an accusation against Officer A of not being courteous. Ms. Williams asked if CRB should discuss Officer A then B. Mr. Roseta thought the policy could be relooked at as it was fairly general. With respect to search and seizure, the policy was fairly straightforward. Mr. Gissiner said the Police Auditor said the search and seizure policy covered arrest of persons for three lines, defines probable cause, and then jumped back to discussing property. He thought there was an opportunity to tighten that area of the policy. Mr. Denner suggested Mr. McIntire discussing the policy at PC.

Ms. Williams thought policies and practices seemed inconsistent, when compared to the similar April 2018 case. She noted in that case, the report said alcohol could heighten emotions, so they removed a female from a potentially dangerous situation. Ms. Williams wondered why police officers did not do same thing for RP 2 in May's case. She pointed out in a memo from January 25, 2018 said constitutional rights would have been a more relevant policy. Ms. Pitcher explained it was up to the chief whether they wanted to change the original policy violation listed or not. Ms. Williams thought there should be more clarification between policies.

Ms. Marek thought she understood the issue with the search and seizure policy, but she also thought it fit with the case. Mr. Hargreaves agreed with Ms. Pitcher and thought an important distinction was the situation started out as detaining a victim/witness to get information. It was not seizure at that point. The police had a right to temporarily detain someone to get information, and that was different than seizing them. Mr. Hargreaves thought Ms. Pitcher provided a proper constitutional analysis.

Mr. Denner thought the animated behavior of RP 2 accelerated the emotions of Officer A and he began to hurry. In addition, a supervisor was on the scene because of a potential injury. Mr. Denner was not letting Officer A off the hook, but in addition to documenting the injury, there was a time for a supervisor in the field. There was a delicate balance; sometimes supervisors wanted to let people go ahead, make a mistake, then correct it – but other times, supervisors wanted to interrupt the action and keep the situation from getting worse. Mr. Denner said there were about six or seven minutes where body camera was muted and that was when he thought the discussion should have been taken place, but he did not think it did. The officers gave a citation to one person who put hands on an officer, and custody of another person for being belligerent. Mr. Hargreaves disagreed and said he would use the word resistant instead of belligerent. Mr. Denner thought there was some discussion about blue team report later, and that was where he had a problem with the practice in the field. He knew it could be difficult for supervisors out in field but he thought the moment begged for attention.

- Policy and/or Training Recommendations

Ms. Williams thought more clarification on the policy would help. Ms. Marek noted that Ms. Pitcher's memo recommended a training on legal developments around what constitutes interference; she thought that was a good idea and could be helpful. Ms. Marek thought training could also include what was required of a person during a stop, such as whether they had to identify themselves. She was concerned about the way Officer A spoke about the altercation between RP 2 and the man. Officer A had said in his experience either person could be responsible; he seemed to have a mindset that as a victim of violence, RP 2 was suspect of criminal activity simply because she was involved in the incident. Ms. Marek thought it was a problematic orientation to have around the situation and thought it discouraged victims from reporting if thought they would be under suspicion. Ms. Marek added it was particularly important when interacting with folks who may be immigrants. She thought cultural competency training on domestic violence and immigrants would be beneficial.

Mr. Hargreaves said from watching, listening and reading, he came away from the situation with a sense that Officers A and B did not understand the law around interference or around disorderly conduct. As Ms. Pitcher pointed out in her memo, the Oregon Supreme Court made it clear that people cannot interfere by being resistive to officer's inquiries. It took a physical action to actually interfere with what an officer was doing. RP 2 clearly did not fall into the category that Officer A was trying to put her into, and she also clearly did not fall into disorderly conduct either. There were specific requirements, and her actions were not close to statute. Mr. Hargreaves thought both officers were completely off base, and that led him to question whether EPD as a whole understood what the statutes required. He got the sense the policies were catchalls when something happened. The laws were not catchalls – they had very specific requirements, which RP2 did not meet. There was need for training around those particular statutes.

Ms. Pitcher received an email that a specific case on passive resistance had been included for in-service training. Mr. Denner knew at one time the statutes were trained pretty carefully. Mr. Hargreaves said a case came out in 2017 which had expanded and clarified the law, but prior to that time there were issues.

- Adjudication Recommendations

Mr. Denner thought the adjudications came out correct, but the way EPD reached them was unfair to the citizens and the officer who made a mistake in the field. However, sustaining the allegation was correct. It did not make things any better for RP2. Mr. Denner thought they could use a more precise term like unlawful arrest. Mr. Gissiner explained the Police Auditor had to stay within language of the policies.

Mr. Roseta said context was important; the case law was meant to protect defendants. He disagreed with the use of the case law to indict police officers for the actions in the field, when what they were doing in cases was trying to protect the defendant. Mr. Roseta cited the State of Oregon v. McNally Case (2017) and said passive resistance was decided by juries, not officers at the time. He thought for CRB to consider whether passive resistance should be considered by police officers was inappropriate use of CRB powers. In addition, he had issue with whether or not CRB should talk to the city prosecutor about why she did not file charges. Mr. Roseta thought relying on what she had to say was inappropriate and should not affect CRB discussion for how the case was handled. What should be taken into consideration was what the officer knew at the time, and what he thought happened that night. Mr. Roseta added the chief did not consider the case in context; cases cited in the adjudication all regarded traffic stops. He vehemently disagreed with the chief's adjudication, and respectfully disagreed with Ms. Pitcher's analysis that there was a violation.

Ms. Pitcher had a similar concern around State of Oregon v. McNally (2017) when writing her analysis. Her central concern was she would not look at the case and see probable cause for interfering. Mr. Roseta pointed out she was not a reasonable police officer, and did not think she could substitute her judgement. Mr. Denner said the Police Auditor and CRB had a role to look at conduct and help department do a job day to day. He asked Mr. Roseta what type of analysis they should do and what would be helpful to the department. Mr. Roseta said criticism of the police officer for what he thought was a reasonable arrest wasn't helpful, as it was a question that should be decided by a court. Mr. Hargreaves disagreed, and believed one thing officers were expected to do was to have substantial knowledge of law and what constitutes various offenses while they were doing their job.

Ms. Marek commented that juries decided facts, but what constituted reasonable suspicion or probable cause was a question of law. She said what could constitute interfering with a police officer was a question of law as well, not only the jury. She commented that even though these kinds of cases came up in motion to suppress evidence, search and seizure was only one way to vindicate evidence.

Ms. Marek concurred with the courtesy adjudication. She highlighted some of the things the officer said to RP 2, such as "shut up" and that she didn't make sense. Ms. Marek said the things the officer said were unprofessional, unhelpful and unnecessary, as well as culturally insensitive. In addition, he was badgering a suspected victim of violence.

Mr. Denner commented in the intake interview with Officer A, the question about ethnicity or race was never asked. Mr. Denner had received trainings in bias and prejudice, and the assumption was generally

made that bias occurred in the mind of the victim. It was how they perceived they were being treated that became the reality. Mr. Denner said by EPD not asking either RP or officer if ethnicity was a question in the case, that CRB could leave that one off the table. He would have liked it to be asked.

- Officer B complaint:

Mr. Denner moved onto RP1 and Officer B. Mr. Denner described the case. He asked if Officer B was interviewed. Ms. Pitcher responded yes. Mr. Denner said Officer B's perception was to keep RP 1 from getting too close to the interaction with Officer A and RP 2. There was a question on the use of force, because as Officer B approached RP1 she put out her hand and touched him on vest; he swept her hand away, puts his hands on her shoulders, and she falls to ground which brought use of force into the case.

- Complaint Intake and Classification
  - Classification: Allegation of Misconduct

Mr. Roseta thought intake and classification was done appropriately, as did the other CRB members.

- Complaint Investigation and Monitoring

Ms. Williams thought investigation and monitoring was done well. She said RP1 went to urgent care and had a concussion, so she thought good follow up was done. Mr. Denner asked if she went to Urgent Care the following day. Mr. Gissiner was unsure, but thought she went within 24 hours. Mr. Gissiner said it seemed better to have someone assess her to be sure, especially if she was inebriated. Ms. Williams thought there were medical records included in the file. Mr. Roseta did not think so. Mr. Denner did not have any question about the decision to issue a citation for her putting her hands out.

- Relevant Department Policies and Practices
  - 800 Use of Force

Mr. Hargreaves said when watching the situation, he thought it was a close call. It did not look like Officer B intentionally pushed her to ground, but he wondered if it was necessary to push her so hard. Mr. Denner said he was likely trying to create space for conflict. Mr. Roseta noted there was an officer in the recent past being injured downtown in the same parking lot, so he didn't blame him for wanting space.

- Policy and/or Training Considerations

Mr. Hargreaves reiterated that it appeared neither officer knew the statutes. It was a training issue for everyone. Mr. Denner said he would like someone, such as IA sergeant or field sergeant, to participate in that muted discussion and to have it become part of the report.

Ms. Williams was unsure that both officers should be lumped in the same category. Mr. Denner agreed, it would have been clearer if the accusations were separated.

- Adjudication Recommendations
- Additional Comments/Concerns

Ms. Marek agreed that it was a close call. She concurred there was insufficient evidence, said it was not apparent in the video that there was a safety risk by RP1. Ms. Marek said RP1 seemed like she was yelling but not trying to push forward. Ms. Marek wasn't surprised at all the woman had a concussion because she was pushed hard. She did not think the excuse of officers being hurt in the same parking lot before was a valid excuse. Mr. Denner clarified Ms. Marek thought the officer's action was within policy.

Ms. Marek responded she did not think it was clear; she thought there was insufficient evidence. Mr. Hargreaves agreed with Ms. Marek. He did not have an issue with the officer separating the woman, but it was a question of using more force than necessary. Mr. Hargreaves could not tell whether he did or not.

Mr. Denner thought Mr. Roseta's comments were true, about judging the officer when they were not on the scene and in their shoes. Mr. Denner was concerned about what RP1 would do next, when she reached out and put her hand on his officer vest, near the officer's Taser. Ms. Marek thought the officer touched RP1 first. Mr. Hargreaves said according to RP1, she got off balance and reached out to the officer but it seemed to be a misunderstanding. Mr. Denner said the officer thought she was going to run. Mr. Denner was okay with the adjudication.

Mr. Roseta said RP1 overstepped her bounds and gave may have given up some protections she would have had if she had been compliant. Ms. Williams agreed. Ms. Marek said probably at every meeting during her tenure, there was some iteration of Monday morning quarterbacking. She approached meetings as a citizen, and provided her perspective on whether case conducted conformed to expectations, but understood everyone had different expectations. Ms. Marek added she had no qualms with Monday morning quarterbacking, as it was part of the responsibility of CRB. She tried to understand the police perspective, but did not think CRB members were ultimately trying to put themselves in the officers' shoes. Mr. Roseta said what is reasonable under the circumstances had to be judged based on what the person saw. Ms. Williams said that when discussing policy and trainings, Monday morning quarterbacking was appropriate.

Ms. Marek said in the past, CRB discussed the importance of immigrant communities being comfortable with police. Prior in the meeting, she brought up a couple issues around domestic violence and why someone may not want to approach police, but she also thought it was important to think about other reasons why someone may not want to cooperate, such as immigration status. For individuals with different citizenships, it could have much different consequences. Rather than a criminal record, it could be deportation. Ms. Marek thought those were important things to be mindful of when officers were interacting with people, in order for police to be most effective and for community members to view them as a resource instead of threat.

Mr. Denner agreed and thought she made a good point – he thought domestic violence and race questions should be considered. It made the burden on the officer higher, however.

## **9. AUDITOR REPORT**

Mr. Gissiner told Chief Skinner CRB heard many cases about crime victims and situations where they thought they had been mistreated. There were several situations in which officers were unsure of the RP situation and he hoped Chief Skinner would look closer at those cases, because too often they came in front of the board. Mr. Gissiner thought sometimes compassion could improve a bit. He offered to look at past cases with him, and hoped it could be a consideration.

Mr. Gissiner said the new board member process was underway. Mr. Roseta had reapplied, and City Council was supposed to make their first round of choices in April 2018. He was unsure of when interviews would be but likely mid-May 2018. They usually reappointed people interested.

Mr. Gissiner said the review process for himself would be sometime between May and June 2018. CRB members would receive information from Human Resources. He hoped CRB would take time to consider work the entire team did. Mr. Gissiner said there had been 3,254 complaints in the nine years he had worked there. Ms. Cox had input most of those cases; the team had done a lot of good work and he appreciated everyone's efforts. Mr. Gissiner concluded that hopefully, under Chief Skinner lead some of the customer service type issues could be dealt with by supervisors and EPD rather than the Police Auditor's office.

Mr. Gissiner thanked Ms. Pitcher for her work on the case. The Police Auditor's Office worked hard to sort out the case, and he thought they ended up at a good place. Mr. Roseta noted his comments that evening were not directed toward Ms. Pitcher at all, he simply disagreed. Ms. Pitcher appreciated feedback, both constructive criticism and positive. Mr. Denner thought the candor and flow of CRB was going well, and he thought members had been very thoughtful.

**10. ADJORN**

Mr. Denner adjourned the CRB meeting at 7:56 p.m.

*(Recorded by Marina Brassfield, LCOG)*