

AFFIDAVIT OF EDEN SAAB

I'm Eden Saab, and I'm 51 years old. In my day job, I teach history and social studies at Burrough High School here in Rowe. That's not quite why I'm here, though. For the last 15 years, I've been the chair of Chinook County's Citizen Review Committee, which we call the "CRC" for short. I've long had an interest in how the police operate, in both an academic sense and, tragically, a personal sense. When I was seven, my mother was driving home from work one evening, turned onto the highway, and found herself caught in the middle of a high-speed police chase. She ended up getting run off the road and sustained a serious spinal injury. Thankfully, she made a full recovery, although it took several years. We never were able to figure out exactly what happened — that was long before the days when news helicopters would film those sorts of things — but, ever since, I've found myself wondering whether the police could've done something to prevent the accident. In a nutshell, that's why I decided to join the CRC.

The CRC's basic role is simple: we're an independent quasi-governmental body that conducts civilian oversight and investigates allegations of misconduct involving Chinook County's police, including (but not necessarily limited to) the Rowe Police Department. Following an investigation, we issue findings and, if we decide that misconduct has occurred, we recommend disciplinary measures for the officer or officers involved. We're an independent body, and when I say we're "independent," I mean it: the CRC is a creature of the Chinook County Commission (it was created as a result of a resolution they passed back in 2001) and not the Rowe Police Department itself. That means we answer not to the police, but rather to the County Commissioners and, indirectly, to the citizens who elect them. Also, we're all volunteers, so it's not like we've got a financial stake in any of the findings we issue.

I'd say I'm pretty well-qualified for my role as the CRC's chair. I have a B.A. and an M.A., each from the University in Oregon and each in history. My master's thesis focused on the emergence of "modern" American police forces in the early 1900s. As I'll explain further in a moment, I also regularly provide training to police departments around Oregon, including the Rowe Police Department, on conflict-resolution strategies and community-based approaches to policing. I'm also intimately familiar with the academic literature on best practices for policing, and, in fact, I've occasionally contributed to it. Articles I've written have appeared both in scholarly journals like *The American Journal of Police* as well as major newspapers like *The Rowegonian*. Beyond that, I've testified as an expert witness seven times in civil trials involving allegations of police misconduct; in six of those cases, I testified for the defense, and in the other, I testified for the plaintiff. The only caveat to all that, I suppose, is that I've never actually worked as a police officer myself. Still, though, since I've been thinking, writing, and teaching about best practices for police

1 departments for the better part of three decades, I'm confident that my views on the subject are reliable and
2 well-grounded in fact.

3 I became involved in this case when Jersey Jackson filed a complaint with the CRC regarding Jersey's
4 arrest by Marlowe Navarro. Jersey's basic complaint was that Officer Navarro had arrested Jersey in
5 retaliation for Jersey's exercise of Jersey's First Amendment rights. Right away, we let Jersey know that we
6 couldn't come to a conclusion one way or the other on that specific issue; we're not lawyers, and more
7 importantly, we really aren't able to determine what was going on in Officer Navarro's head at the time of
8 the arrest. (For that reason, I can't give an opinion one way or the other on whether Jersey's prior comments
9 to Officer Navarro had anything to do with the subsequent arrest.) Still, the CRC is there to serve the
10 community, so we agreed to investigate the arrest in a more general sense, with the goal of determining
11 whether there was anything improper or irregular about it.

12 In conducting our investigation, I personally interviewed Jersey, Officer Navarro, Danger Smith, and
13 Camden Buchanan. During those interviews, they informed me of the facts that appear in their affidavits in
14 this case, and nothing more. In my opinion, those interviews provided me with sufficient information for my
15 analysis. The principles and methods that I used to analyze those facts are reliable and well-accepted among
16 those who advise police departments on best practices, and I applied them reliably in this case.

17 Before I get into the nitty-gritty of this case, it's important to understand two general principles. First,
18 since about the 1980s, it's become clearer and clearer as a statistical matter that community-based policing
19 leads to better overall results. "Community-based policing" is a loose term, but it refers generally to an
20 approach to policing in which officers hold themselves out as partners with the communities they serve.
21 They're there not simply to arrest people who commit crimes, but rather to take a proactive approach to
22 solving problems. To put that in concrete (if overly simplistic) terms, a good police officer doesn't just sit
23 and wait on a street corner hoping to catch a litterer in the act; instead, she ensures that the public waste bins
24 on the corner remain clean and unobstructed. And, if the officer happens to catch someone littering, the
25 officer might simply engage the person in polite conversation and ask her to pick up her trash, rather than
26 issuing her a full-blown ticket.

27 Second, however, context matters quite a bit when it comes to community policing. It's relatively
28 easy to implement community policing when it comes to petty crimes and minor violations like littering or
29 jaywalking. It becomes a much harder job, though, in more volatile circumstances, of which making an arrest
30 in crowd is a prime example. Especially in a raucous setting like a protest, a concert, or a sporting event, the
31 specific circumstances in which the crowd has gathered can have a huge impact on the degree to which an
32 officer who makes an arrest is perceived as a community partner, rather than as an adversary. Consider, for
33 example, a sporting event in which a fan becomes unruly and begins to threaten others seated nearby. In

1 those circumstances, it's likely that the other sports fans will want their unruly compatriot removed. By
2 comparison, consider a public protest against misconduct by the police themselves. Even if a police officer
3 has probable cause for an arrest — say, for trespassing — and conducts the arrest appropriately, it's
4 nevertheless likely that the officer's intervention would be perceived as hostile and, in turn, escalate the
5 situation.

6 Where should officers draw the line? That's an extraordinarily difficult question, but it's one on which
7 the Rowe Police Department's policies offer an eminently reasonable middle ground. RPD Directive 0635.10
8 sets forth a procedure for its officers to follow when there arises a potential need to disperse a crowd. A true
9 and accurate copy of that policy is set out in Exhibit 2. The policy divides police action in group settings into
10 two basic categories. On one hand, for crimes that pose no reasonable risk of violence or damage to property,
11 Officers may make arrests only after giving the subject or subjects of the arrests at least two clear verbal
12 warnings and if there exists "no reasonable alternative" to de-escalate the situation. On the other hand, for
13 crimes that do pose such a risk, Officers may make only those arrests that are "reasonably necessary" to
14 protect the safety of others in the crowd. There's a common thread that runs between each of those rules:
15 when it comes to crowd control, RPD officers may take only those actions that are needed to ensure the safety
16 of the crowd.

17 As it turns out, I'm intimately familiar with RPD Directive 0635.10, because I recently delivered a
18 training session to a group of RPD officers how best to implement it. The training occurred on January 7,
19 2020. Officer Navarro was in that group and seemed actively engaged during our entire session. During the
20 training, I went over the full contents of RPD Directive 0635.10 in detail, went over the same points about
21 community policing that I make above, and discussed how that concept should influence the way in which
22 RPD officers implement the directive. I also explained that RPD Directive 0635.10 was an official RPD
23 policy and that an officer's failure to abide by it could lead to official discipline. During a question and
24 answer session toward the end of the training, I recall that Officer Navarro offered a comment and a question.
25 "You know," Officer Navarro said, "we had a protest at the Digby last month, and some of the protesters
26 really got in our faces. What's the best way to de-escalate that sort of verbal abuse?" Officer Navarro seemed
27 calm and genuine in asking the question. In response, I indicated that RPD officers should generally keep
28 their distance, except in cases where an officer perceives a threat of violence or property damage. Officer
29 Navarro nodded thoughtfully and indicated that Officer Navarro understood and appreciated my response.

30 In my expert opinion, Officer Navarro's conduct during the January 15th protest complied with both
31 RPD Directive 0635.10 and more generally with the principles of community policing outlined above. By all
32 accounts, the crowd at the Digby was in an impassioned state, and Officer Navarro appropriately carried out
33 the advice I had given during our training session by politely asking them to move, rather than immediately

1 arresting them. Moreover, assuming Officer Navarro truly believed that Jersey was about to throw a rock
2 through the Digby's stained-glass window, Officer Navarro's arrest of Jersey in that moment was appropriate
3 given the setting and context of the larger protest. In particular, as I explained to Officer Navarro and the
4 others during our training session, violence and property damage are all but certain to enflame the overall
5 situation, whereas petty offenses and technical violations of law are not. I also explained that RPD expects
6 its officers to respond promptly to the former and to decline to make arrests or use force in regard to the
7 latter; RPD, I noted explicitly, requires its officers to approach crowd management with de-escalation as their
8 first and most important goal. Based on my review of multiple accounts of the January 15th protest, Officer
9 Navarro embodied those principles well.

10 I delivered my findings in May 2020 in oral testimony to Rowe's City Council. During my testimony,
11 I explained that there was nothing obviously improper about Officer Navarro's arrest of Jersey Jackson, but
12 emphasized that I couldn't say one way or the other whether Officer Navarro made the arrest in response to
13 Jersey's prior comments or any other of Jersey's First Amendment activities. I also noted that the other RPD
14 officers, including the incident commander on the scene, appeared to have violated RPD Directive 0635.10
15 by beginning to make arrests after giving the protesters only one warning. (As I noted above, RPD policy
16 required that officers provide a minimum of two warnings.) Many of the protesters began to disperse when
17 the arrests began, which tells me that the arrests themselves might ultimately have been unnecessary. At any
18 rate, I'm just glad the situation didn't turn out any worse.

19 I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear or affirm
20 to the truthfulness of its content. Before giving this statement, I was told it should contain all relevant
21 testimony, and I followed those instructions. I also understand that I can and must update this affidavit if
22 anything new occurs to me until the moment before I testify in this case.

23 s/Eden Saab

24 Eden Saab

25 Dated: October 16, 2020.

26
27 Subscribed and sworn before me on October 16, 2020:

28 s/Roberta Bost

29 Roberta Bost
30