

## Recording: Crosby refused to show the officer his license

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The new law was signed by Gov. Kate Brown last June amid a nationwide debate over whether there is a First Amendment right to record police. The U.S. Supreme Court has not issued a definitive ruling, but some federal courts — and the U.S. Department of Justice — have endorsed the public's "right to record" as a free-speech protection.

Even under the old state law, however, Crosby's recording was legal because the Cannon Beach police officer announced from the start that he was using his body camera to document the traffic stop.

The Oregon Court of Appeals, in *State of Oregon v. Neff* in 2011, sided with a man who secretly used his cellphone to record a traffic stop in Eugene because the police officer had announced that the officer was recording.

"They obviously discussed the matter and decided that it was beneficial for them to wear these devices both in their vehicles and on their person," Crosby said Wednesday at the Clatsop County Courthouse after prosecutors dismissed the illegal recording charge and a failure to present his driver's license charge. He will still face a traffic citation for a defective headlight.

"So, yes, citizens should not only be afforded that right, but should express those rights when the time is in that moment to do so."

Deputy District Attorney David Goldthorpe brought the illegal recording case against Crosby even though Cannon Beach Police did not recommend the charge. The prosecutor had said he was not aware at the time that the state law on recording police was about to change.

But both Goldthorpe and Kirk Wintermute, Crosby's attorney, cited the appeals court ruling as the main reason for the dismissal.

Goldthorpe said the appeals court ruling "holds that that would have been challengeable at trial. And then with the change of the law at the beginning of the year, it just didn't make sense to go forward with that charge."

### Traffic stop

Crosby was disappointed that the full story of the traffic stop, detailed by *The Daily Astorian* in January, will likely never be heard in a courtroom.

Pulled over for a defective headlight on U.S. Highway 101, Crosby, who is

African American and has a felony criminal history in California, stubbornly refused to show the Cannon Beach Police officer his driver's license and argued with the officer over his constitutional rights.

After the Cannon Beach officer called for backup, officers from Gearhart, Seaside and the Clatsop County Sheriff's Office arrived on the side of the highway.

Twenty-five minutes after Crosby was stopped, he started his ignition to leave without giving police his driver's license or accepting a traffic citation. The Seaside Police officer, who had placed a spike strip in front of Crosby's car, drew his gun.

Crosby was not recording at that point but Seaside Police later confirmed to *The Daily Astorian* that the officer drew his weapon.

"They shouldn't have pulled the firearm on me, which they haven't brought up at all," Crosby said Wednesday. He believes police and prosecutors are "attempting to cover that up or hope that it goes away without having to explain why they drew their service weapon and trained it directly on me."

Goldthorpe, the prosecutor, praised the Cannon Beach Police officer for de-escalating a potentially volatile situation.

The Cannon Beach officer, according to a police report and body camera footage, was confident in Crosby's identity after a license plate search and after Crosby placed his driver's license on his leg so the officer could look. The officer told the others at the scene that he did not want to turn the encounter into a "use of force" incident and calmed the Seaside officer who drew his gun.

"Each of them were making individual decisions. They weren't all communicating directly with each other the whole time, because some were on other sides of the car," Goldthorpe said. "So I can't second-guess their actions. And, obviously, that's a training thing that those departments have to deal with if they think officers should handle a stop like that differently or in a certain way, then they address that department by department."

"Specifically, (the Cannon Beach officer), I think, handled it the best way he possibly could and was very patient with Mr. Crosby and tried to de-escalate and keep the situation under control as best he could."

## Clinic: It's also about giving parents feedback

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### Extra attention

The 2-year-old — who didn't speak but sobbed loudly when his father carried him from the play area — will be referred for further evaluation and may need professional care to improve his communication skills, said Heather Leader, a special education teacher with Northwest Regional Education Service District, who spent time observing his behavior.

"We want to look at his not talking," she said.

"Typically, kids with social delays will avoid other kids and say, 'This is too much for me, so I'm not ... even going to go there,'" she added.

During the clinic's first year, held at the Clatsop County Fairgrounds, a sizable percentage of children needed a follow-up exam in at least one area of development.

The second year, held at the Astoria Armory, the percentages dropped nearly across the board. The number of children needing more attention in speech, for example, decreased from 27 percent to 6 percent.

But the clinic is about more than catching potential problems.

"We also want to be able to give parents feedback about, 'Hey, your child is doing great!'" Gaffney, a retired Seaside Heights Elementary School principal, said. "But, if there's a need for or concern for an exam, then we help them make that appointment."

Each year, the clinic organizers hope to reach out to parents who haven't yet connected with medical practitioners where their children are concerned.

"So many kids have not been to the dentist," Gaffney said. "So, if we just get them in a chair and have somebody kind of look in their mouth, it gives them that first exposure which is positive."

Though the clinic is designed for all families, Gaffney said he wishes more low-income families showed up. "We want to engage them in the opportunities, the resources, that are available."

### Early intervention

Tara Hano, of Astoria, made an appointment because her 4-year-old son, Cameron, has been acting out in school and having trouble hearing.

Based on the screening results and information she provided in a questionnaire, members of the clinic team recommended early intervention measures for Cameron.

Overall, though, he and his twin sister, Ravyn, seem to be hitting most of the developmental benchmarks. During a test of the twins' fine motor skills, however, Hano discovered they needed immediate attention with one invaluable life skill.

"I learned today that they don't know how to button a button," Hano, their usual go-to buttoner, said, laughing. "So we'll be practicing buttons."



Photos by Joshua Bessex/The Daily Astorian

ABOVE: Scarlett Kicks, 4, steps on a scale and gets her height measured during the Early Childhood Health and Education Clinic at Astor Elementary School on Wednesday. BELOW: From left: Victoria Lindgren, Molly Savage-Kost and Alexandra Hanson, all nursing students at Clatsop Community College, fill out charts at the body measurements station.



## Smith: Trial is set for June 2017

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That evening, Smith used her fingernails to rip open the veins of one of her wrists. Jail staff reportedly found her in a pool of her own blood and she was taken to a hospital for treatment.

Marquis notes that Tillamook County Jail, unlike Clatsop County Jail, has no medical staff so all treatment is provided by the hospital. Her injuries, according to the prosecutor, required three stitches, no surgical procedures and no blood transfusions. Last week, she was transported back to Clatsop County Jail, where she is on suicide watch.

Defense lawyers Lynne Morgan and David Falls reported the suicide attempt in a court filing Tuesday. Marquis called the claims melodramatic and accused the defense of exaggerating and distorting Smith's condition.

"The defense attempts to make much of what they call her 'suicide attempt,'" Marquis wrote. "Ms. Smith understands who the parties are, what their interests are, what is her role in the case, and the course the case is taking."

### Requested hearing

Marquis is requesting a

hearing within a week to have court-appointed psychologist Brooke Howard testify about Smith.

Howard recently examined Smith and found she suffers from post-traumatic stress disorder, but could not determine if she is mentally unfit to stand trial. She recommended Smith be sent to the Oregon State Hospital, but only to be observed and monitored. Her report could not conclude whether Smith is unable or unwilling to aid and assist in her defense.

The defense lawyers believe Smith suffers from a mental disease, while prosecutors think she is faking.

After recently speaking with Howard, Marquis claims, she made it clear that existing tests she and state-hired psychologist Paul Guastadisegni administered already show Smith is malingering and exaggerating symptoms. The defense's claims that Smith is unfit are based on their own opinion and reports from their hired expert that claim she has severe mood changes, abstract thinking and untreated mental health issues.

Howard explained to Marquis that criminal defendants who may be faking become "test savvy." She indicated the

"validity" scales on the tests have already shown Smith is likely exaggerating her symptoms at a minimum.

"The state cannot concede that the defendant is incompetent when that is not what the court-appointed examiner found," Marquis wrote.

The defense lawyers are demanding the court send Smith to the state hospital for treatment and suspend all future court hearings. Marquis is asking for Howard to re-evaluate Smith at the state hospital.

### Memory of events

The trial is set for June 2017, nearly three years after the crimes.

Smith previously told the state-hired psychologist she had little to no memory of the events of July 31, 2014, when she is accused of drugging and drowning her 2-year-old daughter, Isabella Smith, and attempting to kill her 13-year-old daughter, Alana Smith.

Marquis plans to submit testimony from Tillamook County Jail staff that says Smith told other inmates she remembers the incident, that she will write a book about her experience and that Lifetime television network will make a movie about her.

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