

October 26, 2012

To: City Council

From: Mayor Sam Adams

Subject: Overview of Settlement Agreement between the United States, the City of Portland, and the Portland Police Bureau

In February, 2009, Commissioner Dan Saltzman and I stood with community leaders to request an investigation by the United States Department of Justice Civil Rights Division to review the Portland Police Bureau for bias, regardless of whether or not it is intentional, unconscious or institutional. At the conclusion of that initial investigation, the United States found "insufficient evidence to pursue federal criminal civil rights charges against Portland Police Bureau officers" involved in the January 29, 2010 fatal shooting of Aaron Campbell. However, days later, the United States announced a federal investigation into Portland Police officers' use of force, to examine whether there is a pattern or practice of excessive force used by PPB officers, particularly against people living with mental illness.

When the Department of Justice announced its investigation, I said that I welcomed the inquiry and noted that we had even asked for a best practices evaluation. What I said then holds true today: "We are humble in the knowledge that we don't have it all figured out."

On September 13, 2012, the United States Department of Justice (DOJ) found that most uses of force by the Portland Police Bureau (PPB) were within constitutional limits. However, it did find reasonable cause to believe that there was a pattern or practice of unnecessary or excessive use of force in certain encounters between police officers and persons who had, or were perceived to have, mental illness.

Although the City does not agree with that legal finding, it did agree that PPB, as an organization committed to continuous improvement, could build on work in progress and pursue additional improvements. As a result, the City and DOJ have developed a proposed settlement agreement to resolve the areas of concern. Resolution of these issues will require all of our community – our citizens, our police force, our City leadership, and our mental health partners – to work together and engage in meaningful dialogue and decision-making. Some issues will require the expenditure of funds and others will require labor negotiations with our employee labor organizations. Those decisions will require council consideration in the future.

The Agreement is separated into several parts, which are summarized here:

1. Use of Force: PPB will retain its current force policies, which emphasize the use of less force than the maximum permitted by law. In addition, PPB will revise its force policies

to emphasize de-escalation techniques and the use of information known about the person encountered (if available).

In addition, new policies reflecting best practices will be instituted regarding Electronic Control Weapons (ECWs), such as TASERs. Such policies generally will require verbal warnings, restrict the use of ECWs on people suffering from mental illness, and prohibit their use on handcuffed suspects. Exceptions exist because of the dangers that police officers and citizens may face, such as when ECWs are necessary to prevent bodily harm to a person.

The agreement requires revisions to PPB policies regarding force reports, to ensure they are timely, complete and candid. New protocols will require review of force reports by supervisors and continue to require on-scene investigations by supervisors when a force event occurs. All supervisors in the chain of command are subject to discipline for the accuracy and completeness of force reports and investigations.

The use of force will also be subject to quarterly reviews and audits through an Inspector. Such reviews will look at a variety of factors, including the mental health information known to officers and how that played into their decision making. ECW reports will also be reviewed and audited. Supervisor actions will also be reviewed to ensure that they are appropriately reviewing and analyzing the use of force used by PPB officers. The Inspector has a myriad of other tasks, including whether significant trends exist and to identify and correct deficiencies revealed by this analysis.

2. Training: Training will be required on all force policies, both current and revised. The Training Division will revise and update PPB's Training plan annually to take into account problematic uses of force, input from the community, the latest in law enforcement trends and other factors.

PPB must also collect data for the purpose of improving future instruction and curriculum, including the extent to which PPB officers are applying the knowledge they have learned.

PPB must also train officers on the requirements of the settlement agreement. The Inspector will audit the training program using a list of performance standards that PPB must meet.

3. Community Based Mental Health Services DOJ recognizes that there are other participants in the mental health infrastructure besides the City that control the quality of mental health care, including the State of Oregon, Multnomah County, Community Care Organizations (CCOs), community mental health providers, health care and emergency department providers, private insurers, and many others. DOJ expects that these partners will assist the City to remedy lack of community-based addiction and mental health services to Medicaid and uninsured residents.

It is anticipated that CCOs will begin to implement recommendations of its mental health and addictions-focused work groups, which will include City of Portland representation, by mid-2013. These recommendations will include opportunities for first responders, such as PPB, to better interact with the health care system when a person who has encountered the police is having a mental health crisis and needs assistance.

4. Crisis Intervention: PPB has agreed to develop an Addictions and Behavioral Health Unit (ABHU) within 60 days of the agreement's effective date. That unit will manage and share data subject to lawful disclosure between government entities. It will also oversee PPB's Crisis Intervention Team, a Mobile Crisis Prevention Team and a Service Coordination Team.

An ABHU Advisory Committee comprised of individuals from across various government entities and mental health services providers (among others) will be established to assist the City as it provides services.

PPB will continue to provide Crisis Intervention training to all its officers. In addition, the City will establish a “Memphis Model Crisis Intervention Team” and recruit volunteer officers to serve on that team. Such members will receive additional specialized training and will be dispatched if a crisis event occurs involving someone with a real or perceived mental illness.

PPB will continue to have a Mobile Crisis Prevention Team (formerly known as a Mobile Crisis Unit) and expand that team to one car per PPB Precinct. The car shall be staffed by one sworn PPB officer and a mental health professional and shall be a full time assignment.

The Bureau of Emergency Management’s 9-1-1 dispatchers will be trained so they can triage calls related to mental health issues to the appropriate first responder resource. The City will work with partners to identify opportunities for dispatchers to direct calls to mental health professional instead of police officers if and when appropriate.

5. Employee Information System: The City has an employee information system to gather data and assist issues affecting employees. This will be enhanced to more effectively identify at-risk employees so that proper training can occur.
6. Officer Accountability: The City will continue its system for review of officer misconduct, but will reduce the timeline for all administrative investigations to 180 days from the receipt of a complaint. This timeline includes appeals to the Citizens Review Committee.

The City will also revise its protocols for “compelled statements” from officers involved in force incidents to ensure that the law is followed while still obtaining timely information. The City must submit this protocol for DOJ approval

PPB’s Police Review Board, which advises the Chief on administrative reviews and recommendations for discipline, will include a member from the Citizen Review Committee in cases where use of force is being reviewed. The Citizens Review Committee will be expanded to 11 members.

7. Community Outreach: There are a number of changes concerning community outreach. The Community and Police Relations Committee is part of the Portland Human Rights commission, and its function is to bring together members of Portland’s diverse communities to improve community and police relations. The committee will be renamed the Community Oversight Advisory Board (COAB) and its functions and membership will change. Its new functions include assessing the implementation of the Settlement Agreement, providing information to the community about the Agreement and its implementation and to contribute to the development of a PPB Community Engagement and Outreach Plan.

The 20 member COAB, which includes 15 voting members and 5 advisory members, will be chaired by a Compliance Officer and Community Liaison (COCL). Voting members of the Board include the five Human Rights Commission members, five members chosen by City Council members and five members chosen by the community.

8. Implementation: The City will hire a COCL within approximately 90 days. The duties of the COCL including preparing quarterly public reports regarding PPB’s compliance with the agreement hold quarterly town hall meetings and providing recommendations to ensure PPB is in compliance with the agreement.

In addition, PPB will designate a Compliance Coordinator to serve as a liaison between PPB, the COCL and DOJ. The Compliance Coordinator will coordinate PPB's compliance activities, provide data to DOJ and collection information for the COCL.

9. Enforcement: To permit federal court oversight, DOJ will file a complaint against the City and will file this settlement agreement at the same time. If disputes arise regarding PPB's compliance with the agreement, there is a dispute mechanism that favors discussions and mediation before court action.

We have worked toward an agreement that effects positive change in the way that the Portland Police Bureau provides service to the community. Thank you for your thoughtful review of this agreement. I look forward to your and the public's consideration of this item on November 1, 2012.

Respectfully submitted,

Mayor Sam Adams
City of Portland