

## Minutes – Citizen Review Board Meeting of July 27th, 2021

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**In attendance:** Sara Vaccarella (Chair), Danelle Dunphy (Vice Chair), Kevin Wu (Board Member), Eric Franklin (Board Member), Carl Crawford (Human Rights Officer), Laura Laaksonen (Human Rights Assistant), Blair Powless (Board Secretary), Laura Marquardt (DPD Deputy Chief/DCRB Police Liaison), Mike Ceynowa (DPD Lieutenant/DCRB Police Liaison)

**Not in Attendance:** Ken Kimber (Board Member), John Beyer (Board Member)

Meeting called to order at 5:33 PM.

Chair Vaccarella stated that the agenda order would be revised so that a community member who wanted to speak to the board could do so. Community member John Staine then addressed the board.

### **Community Comment (Formal Complaint Lodged)**

John Staine stated that he is a Duluth community member, Chair of the Duluth African Heritage Commission, and is an at-large board member of the local chapter of the NAACP. John stated that he wanted to formally lodge a complaint regarding an interaction that he had with two DPD officers on Friday, July 23rd at approximately 10:00 AM. The location was near the Happy Time Daycare at N 25th Ave W and W 2nd Street.

John stated that he works for St. Louis County as a property assessor and was assessing properties in the area with a co-worker at the time. When he and his co-worker arrived in the area at approximately 9:30-9:45 AM they noticed a man laying/rolling-around in the grass by the side of the road.

After assessing a few properties John and his co-worker witnessed a police car speeding (no lights, no turn signal) toward where the man had been lying in the grass. They then saw that another officer was already on the scene and that the man who was lying in the grass was being handcuffed. John then heard the officers tell the man that he was under arrest.

John then said to the officers, “Hey, I’m curious why he is being arrested.” Their response was that it was none of his business. John then told them that the reason that he asked was because one of the officers was speeding in an area where kids from the daycare regularly go for walks. John said that the man didn’t seem to have been doing anything wrong, and that he was curious as to why the man was being arrested. He was again told that it was none of his business and that the man being arrested probably didn’t want him to know why the arrest was being made. John told the officer that it was a matter of public record and that he was asked questions by citizens in his work, and that citizens have every right to ask questions.

One of the officers then asked John for his name, and he told them ‘John Staine.’ The officer then called his dispatcher and said that he wanted to add another person to the incident record, and that this

person (John) was interfering with an arrest. During this moment John and the officer were across the street from where the man had been arrested, and while they were talking the man was already in the police car. John then stated that the man was already arrested and in the police car, so he didn't see how the officer could say that John was interfering with an arrest.

John then stated that earlier in the conversation he had told the officer that he could contact Chief Tusken and ask him about the speeding.

The officer then asked John for his middle name. John told the officer that he would not give him his middle name, and that the officer was unwilling to answer his questions, so John did not see why he should answer any of the officers' questions. John then walked away from the officer. The officer kept asking him "What's your middle name, what's your middle name?" John walked away and around the corner and back to his co-worker.

The officer then came around the corner and asked John where he worked. John told the officer that he worked for St. Louis County Assessors Department, and then the officer walked away.

Later as John and his co-worker continued to assess properties, the officer returned and asked John's co-worker what the name of their supervisor was. The co-worker then gave the officer their supervisors name and let the officer know that their supervisor was currently on vacation. John then told the officer that he could contact their director and he gave the officer their directors name, but the officer did not acknowledge John's presence. John then said to the officer, "So I don't exist now? You're going to ignore me and talk to him?" Then the officer got in his car and the interaction ended.

John stated that the officer contacted John's supervisor. John stated that he did reach out to Chief Tusken and was told that he would be given access to the body cam video, and that they could see if the interaction was contrary to the mission statement of the DPD.

John then stated that his initial concern was (01) why the person was being arrested after just lying in the grass, and that maybe the person just needed some help rather than being arrested, (02) what was the severity of the situation that the officer needed to speed on a block where there are regularly children present, (03) and why did the officer feel the need to call John's supervisor and attempt to disrupt his workplace/employment.

John also stated that the officer was very upset with him, and that he feels that the interaction would have gone differently if he had not been wearing his work vest and work badge, and that if he were just dressed as a community member, that he would have been put in jail by the officer.

John then stated that (01) he feels that it is important that people recognize and address negative non-violent interactions with the DPD where there is aggressive behavior on the part of the officer and subsequent emotional distress suffered by the citizen and (02) if this officer behaved in this manner with him, how must that officer (a veteran officer) treat other people in the community.

Chair Vaccarella then thanked John for making his complaint, and then asked if the DPD (Liaison Laura Marquardt) could or wanted to make any comment. Liaison Marquardt stated that her understanding was that the CRB should then take the complaint to the DPD and aske them to investigate it.

Officer Crawford then stated that it was his understating that John needed to make a formal complaint to the DPD. Liaison Marquardt then stated that if John wanted his verbal complaint to be acted upon as a formal complaint then he could consider his complaint formally lodged through his addressing the CRB. Liaison Marquardt then let John know that she would turn the complaint over to her lieutenant who would be investigating the complaint, and that that lieutenant would be reaching out to John, walking him through the investigative process, and giving him access to body cam footage, etc.

John then suggested that community members would be more likely to bring their concerns to the board if Community Comment were moved to the beginning of the agenda. That would be respectful of community member's time.

Secretary Powless then spoke (01) in support of moving Community Comment to the beginning of the agenda. (02) He also made the point that bringing an experience like this into a public forum could be intimidating, and he thanked John for his willingness and bravery to share his story with the board. (03) Secretary Powless then asked Liaison Marquardt to clarify that a formal complaint could be made verbally at a CRB meeting. Liaison Marquardt then confirmed that the DPD accepts formal complaints through any manner of communication (verbal, written, etc.).

## **Police Liaison Report**

Liaison Marquardt stated that Liaison Ceynowa was unable to attend the meeting due to technical difficulties. She then asked if anyone had any questions about the reports that were submitted to the CRB, and stated that if she could not answer those questions that she would bring the questions to Liaison Ceynowa.

Secretary Powless commented the compliment to the DPD contained in the report from the DPD looked good and that it was good to see evidence of some of the positive interactions the DPD had with citizens. He then asked about a complaint that had been described in a previous report where an officer had been found, through the complaint investigation process, to have been disrespectful or unprofessional with a citizen. He said that he would like to see more detail as to what the disrespectful or unprofessional behavior was, and specifically how the officer was counseled/coached by his superior. He said that he would email the report to Liaison Marquardt (Secretary Powless emailed report to Liaisons Marquardt and Ceynowa on 08.11.21). Liaison Marquardt said that she would discuss with Liaison Ceynowa, and that they would consider how they could give a better description about instances where complaints are substantiated, and that she would look into the particular case once Secretary Powless sent her the report.

Vice Chair Dunphy asked about discussing an issue that was brought to her by a community member. Chair Vaccarella state that the discussion of questions/complaints from community members should be brought up in the Public Comments section of the agenda.

Officer Crawford stated that he thinks that it is important that when DCRB members receive questions or complaints from citizens that that information (01) be captured in a way that can be both followed up on, and that (02) it is documented in written form. Vice Chair Dunphy stated that when citizens come to her with a question or complaint, it is often because they do not want to give their name. Officer Crawford made the point that the information needs to be formalized somehow so that he and/or the DPD can act on the complaint. He also stated that perhaps citizens could make their complaint anonymously, and that he wants to be sure that all complaints can be investigated.

Liaison Marquardt stated that complaints can be made anonymously. The only requirement is that enough information and detail is given that the DPD can look into the matter. That could potentially identify the person making the complaint, but it wouldn't necessarily, because the DPD would not know who, out of all the people involved, was making the complaint. A complaint can be made anonymously, and it can stay anonymous, and it will at least be information that the DPD can look into and assess the situation and take corrective action.

Vice Chair Dunphy described a situation where a family from St. Paul, MN were attempting to find a member of their family that went missing from St. Paul. That family member had been last seen in Duluth. The family filed a missing person report in St. Paul, and then also traveled to Duluth to file a missing person report as well. The DPD spoke with them on the phone, but refused to meet with them in person. The family then hired a private investigator who then quickly discovered that their missing loved one had been murdered, and found the body up the shore from Duluth. Vice Chair Dunphy felt that the DPD should have met with the family in person and created a report on the issue.

Liaison Marquardt stated that she would look into this, but also stated that jurisdictionally the laws are clear that DPD would not be able to take a report or do anything about that matter. She stated that she thinks perhaps DPD could have discussed the issue with the family differently and presented the information differently, but would need to look into it further. She said that St. Paul could have reached out to DPD for assistance, but that DPD could not do St. Paul's job for them. She stated that she will review what she can about the matter.

Vice Chair Dunphy responded by stating that she felt that when someone comes to DPD with such a drastic circumstance, that meeting with them in person and helping them navigate the system would have been a better way for DPD to respond. She suggested that training around how to deal with families in tragic situations might be appropriate.

Chair Vaccarella stated that she agreed that even if there is nothing that the police department can do, that they could at least be a voice of support and that that is part of what we see from the police department. When there is a tragedy, and police are the people we go to for help, to be shut down can be very invalidating. She suggested that DPD be prepared to at least offer guidance and support to people in like situations in the future.

Liaison Marquardt stated that she agreed, and that the expectations that the DPD Chief had of her was that as a Deputy Chief she would help people navigate such situations, and that she would look into this further and take corrective action.

Chair Vaccarella stated that she has received community reports of police officers flashing their lights to pass through intersections, and then turning them off and going about their business. She asked that Liaison Marquardt help the group understand what reasons there may be for why this is happening.

Liaison Marquardt stated that with certain types of police calls, if an officer can use their lights to get through an intersection, and it is safe to do so, doing so is a normal police practice. It is a way to expediate response to a call without making it a code three where the officer would be making everyone move over. She stated that statute allows for that, policy allows for that, and that there are a lot of calls that could fall into that category. She also stated that using their lights to get through an intersection, but not making everyone stop and move over, is an attempt to avoid possibly endangering the public.

Chair Vaccarella stated that that was helpful for the board to know that that is part of standard practice.

### **Approval of Minutes**

Board Member Wu made a motion to approve the minutes from the June 22, 2021 DCRB meeting.

Secretary Powless seconded the motion.

Chair Vaccarella asked if there was any discussion related to approval of the minutes, and, hearing no discussion, called for a vote on the motion.

All members present voted to approve the minutes, and the motion carried.

### **Announcements**

Officer Crawford stated that the DCRB may be returning to in-person meetings next month.

Board Member Wu asked if Officer Crawford knew if the mask mandate would be reinstated. Office Crawford responded by saying that the COVID situation was continuing to develop, and that he could not say if a mask mandate would reoccur.

### **Executive Report**

No executive report

### **Committee Reports**

**Web Page Revisions/Updates** – Secretary Powless walked the board through a flowchart that he created that outlines how the web page revisions would look and function (see Appendix A).

Board Member Wu asked for more detail on what information the ‘Recording Your Interaction’ section would contain.

Secretary Powless stated that this section would outline for a citizen what their options for recording an interaction with DPD would be. He stated that this section would outline whether or not a citizen could request that their interaction be recorded with the officer's body cam, vehicle cam, and what is considered legal or appropriate use of your cell phone for recording an interaction with DPD.

Vice Chair Dunphy stated it depends on who you talk to regarding what your rights are in these areas, and that there are ongoing court cases that will determine the answers to these questions.

Board Member Wu stated that DPD will need to review the information before it can be published on the web site.

Secretary Powless stated that a final draft of the web page revisions would first be approved by the DCRB, and then would be reviewed for accuracy by both the City Attorney and the DPD.

Vice Chair Dunphy stated she believed that the DPD may have different ideas about what citizens rights and what some civil action boards may say are their rights. She stated that there are a lot of court cases currently attempting to define these rights, and that we should be very clear about that. She said that we should be very clear about what DPD specifically considers to be a citizen's rights: these are what DPD says are your rights, this is what DPD says are your limits. There is not consistent agreement on what a citizen's rights are. For example, the question 'What are treaty rights versus civil disobedience' is currently in litigation.

Board Member Wu asked how the web site will be kept up to date.

Secretary Powless stated that he hadn't considered that, but he believed that the city would be managing the web site for the DCRB. He also suggested that the board would need to review the state of the web site on some sort of schedule. He then said that the question of how the web site would be managed would have to be addressed moving forward.

Board Member Franklin asked who the intended audience of the web site is and what they would be attempting to understand by visiting the web site.

Secretary Powless stated that any citizen of the city of Duluth would be the target audience, and that what they would be trying to understand is what their rights are when interacting with the police.

Chair Vaccarella then asked if we would be allowed to post all of the data that we receive from the DPD in our meetings on the web site.

Secretary Powless stated that his understanding was that the data was public and could be seen and shared by anyone.

Chair Vaccarella then stated that she thought that all of the information we receive from the DPD being posted on the web site would be ideal.

Laura Laaksonen stated that she was not sure what public data required a formal request and what public data did not, but that she would investigate that question and bring an answer to our next meeting.

Liaison Ceynowa stated that this shouldn't need a formal request because the DPD has pulled all identifying factors from the documents, guided by the city attorney's office, and that that is the reason

that it is shared in DCRB meetings, and at that point it is public data. Once the DPD has given the data out, it can be shared and used by anyone in whatever manner they see fit. Usually, the DPD only makes enough copies for board members, but Liaison Ceynowa has been at DCRB meetings where copies have been distributed to citizens at DCRB meetings.

Chair Vaccarella asked Secretary Powles to find out how the people who are going to be managing the web site could receive copies of the data that DPD shares with the DCRB so that copies of the data could be posted on the web site in advance of each DCRB meeting. That way there is the opportunity for citizens to see the information that the board will see, and to be prepared to discuss that data, rather than being in the dark as the board and the DPD liaison/s discuss the data.

**Complaint Audit Process Update** - Members who are working on this (Ken Kimber and John Beyer) were not in attendance, so no update was presented. Board Member Franklin asked for a quick overview of the project, being that this was his first DCRB meeting.

In response to this question Chair Vaccarella stated that the DCRB has been working on a way to create some test complaints in order to assess how the DPD is handling complaints. Essentially auditing the DPD complaint investigation and resolution processes. It is hoped that community members outside of the DCRB could participate in the process.

## **Other Business**

**Racial Bias Audit Update** – Vice Chair Dunphy stated that the first meeting of the Racial Bias Audit Team (RBAT) had taken place, and that preliminary information was discussed. RBAT members discussed end-goals and what the team wants to know, and then to consider what they will need to ask for in the RFP (Request for Proposals) in order to get to the end-goals. The team is in the very beginning processes, brainstorming what results the audit should produce, and what kind of data the audit should collect. The next meeting of the team will be August 2nd.

Secretary Powless commented that an RFP is like a ‘want add’ that will be used to gather responses from prospective auditors. He also stated that the RBAT would then select an auditor from the group of auditors that apply.

Secretary Powless stated that he thought that the whole process could take some time, possibly a year or more, but Vice Chair Dunphy stated that she thought that it would take about six months to get the RFP written up and approved and then out to prospective auditors.

**Alternative Crisis Response** – Secretary Powless stated that he just wanted to bring this to the board’s attention. The NAACP and other police accountability organizations in town have been working to develop an alternative crisis response. Rather than having the police respond to mental health issues, addiction issues, and other non-violent issues, in other city’s they have an alternative crisis response

team. The teams consist of a mental health worker, a social worker who have a van and go out and instead of the police responding these people respond. This is in the works for Duluth right now. The NAACP has been holding meetings with the city, the police department, the fire department, and the county. He stated that he wanted to bring this to the boards attention as it will likely come across the boards collective desk in the near future.

Chair Vaccarella stated that she looks forward to that discussion.

**Follow up on Roberts Rules of Order (RROO) Discussion** – Vice Chair Dunphy stated that she has been attempting to contact Chelsey (city employee), but has not been able to connect thus far. She has no more information on whether or not we can use a different meeting governance model, or if we can use a combination of RROO and a Consensus model. She stated that Board Member Kimber had sent the board a link to a document outlining a Consensus meeting governance model at our last meeting.

Chair Vaccarella stated that her understanding from previous discussions was that we can develop whatever meeting governance model we want, but that we would need to modify our bylaws, which is a relatively simple process. She stated that we would need to decide as a group if we want the consensus model to be our standard, and when we want to invoke RROO at certain points. She stated that she did read through the consensus document from Board Member Kimber, and that she would be in support of making changes to the meeting governance style if that is what the rest of the board wanted to do. She then stated that one of the things that she liked about the consensus model is that it would allow the board to designate what the board would want as a super majority in the event that we could not come to consensus on an issue. She stated that the board still needs to conduct business, and shouldn't be getting stuck talking about an issue for months on end, because that could limit the board's ability to get work done.

Vice Chair Dunphy then stated that RROO are very cumbersome, where Consensus is more conversational and along the line of how the board usually functions. She stated that she does not like RROO and stated that it is Western-European centric, and not pertinent to the kind of work we want to do in diverse communities.

Chair Vaccarella suggested that discussion of this topic be tabled for discussion at next month's meeting. She stated that she thinks that Board Member Kimber and Board Member Beyer should be present for the discussion given their extended tenure with the board.

Vice Chair Dunphy agreed, and there was no further discussion of the topic.

## **Community Correspondence**

**Pretextual Stops Information from NAACP** – Secretary Powless stated that the local chapter of the NAACP share the following infographic with him (See Appendix B). He stated that this is an issue that the NAACP is discussing with the police department and the local community. He stated that this issue is something that he believes may come across the boards collective desk in the future, and that perhaps it



is something that the DCRB may want to do its own evaluation of in Duluth. He then read from the infographic, "A pretextual stop is when an officer stops a driver for a minor traffic violation in order to investigate an unrelated criminal offense for which they don't have evidence. Pretextual stops allow police officers to stop drivers solely because they look suspicious."

He stated that a pretextual stop would allow an officer could see someone and think that they look suspicious, and then use a minor infraction, say something hanging from the driver's mirror, to pull that individual over and pursue a search or other line of questioning regarding the more serious infraction/offense that the officer suspects.

He then stated that he believed that he had been, along with others that he knew, the victim of an abuse of the pretextual stop. He gave the example of an officer pulling someone over because the officer felt that that person didn't belong in that neighborhood, and then asking the driver why one of their tail lights was out.

He then read from the infographic, "Once stopped, black drivers were searched about 1.5 to 2 times as often as white drivers nationally, while they were less likely to be carrying drugs, guns, or other illegal contraband compared to their white peers." He stated that pretextual stops are a tool that the police have and can use, and that although he believes that there must be instances where this tool can be used properly, it also creates an opportunity for someone who is not using it properly, perhaps an officer who is racist or who is suspicious of people because of how they look or because of what their race is, to be pulling people over and in essence harassing them when there really isn't a good reason for doing that.

He stated that he didn't know if Liaison Ceynowa had any comment on this or not, but that it was an ongoing discussion, and that he personally believes that pretextual stops are a very important issue.

Vice Chair Dunphy stated that nation wide statistics show that Native American people are double that rate.

Board Member Franklin asked if this is a problem that the community has voiced, as far as community members going to the NAACP and making this a cause, or is this a greater initiative from the national chapter of the NAACP.

Secretary Powless stated that he did not know, and that he would ask a representative of the local chapter of the NAACP to clarify.

Board Member Franklin stated that he wanted to know if this is something that is occurring at harmful levels in the Duluth community and affecting people's lives on a day-to-day basis, or if it is more about the NAACP bringing awareness to the national issue.

Liaison Ceynowa stated that data on this issue is something that the DPD was not able to collect efficiently in the past or report out in the past, and that they have just adjusted their data collection system to capture this information, so the DPD does not currently have data that could set a baseline of evaluating the degree to which this is a problem in Duluth or not.

He then stated that, going forward, the DPD just created a form that won't tie a person's identity to the form, but will tie an incident number to it, and that from there the officer would be able to tie perceived race and reason for the stop, if a search was requested, if a search was conducted what was searched,

and whether an item was located or not to the form. He stated that this is a model that St. Paul has used for approximately the last nineteen years, and that the DPD went with this model because St. Paul has had the most success in Minnesota with reporting out what is going on with traffic stops.

Vice Chair Dunphy then asked if the only data that the DPD will be collecting regarding race is how the officer perceives the race of a person.

Liaison Ceynowa stated that that is the only way that the DPD can do this currently. He stated that race is not recorded on someone's Minnesota drivers license, and that it is not recorded on their vehicle registration. He then stated that there are two options, to either ask how the person identifies themselves racially, or to go with the perception of the officer. He stated that there are advantages and disadvantages to doing it either way.

Vice Chair Dunphy stated that she has concerns about that, because she has been in vehicles that have reservation issued license plates, and that those vehicles get pulled over quite frequently, and that when asked officers respond that they didn't know that the driver was Native American. She then stated that the office would have had to have known that being that the vehicle had reservation issued license plates.

Chair Vaccarella stated that this was discussed by the board in the past, perhaps during discussion of the DPD receiving protective gear. The board had asked that information on race be collected by the DPD, and that the board agreed that the data should be collected in the manner that Liaison Ceynowa described, because it was more reflective something that could affect how the officer might treat the person/s they were dealing with.

Vice Chair Dunphy stated that she is uncertain how accurate the data collected in this manner would be, being that, if a vehicle has reservation issued license plates then someone in the car is Native American.

Board Member Franklin then stated that that would not be true necessarily. He stated that he could be driving a car with out of state license plates, and not be from out of state.

Vice Chair Dunphy then responded by stating that someone has to be an enrolled member of a reservation in or to get reservation issued license plates.

Liaison Ceynowa then stated that another one of the difficulties is that in our community we will likely get a large Hispanic number because of our Native American population, and that the officer may perceive someone who is Native American as Hispanic. He stated that in an arrest situation the DPD does ask the race of the individual, but that in a casual stop asking someone's race has not been considered best practice.

Vice Chair Dunphy then stated that it would be nice if the officer could ask and then get more accurate data, but that she understands that officers probably don't want to ask that questions, and that people might be offended if they were asked about their race.

Liaison Ceynowa then stated that there are members of the community that, during a normal traffic stop, don't want their race tied to their records. So, using this form is making a record of the incident and the officer's perception of the race of the individual, but does not tie back directly to the individual.

Vice Chair Dunphy then suggested that an option for multi-racial be created, because some people are racially ambiguous, and that way the data collected would show that the individual was not Western-European.

## **Community Comments**

**Betty Greene** – Expressed appreciation for all of the initiatives that the board is working on, and stated that she believes that the board is working on some really great and important issues.

**Kathleen Spencer** – Stated that, regarding body cameras, there is a light that the officer can see that tells them if the camera is on or off, but the citizen cannot. It would be good for cameras purchased by DPD in the future had a light that the citizen could see as well. She also welcomed new Board Member Franklin.

## **Adjournment**

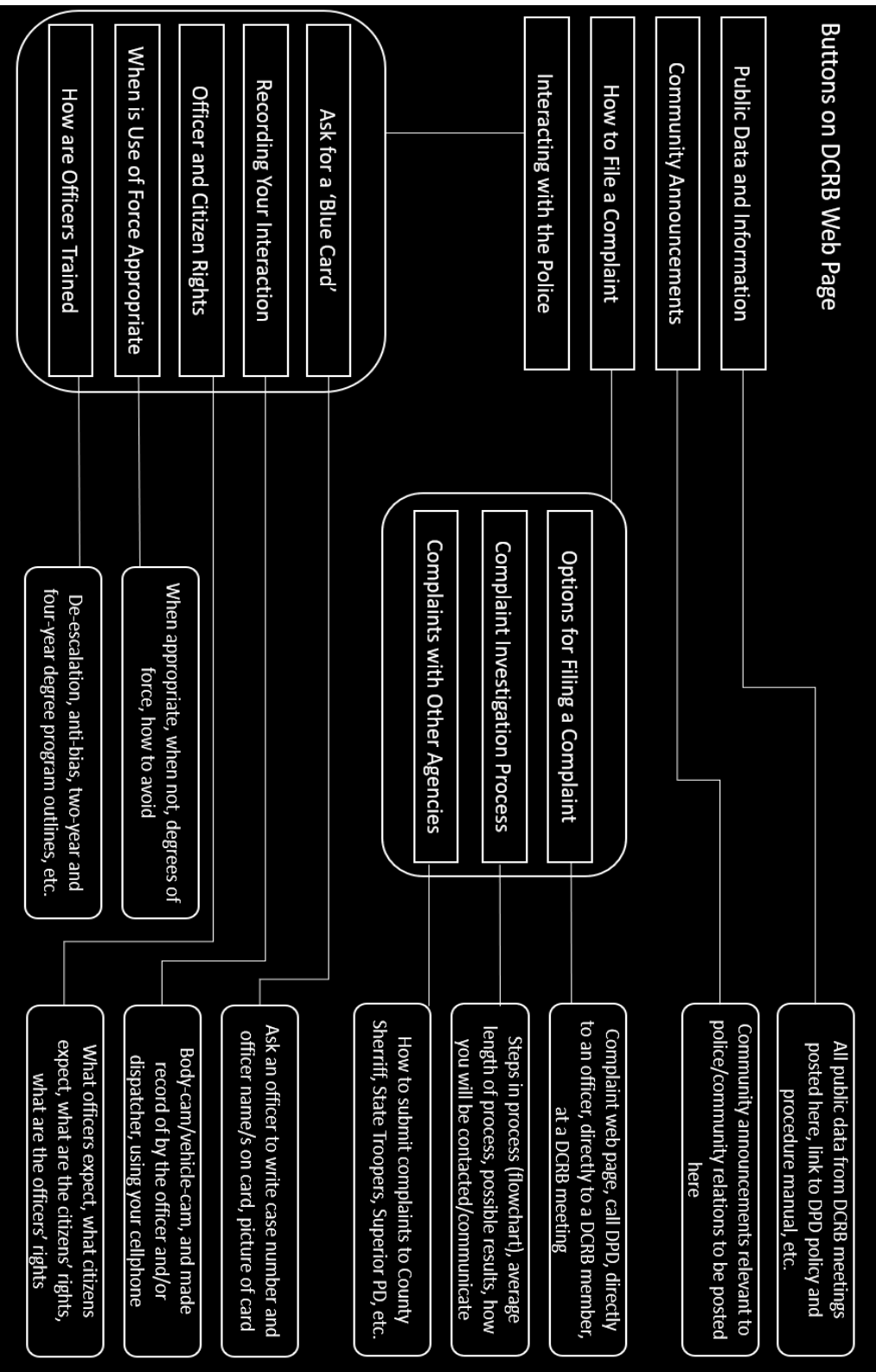
Board Member Franklin made a motion to adjourn the meeting

Secretary Powless seconded the motion

All members present voted to approve adjourning the meeting, and the motion carried.

Meeting adjourned at 6:59 PM

Appendix A



# #STOPTHESTOPS

We demand an end to pretextual stops in Duluth

A pretextual stop is when an officer stops a driver for a minor traffic violation in order to investigate an unrelated criminal offense for which they don't have evidence. Pretextual stops allow police officers to stop drivers solely because they look suspicious.

Once stopped, black drivers were searched about 1.5 to 2 times as often as white drivers nationally, while they were less likely to be carrying drugs, guns, or other illegal contraband compared to their white peers.

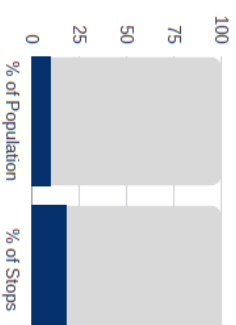
Fewer than 2% of all traffic stops result in arrests for criminal activity.

Unnecessary police contact decreases public trust in the police and leads to increased likelihood of a violent offense in the future.

Sources: NYU School of Law Policing Project, Stanford Law Review Assessment of Pretextual Stops, Wiley; Esbensen: The Effect of Police Contact, San Diego Union Tribune



IN 2019, 5 OUT OF 10  
DPD USE OF FORCE  
INCIDENTS WERE  
AGAINST PEOPLE OF  
COLOR



PEOPLE OF COLOR MAKE  
UP 18% OF DPD TRAFFIC  
STOPS DESPITE BEING  
ONLY 10% OF DULUTH  
POPULATION

Learn more and join the fight to eliminate systemic racism at [duluthnaacp.org](http://duluthnaacp.org)  
Follow us on Facebook, Instagram, or Twitter @duluthnaacp

