

POST DEADLY FORCE PROCEDURES & DOJ SETTLEMENT AGREEMENT

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)	ADDRESS AND ZIP CODE (Optional)	Email (Optional)
✓ DAN HANDELMAN	PORTLAND COPWATCH	
✓ JUAN CHAVEZ	NATIONAL LAWYERS GUILD	
✓ LISA WRIGHT	NAACP PORTLAND BRANCH	
✓ DEBBIE ALONA	LEAGUE OF WOMEN VOTERS	
✓ REZINA HANNON	PORTLAND COPWATCH	
✓ BARBARA BOSCHINSKI	PORTLAND COPWATCH	
✓ MR. W.G. BARNETT	PORTLAND COPWATCH	
✓ Lightning	_____	—
✓ PHILIP J WOLFE	COAB	—
✓ PAT ADAMS		
J. SEAN FIELDS		

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✓ THOMAS ETIENNE	SE PDX RESIDENT	
✓ JOE WASH		
✓ MYRLAVIANI PEREZ-RIVIER	SW PDX	
✓ Kenner Swain	SW Portland	
✓ ^{Pestri} Jim Hennessee	3138 N. Vancouver	

Moore-Love, Karla

From: Philip Wolfe <philipjames73@hotmail.com>
Sent: Monday, August 14, 2017 6:47 PM
To: Philip Wolfe
Cc: Wheeler, Ted; Commissioner Saltzman; Commissioner Fish; Commissioner Fritz; Commissioner Eudaly; Moore-Love, Karla
Subject: August 24, 2017 City Hall session

Dear Mayor and commissioners,

Please make a note that I am requesting ASL interpreters for August 24th. I highly recommend you to have a contract with SRI (Signing Resource Interpreters) 503-256-1726 and ask for Kelly, the coordinator. I know Kelly and Kelly has my list of my preferred interpreters I am comfortable working with and list of interpreters I wish not to work with. I would like to stress how helpful if it was booked at least 48 hours in advance. It would be BEST if it was booked a week in advance so that when you get the confirmed booking, email back to me with the names of the interpreters so I can decide if I want to keep the booking or change the booking with different interpreters. Thank you.

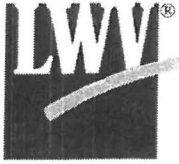
Regarding the so called 48 hour rule issue: I believe the DA will say whatever they can to cloud your decisions on whether to remove the 48 hour rule or not, after all, the DA represents the police. I feel it is not appropriate for you to be asking DA for legal advice on this specific issue. Tracy Reeves has often used the term, "I think..." as in speculation. I strongly object to every time Tracy says, "I think..." I am ONLY interested in facts so her opinion is irrelevant. I would like to remind you that the 48 hour rule is very old. A 30 year old. Evidently it is not working. We, police reform activists, have been pushing for it to be removed for years now. Get this done, already. I would like to stress that any time an officer use a deadly weapon, it shall be reported immediately at the end of the shift. I want to make it clear that if an officer ends up working over time after using a deadly weapon, before he starts the overtime shift, he is still required to report. Once it is reported, he shall be sent home on an administrative leave immediately. No over time shifts, period. I cannot imagine for anybody after killing someone, goes on working. This seriously compromise the safety for Portland community. With that said, once again, remove the 48 hour rule at once. Officers should report at their end of their shifts after using a deadly force. They shall be relieved from their duties on administrative leave immediately after they submitted their reports.

In regards to Ted's PCCEP proposal: As a former COAB chair, I highly recommend Ted to withdraw his proposal. No amendments or so whatever. Just withdraw his proposal and work on COAB. COAB was neglected by the city and was never held accountable for their failures while blaming on PDX community is unacceptable. Do this if Ted want to restore trust from PDX community. I can assure you all that there is NOBODY from PDX community is in favor of Ted's proposal. I have followed comments from Ted's post since Ted's running as our new Mayor, Ted has received very negative comments from PDX community from day one. Ted may get support from city leaders and the police but what's very important is that Ted as a mayor is to have the confidence from the PDX community. Confidence, trust, and support from PDX community is none. I am very concerned about Ted's ability to navigate from this point on, especially with closed secret selection of Danielle Outlaw, who clearly isn't here for police reform, but strengthen the "law enforcement." Simply put: Withdraw the PCCEP proposal, and work on COAB. City has wasted \$250,000, wasted COAB members of 2 years volunteer work, and wasted 100 voted recommendations on police reform. Don't let COAB die. Defib COAB. Restore COAB. Ever since I chair the COAB meetings, nobody were arrested. What does that tell you? Please note that COAB is the only true community oversight on police reform. PCCEP is the opposite. If I was

the mayor, I would listen to my PDX community. I would ask PDX community what they think of the proposal before making any decisions. Clearly the PDX community is totally against the idea. I would withdraw and work on COAB in good faith in making sure the city takes full responsibility for their failures while giving the city an opportunity to fix their failures.

Thank you.

Philip J. Wolfe
COAB, Chair



The League of Women Voters of Portland

618 NW Glisan St., Suite 303, Portland, OR 97209

(503) 228-1675 • info@lwvpx.org • www.lwvpx.org

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Portland Committee on Community-Engaged Policing City Council Testimony August 24, 2017

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Amy Beltaine
Outreach

The League of Women Voters of Portland appreciates the improvements that have been made to the proposed Portland Committee on Community-Engaged Policing (PCCEP) and the Settlement Agreement amendments. The League would like to offer its comments and recommendations for further improvements.

We strongly recommend that all PCCEP meetings be open to the public. The League agrees with Open Oregon, a statewide freedom of information coalition, that citizens benefit by "having access to the process of deliberation" and "government officials gain credibility by permitting the public to observe their information gathering and decision-making processes." Officials who "keep their deliberations hidden from public scrutiny create cynicism and erode public trust." In light of the high degree of community concern about policing in Portland, greater transparency and participation are essential.

We thank you for improving the selection process for PCCEP members by including more public participation in developing selection criteria and in the interview panel. It appears, however, that PCCEP members will be limited to one two-year term. The League has encouraged the City to tailor term limits policies to fit the needs of each volunteer City committee. The PCCEP will be dealing with complex issues and its members will require extensive training. The constant turnover resulting from non-renewable two-year terms will be a barrier to the PCCEP's ability to carry out its responsibilities.

The community will look to the PCCEP to assess the City's compliance with the Settlement Agreement, including its implementation. The City will build trust and confidence by ensuring that the PCCEP has the authority to offer its evaluation of the City's progress and report it to the Court at status conferences.

We support including PCCEP in the PPB Universal Directive Review process and, over the years, have recommended consultation with the Citizen Review Committee (CRC) as well. The CRC, through appeals of police misconduct cases, experiences first hand how directives are applied to interactions between the police and community members. The Bureau would benefit from including CRC's perspective in the review process. Furthermore, the PCCEP should not be limited to only recommending review of directives that are not part of the Settlement Agreement.

"To promote political responsibility through informed and active participation in government."

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In addition, the League wholeheartedly endorses the new 90-day timeline for CRC appeals. From the beginning, we have strenuously opposed the unrealistic 21-day requirement.

Finally, we appreciate the efforts Commissioner Fish and the Mayor's office devoted to the 48-hour rule. Clearly, we are in a better position now than when the City was looking at a weeks-long delay in interviewing officers for the administrative investigation. Keep in mind that OIR, the independent experts that review Portland's police shootings, recommends interviewing the involved officer(s) contemporaneously. In other words, they should be interviewed the very day or evening the shooting occurred. The City should be striving to adhere to best practices in post-shooting administrative investigations.

Thank you for your consideration of our recommendations.

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**NATIONAL LAWYERS GUILD
PORTLAND, OREGON CHAPTER**



3519 NE 15th AVE #155
PORTLAND, OREGON 97212

MEMORANDUM

DATE: August 24, 2017

TO: Mayor Ted Wheeler, ted.wheeler@portlandoregon.gov

CC: Commissioner Dan Saltzman, dan@portlandoregon.gov
Commissioner Amanda Fritz, amanda@portlandoregon.gov
Commissioner Nick Fish, nick@portlandoregon.gov
Commissioner Chloe Eudaly, chloe@portlandoregon.gov
Auditor Mary Hull Caballero, mary.hullcaballero@portlandoregon.gov
IPR Director Constantin Severe, constantin.severe@portlandoregon.gov

RE: Testimony to City Council re Police Accountability Issues

The NLG thanks the Mayor and City Council for continuing to listen to the public in developing its deadly force directive. The proposal before you today is a great improvement that just needs a few more amendments.

The NLG's greatest concerns center around interviews of involved members and witnesses. The City has provided no reason why involved members are not required to submit to an interview promptly after a deadly force incident. The community has asked for compelled testimony "by the end of the shift" or, at least, "within 24 hours." But, the directive still allows up to 48 hours for involved member interviews. The directive also does not provide an outer time limit for when witness members must be interviewed. Lastly, the directive allows discretion in some circumstances to not audio-record interviews with involved and witness members.

Prompt recorded interviews are necessary. We recommend you take a look at the U.S. Department of Justice Report titled “Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice,” which is available online.¹ It says that “The process of investigating an agency member’s use of lethal force requires an extraordinary degree of attention to capturing and recording the statements of each participant and witness independently, accurately, and as soon as conditions allow.” It recommends that officers be compelled to submit to a comprehensive, electronically audio-recorded interview as soon as is practical and reasonable, after an opportunity to consult for a reasonable amount time with an attorney or labor representative. It defines “a reasonable amount of time” to be “as much as 3 to 5 hours or more.” The guidelines state that all interviews with officers should be recorded. When discussing on-scene walk-throughs, the guidelines note that “the practice of some investigators to conduct unrecorded ‘pre-interviews’ of officers or witnesses prior to formal, electronically recorded interviews should be discouraged.” According to these guidelines, 24 hours is plenty of time to reasonably and practically interview an officer, and all interviews, including on-scene walk-throughs, should be recorded.

With respect to the proposed amendments to the Settlement Agreement and the PCCEP Plan, the NLG defers to the seasoned judgment and expertise of the AMA Coalition. The NLG strongly urges the City to adopt the AMA Coalition’s recommendations.

¹ <https://ric-zai-inc.com/Publications/cops-p164-pub.pdf>.

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DATE: August 24, 2017

TO: Mayor Ted Wheeler, ted.wheeler@portlandoregon.gov

CC: Commissioner Dan Saltzman, dan@portlandoregon.gov
Commissioner Amanda Fritz, amanda@portlandoregon.gov
Commissioner Nick Fish, nick@portlandoregon.gov
Commissioner Chloe Eudaly, chloe@portlandoregon.gov
Auditor Mary Hull Caballero, mary.hullcaballero@portlandoregon.gov
IPR Director Constantin Severe, constantin.severe@portlandoregon.gov

FROM: The Albina Ministerial Alliance for Justice and Police Reform

The Albina Ministerial Alliance for Justice and Police Reform (AMAC) wants to affirm the City for hearing the voice of the stakeholders and citizens about their concerns and the seriousness of them. Thank you for adopting many of the ideals of the stakeholders in the new proposed Portland Committee on Community Engaged Policing (PCCEP) Plan and the City moving in a direction to enhance community policing an engagement.

The following are some areas of concern, identified by section or page, that remain about the PCCEP and a few suggestions we believe will improve the goals of the PCCEP as we continue to work on the assessment and implementation of the Settlement Agreement:

Section II. Goal – We affirm the PCCEP member goals however we suggest that “implementation” is added to their assessment, that is progress and non-progress of the SA.

✓ **Page 3 - Scope of Work, bullet point 7 (not numbered)** – We recommend adding “at any other conference that shall be called by the Court” (we understand the matter of the Court having authority to do such is being challenged by the City and it is pending with the 9th Circuit a decision. AMAC believes and supports that the Judge has the authority to call additional Status Conferences.). This should also be included in the language of Footnote 2, page five (5).

✓ **Section III. Membership and Reporting** - AMAC believes this should be a committee of 11-15 members and strongly urge that there be, at minimum, 11 persons. This still has too much mayoral control. It would be an improvement to have the community selection panel do the initial screening, and to have the community panel be made up of representatives from different communities. PCCEP members must be required to read the Settlement Agreement and the City should provide “layman” interpretation for the PCCEP. We raise again the concern of member stipends/other financial assistance to reduce barriers to participation.

✓ **Section V.** - AMAC understands the staggering process, which we support to preserve institutional knowledge and operations. It is not clear how the staggering will occur. We understand each person can serve two consecutive terms of two years, with the exception being those who serve initially at formation and seating serve a one-year term to preserve the

staggering of terms. The AMAC seeks clarification as to whether those individuals would still be eligible for two full two-year terms, i.e, they could conceivably serve a total of five (5) years?

✓ **VII. City's Responsibilities** - There needs to be a person(s) designated and compensated as a Community Organizer that does the work, we do appreciate the process of providing funding and staffing for such.

Page 6 - the paragraph before final in that section - "The Mayor's office shall publish on the City website an annual report . . ." We recommend adding "Status and progress or no progress of Community Policing and a full summary presentation to City Council." We note the same request in Section IX Deliverable Product that full City Council is included the groups receiving Summary reports.

Page 7 - "Gather input from . . ." We request that AMAC, who has been working on these issues for decades with several hundred years of collective experience, be named among the organizations.

Section IX. - Deliverable Product - We affirm the holding of two public hearings within the first 180 days of PCCEP members being seated and using the quarterly Town Halls for such in neutral and accessible spaces.

Section IX. - Subsection 5 - How does this impact or allow any input into review of directives, should any come, and will the PCCEP during this one-year period have voice to raise the concerns and outcries from the community about the PPB patterns and practices, independent assessment of and implementation of the SA? Are we to read that the PCCEP has one year to present their Community Engagement Plan proposal to the PPB?

Moore-Love, Karla

From: Lisa G Wright <writingweb@gmail.com>
Sent: Thursday, August 24, 2017 12:15 AM
To: Tom Hastings; Jo Ann Hardesty; Commissioner Fritz; Commissioner Eudaly; Commissioner Saltzman; Moore-Love, Karla; Commissioner Fish; Wheeler, Mayor
Cc: Melissa Lang; Haley Zanze
Subject: NAACP Statement on revised amendments to the settlement agreement, August 23
Attachments: Statement on Amendments to Settlement Agreement - 8232017.pdf

To the Mayor and City Council members, here is the statement from the NAACP Portland Branch statement on agenda item #946, to be discussed on August 24, 2017.

August 23, 2017

NAACP Portland Branch Statement on Proposed Amendments to the Settlement Agreement to *United States of America vs City of Portland*.

The NAACP Portland Branch appreciates the council is giving such serious consideration to the rules on investigating deadly force incidents and community involvement in the administration of the Settlement Agreement. While we appreciate the city's efforts to improve the proposed amendments, we continue to have grave concerns about two key issues: first, the timing of administrative interviews in the case of post-incident use-of-force cases; and second, the elimination of the Community Oversight Advisory Board (COAB).

First, on the proposed changes to the Post Deadly Force Procedures for the Police Bureau. We are pleased that the city has incorporated the guidance of the ACLU and the National Lawyers' Guild to ensure separate administrative investigations with compelled testimony from the involved officer. However, we agree with Revs. Bethel and Haynes, who testified on August 3, 2017, for the Albina Ministerial Alliance Coalition for Justice and Police Reform (AMAC) that the time period should be "within 24 hours," if not by end of shift. It is in the best interest of the community and the investigation to receive a statement as soon as possible.

Second, regarding section IX of the settlement agreement. We are disappointed that the city continues to pursue the "PCCEP" and elimination of the COAB. This change has been opposed by the NAACP, AMAC, the Oregonian Editorial board, Portland Cop Watch, and Kathleen Saadat, former COCL, in addition to

hours of testimony by Portland residents. Although it is evident that the City has attempted to incorporate some feedback from the community, it has still failed to articulate its case for eliminating the COAB instead of repairing the structural and leadership problems from the city and the police bureau. The proposed ordinance goes to great length to outline timelines and culpability and the details of negotiations, but it fails to address the conclusion that the community should no longer have independent oversight of the settlement agreement. None of the findings outlined in the ordinance justify this change. In short, you have not made your case.

The NAACP Portland Branch asserts as we did on August 3 that the proper course of action for the city is to implement the necessary fixes for COAB: training, administrative and budgetary support, shoring up requirements for participation by the city and the PPB, and making it easier to appoint and dismiss board members. This is what is required to repair the damage that the city caused by failing to support the COAB sufficiently to begin with, and then letting it wither. Given the proposed structure, the PCCEP is a pale substitute for what was originally promised in the Settlement Agreement.

Regarding specific concerns on the latest revisions to the PCCEP document:

1. The first goal of the PCCEP is to “independently assess the Settlement Agreement,” but it is unclear what this means and it is not tied to any deliverables.
2. There is mention on page 2 of “Available Tools and Resources,” which are to provide the mechanisms for the PCCEP to “independently assess the Settlement Agreement” but this section appears to be missing from the document (should appear between “City’s Responsibilities” and “Members’ Responsibilities.”)
3. Meetings are not required to be public (although it appears that all meeting agendas and minutes would be published on the city’s website). We believe that all meetings should be public, with the possible exception of executive meetings for the purposes of setting agendas, and there should be clarity around what is published on the city website.
4. The community provided overwhelming feedback about the removal of the COAB as an independent oversight body. This feedback is relegated to “concerns” addressed in a footnote on page 5.
5. The committee is entirely accountable to the Mayor, who is also in charge of the Police Bureau. The appendix outlines all the decision points and who is responsible.
6. Members should have the option to serve a third year so that the committee can take full advantage of the training and effort required in the responsibilities section. The staggering of terms should also be clearly outlined and ensure that the committee never experiences full turnover.

We urge City Council members to reject the creation of the PCCEP. Given the errors and omissions in the current draft, we also encourage City Council to withhold a vote until the document can be amended and distributed with adequate time for public review.

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Sincerely,

Jo Ann Hardesty

President, NAACP Portland Branch

Appendix: Responsibilities for the PCCEP

PCCEP accountability and controls as outlined are:

- Selection Criteria: Mayor + other Commissioners (optional)
- Screening: Mayoral staff + other Commissioners' staff (optional)
- Review: Community members, chosen by Mayor + other Commissioners (optional)
- Interviews: Mayor (feedback from Commissioners)
- Selection: Mayor
- Confirmation: Council
- Reporting: Mayor
 - Consults separately with the Director of the Office of Equity and Human Rights (Mayor oversees)
- Removal: Mayor (sole discretion)

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NAACP

PORTLAND, OREGON
BRANCH

PRESIDENT - JO ANN HARDESTY
1st V.P. - E.D. MONDAINE
2nd V.P. - NONI CAUSEY
SECRETARY - MELISSA LANG
TREASURER - CLEOPHAS CHAMBLISS

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Jo Ann Hardesty
President, NAACP Portland Branch

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- Selection: Mayor
- Confirmation: Council
- Reporting: Mayor
 - Consults separately with the Director of the Office of Equity and Human Rights (Mayor oversees)
- Removal: Mayor (sole discretion)

Moore-Love, Karla

From: Pat Adams <pcadams8@yahoo.com>
Sent: Thursday, August 24, 2017 8:16 AM
To: Council Clerk – Testimony
Subject: City's Revised Plan for PCCEP

My comments regarding the relationship between police and the community.

New COAB

1. There is no natural conflict between police and the community. The community needs police and the police are part of the community. If there is conflict it comes from outside this relationship.
2. We can't make the community safer by making the police less safe. Any solution must improve safety for both.
3. We cannot be seeking increased police accountability without also seeking increased community accountability.
4. The racism we see in the police department cannot be our only focus. The racism in the police department is also a mirror for the racism in the community.
5. Police must have a safe, protected way to apologize. If they act wrongly they are encouraged to remain silent and be protected by the department, the union, the lawyers. If an officer wants to apologize he or she is on their own. We want officers to be more human, but deny them the most human of conditions, the ability, the right, to make a mistake.

Pat Adams
5050 SW 18th Pl
Portland, OR 97239
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Vancouver Avenue First Baptist Church

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Pastor J.W. Matt Hennessee, M.Div., D.Min.(c); Senior Servant

www.vafbcpx.org/www.facebook.com/Vancouver Baptist Church Portland

*Mr. R. Glenn Ward, Chair
Board of Deacons*

*Mrs. Patricia H. Montgomery
Church Clerk*

*Mr. Sandy Moore, Acting Chair
Board of Trustees*

Wednesday, August 23, 2017

The Honorable Ted Wheeler,
Mayor, City of Portland
Portland City Hall
1221 S.W. Fourth Ave. #340
Portland, OR 97204

Re: Proposed Changes to the PCCEP Proposal

Dear Honorable Mayor & Members of the Portland City Commission:

For the record, my name is Pastor J.W. Matt Hennessee, Senior Servant of the historic Vancouver Avenue First Baptist Church here in Portland.

It is always an honor and a pleasure to come before you to give input and voice to matters you are grappling with in the public square. As a person who has lived here for 28 years I respect the grist it takes to create innovative and sustainable results for one of America's greatest cities. I am convinced that community-engagement was birthed in Portland and have had many great opportunities myself to be so involved.

My purpose today is to support the major changes brought before you regarding the Portland Committee on Community-Engaged Policing (PCCEP). It is important that I say from the bottom of my heart how much I respect and appreciate the great work of many in this community including each of you, the AMA, several other civil and human rights organizations, the Portland Police Bureau, and every citizen who has lent their time and effort to help us comply with the Department of Justice's Settlement Agreement.

As a result of my years in public administration, I have been on the side of administering and creating success for a Consent Decree from the DOJ in Saginaw, Michigan when I was the Assistant City Manager of Police and Fire and Settlement Agreement Monitor for the EEOC overseeing the implantation of the policies and practices of the Thomason Auto Group here in Portland. These were not easy roles to play, but it was clear to me in each of them that transformation is in the hands and feet of those who are committed to stand the test, roll up their sleeves, and work to create a better day for everyone. Today that commitment is no different.

It is against this backdrop that I, on the one hand, acknowledge the work of the COAB and my good friend and colleague, Kathleen Saadat, and all who served with her. I also salute the great work of Nicole Grant and those working with her to bring changes you will consider today and in the weeks to come.

Specifically, I am grateful to see the on-boarding efforts made for those who will serve on the Committee, the terms of office, the ability to meet and work with the public present as well as

"The Church where everyone is welcome"

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opportunities to meet in private for considerations that are very important which will lend itself to thoughtful and reflective discussion. I am grateful for the recommendation of their input into directives considered by the Portland Police Bureau and, of course, their input in the progress meetings before the Honorable Federal Judge Michael Simon.

I respect the importance for the Committee to coordinate with the COCL as has been established in the past, to participate in town hall meetings. It is my hope that this also means there are requirements for them to meet and report regularly to the AMA Copwatch and other forums from time to time. This would allow for more intimate discussions and input important to them as they carry out their duties and create an atmosphere of sensitivity hearing from those who have been on the receiving end of human and civil disparities.

I am also very supportive of the Committee securing a full-time staff person to help them get their work done. Too often there is a great deal of paperwork and administrative work required to complete the job of the Committee and everything it cannot be accomplished well by relying on volunteers to do all the work entailed.

Again, thank you for the opportunity to add input into this process. I wish each of you well as you receive all the input regarding this matter and make final recommendations.

If there are any questions you may have or any additional information you may need from me, please do not hesitate to let me know.

Respectfully submitted.

J.W. Matt Hennessee

J.W. Matt Hennessee,
Senior Servant

PORTLAND COPWATCH
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Incident Report Line (503) 321-5120
Portland, OR 97242
copwatch@portlandcopwatch.org
(503) 236-3065
www.portlandcopwatch.org

**COMMENTS on New New 48 Hour Rule, DOJ Amendments/New New COAB
by Portland Copwatch (sent on August 22 and 23, 2017 for August 24 agenda)**

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(part 1): The "New, New 48 Hour Rule"

Mayor Wheeler and members of Council:

We appreciate that the Council voted unanimously on August 9 to suspend the Police Bureau's intended implementation of the "ten times 48 hour rule" and called for a new policy to be drafted by August 24. And while the revised Directive 1010.10 on Deadly Force is much improved from the Bureau's intended policy, there are still many questions and concerns.

As you have heard repeatedly, many in the community would like to see involved officers interviewed before the end of their shift, or within 24 hours, rather than 48 hours (Section 2.2.5.1). We appreciate that the only exception to the 48 hours is if an officer is incapacitated, perhaps that needs to be defined so officers can't say their emotional state after a shooting counts as incapacitation.

Appropriately, clarification has been made about giving officers the "Garrity warning" so they know their compelled statements won't be used for criminal proceedings, but failing to answer questions could get them disciplined. Also, most references to waiting for approval from the District Attorney have appropriately been struck.

The previous version proposed by the Mayor split up tasks based on whether a shooting was fatal or not. The "New, New 48 Hour Rule" splits up tasks between "On-Scene Responsibilities" (2.1) and "Follow-Up Responsibilities Following Departure from the Incident Scene" (2.2). This creates a few problems, including that the Homicide Detectives can ask the involved officer for a voluntary interview and conduct one on scene (2.1.7.1.1) but also afterward (2.2.4.1.6). It should be made clear whether this is a second request if the officer declines on-scene, a follow-up, or both. (This is also true for Witness members in 2.1.2.4 and 2.2.4.1.2). The civilian witnesses do not get interviewed until after the PPB leaves the scene (2.2.4.1.3). Witness officers are told they must submit to an audio recorded interview before going off shift, but not until Section 2.2.2.1 under the "Following Departure from the Scene" rules.

Also, even though Bureau standards are more restrictive than "Constitutional policing," the PSD Captain is asked to decide whether to conduct further interviews after the voluntary Homicide investigation. Homicide will not be asking the same questions as an administrative review (2.2.5.2.1). It seems it would be unusual, then, that Internal Affairs would not have more questions for an officer than what criminal investigators asked. This being an option was not in the previous draft, which in fact also allowed PSD to ask for a voluntary statement from the involved officer (old Sections 1.1.2.1.1 and 1.8.1.2). It would probably be a good idea to reinstate that option so the compelled testimony would not be an issue at all.

The requirement for interviews to be audio recorded has been removed or made optional in a few places: No option to record involved officer's on-scene Public Safety Statement (2.1.1.2) or walk through (2.1.1.4), optional recording of witness officer walk-throughs (2.1.7.1.2.1), and no mention of recording the involved officer's full interviews (2.1.7.1.1.2 and 2.2.1.1), though Internal Affairs' compelled interviews do have to be recorded (2.2.1.2.1 and 2.2.2.1). Homicide's interviews of civilian witnesses are recorded (2.2.4.1.3), and directions to record witness and involved officers' interviews also show up in that later part of the Directive (2.2.4.1.2 and 2.2.4.1.6).

Sections 3.1 & 3.2 still have Professional Standards filling out the Use of Force Report instead of the officer. If the City believes that the officer being required to fill out this form violates their Fifth Amendment rights, and/or is concerned that the officer's words will be used in the criminal investigation if they fill out the Report, nothing in the current draft prevents PSD from sharing that Report with Detectives. (The old version has a prohibition in 1.9.3).

Witness members are no longer required to fill out Use of Force Reports (previous Section 1.9.5).

In a related matter, generally speaking, we're concerned that officers who are under criminal investigation might stay on paid administrative leave even if they admit to wrongdoing during an IA interview. IA is not supposed to share its findings until after all criminal proceedings are over (2.2.5), including with the Police Review Board (6.5). Directive 333.00 on criminal investigations is constructed so that an Assistant Chief who would not be involved in the Criminal process would sit in on the PRB to prevent leaking information between IA and Homicide. The City should consider this to be sure to get officers off the force as soon as possible.

(continued)

Also, broadly speaking, while some paragraphs were cut to prevent duplication, it would be good to cross-reference all responsibilities of all parties under their own headings so those parties don't miss anything important. For example, the involved members aren't alerted to the possibility they could be compelled to talk to Internal Affairs on scene (Section 2.1.1). Professional Standards is given instructions on conducting concurrent reviews to the criminal investigation (6), but nothing about compelling testimony or protecting that information (Section 2.2.5).

Finally, a housekeeping item which shows that creating policy in a hurry can have unintended consequences: Subsections of 2.1.3.5 carry the numbers of the last draft (1.3.1.2.1 to .3).

(part 2): The "New, New COAB" and Settlement Agreement

These are our comments on the second item up for a vote on Thursday, August 24, regarding changes to the DOJ Agreement and the COAB. While we are limiting our comments to amendments made since August 3, we want to note up front that Council was able to make some changes to the Settlement Agreement, apparently without push-back from the DOJ. We have asked repeatedly that two items in the definitions section of the Agreement be removed to make it easier for the City to improve its oversight system. One is paragraph 61, which defines "supported by the evidence" by re-stating the Citizen Review Committee's deferential "reasonable person" standard of review. PCW understands Council is not ready to change that standard at this hearing, but removing the definition from the Agreement will free the City up to make that change without involving the federal government and the court. The other is paragraph 43, which prohibits appeals on deadly force cases.

Portland Copwatch still has serious concerns about the re-working of the Community Oversight Advisory Board, including that the word "Oversight" is still being dropped from the new proposed name. The only change being made to the name is* changing the word "Commission" in "Portland Commission on Community Engaged Policing" to the word "Committee." General consensus seems to be that a Commission would have more authority than a "Committee" so this minor name change seems to indicate further disempowering of the COAB.

While the new draft is far better than the original proposal, the continuation of encouraging behind closed door meetings, lack of broad community input into the membership, unclear mandates and desire to erase the word "oversight" from the original COAB mean this is still not an adequate replacement.

Here are specific items, in which the section of the Plan we're citing is listed in brackets.

—KEY CONCERN: Buried in Deliverables #6, it says that "PCCEP will spend the first year gathering information from the public and compiling recommendations for PPB's Community Engagement Plan." If this means that is the PCCEP's ONLY charge for that first year, this is not something PCW would support. [Deliverables 6] The Mayor's office assured us that the Community Engagement plan would only be one part of PCCEP's first year work plan, but we would like to see this in writing so there is no confusion down the line.

—It now says the PCCEP will "independently assess the Settlement Agreement," which is new, but taken literally means they may not be able to comment on the implementation of the Agreement, which was the #1 charge for COAB. If the intent is for the Committee to assess how the Bureau is doing in terms of implementing the Agreement in a way that meets community expectations, this founding document should say so clearly. Similar unclear language appears in** a footnote suggesting once the Agreement is over there will not be a COCL (or DOJ presence) any more, PCCEP should make recommendations about progress "generally" and on community engagement. It should specify progress toward stated goals of the Agreement and enacting PCCEP's and other community recommendations. In the Goals section, it says PCCEP will make its assessment "using the tools outlined in this plan," which is also unclear. [Goals, City's Responsibilities] Again, the Mayor's office indicated the intent is the same as what PCW is requesting, but written clarification is needed.

—Only one of PCCEP's two monthly meetings is required to be public, even though PCW and others believe all their meetings should be public. At most, an executive committee that sets agendas might meet out of the public eye but should be required to report on all deliberations at the public meetings. [Members' Responsibilities]

—The new plan explicitly calls for PCCEP to review Bureau Directives (policies) and make recommendations, as well as requiring the Bureau to tailor its policy reviews to allow PCCEP to have meaningful input. PCW supports this change, but we are concerned that the new language makes it seem as if recommendations about standard operating procedures, training, Bureau culture, or other aspects not captured by the Directives will not be allowed. [Goals, Scope of Work, City's Responsibilities, Members' Responsibilities]

(continued)

* a typo in our original comments said "it". ** our original omitted the word "in". PCW regrets these errors.

—The new document also allows PCCEP to kick a Directive up for review outside its normal review schedule but only if it's NOT part of the Agreement's scope. In other words, had PCCEP found that the Deadly Force Directive was allowing involved officers to wait until after the Grand Jury to speak to investigators after that policy had been adopted, they would have had to wait two years to ask for it to be fixed. PCW appreciates the example of the Crowd Control directive, which moved up in importance because of on-the-ground clashes between police and the public. However, any existing Directive—or the need to create a new one— should be included in this authority. [Scope of Work]

—Whether or not the City is correct about Judge Simon's ability to call extra status conferences, PCCEP should be allowed to present at "all status conferences," rather than just at "annual" ones as stated in the plan. Then if the City is right they only present once a year. If the City loses at the Ninth Circuit, the PCCEP should have a voice at other hearings. [Scope of Work]

—The plan seems to be saying a person can only serve on the PCCEP for two years total. This would be a big mistake after the amount of training and skills that will take time to develop. Moreover, it's not clear whether the terms will all be staggered (odd/even years) or if a person who serves a one-year term can then apply for a second year, vs. applying to be on for three years total (one year plus a full term). As written, "The opportunity to serve a full term" implies they can only serve a total of two years. [Terms]

—PCW strongly supports that the Council will hold a hearing on the Community Outreach plan and order amendments if needed. [City's Responsibilities, Deliverables 6]

—Instead of just three people picked by the Mayor, the interview panel for prospective PCCEP members will be made up of five people picked by all five Council members. While this is an improvement, bear in mind that the original (ill-conceived) proposal to pick members of the COAB in the Agreement was to have community meetings where people voted. There must be some way to have broader community involvement in doing outreach for and selecting members. [Selection]

—The document states that selection may begin before the Judge approves the Agreement and holds a Fairness Hearing. This makes sense in terms of wanting to speed things up, but if for some reason the process is not found to fit the Agreement, the City will have to un-select everyone and start yet again. Obviously this would not be as much of an issue if the PCCEP were simply called the COAB, in which case it would mostly still be within the scope of the Agreement. [Selection]

—It's not clear that the problem of only dealing with certain classes of Portlanders is fixed by changing the requirement to participate in neighborhood association meetings to "consult with ONI and/or District Coalitions, Coalition of Communities of Color, and ONI's Diverse Civic Leadership partners." There are no organizations of houseless persons in that list, or even advocates. [Members' Responsibilities]

—The desired effect of PCCEP making informed recommendations will be better served by requiring meetings with members of the bodies now outlined in Deliverables #7 as optional (BHUAC, TAC, CRC and PRB), as PCCEP is required in the new document to meet with the Human Rights Commission, the Portland Commission on Disabilities and the New Portlander Policy Commission. [Deliverables 7, Members' Responsibilities]

—We earlier raised a question about the requirement for officers to attend round tables and town halls; the new document clarifies that "PPB presence is required at quarterly town halls." However this leaves a lot of questions, including, will the officers be in uniform? Could this language be interpreted as PPB acting as security at such meetings, rather than attending to listen and answer questions if called upon? [Scope of Work]

—PCW appreciates several minor but important changes, such as swapping out the desired outcome of "policing which exceeds constitutional requirements" ahead of "meaningful community engagement" and adding "improve outcomes" to the list of goals. Similarly, the purpose of community engagement is now defined as "leading to bias-free policing and community trust." [Mission, Goals, Members' Responsibilities]

—It is appropriate, given the COCL's disconnect with this community, for PCCEP to coordinate the COCL's town hall meetings. [Members' Responsibilities]

—The City should recognize, five years into the DOJ Agreement, that the mental health community is diverse and has mixed feelings about professional advocates vs. peer representatives. Thus, the document should be more specific when it says that training for PCCEP will include "mental health advocates." [City's Responsibilities]

—In a few places it says PCCEP members shall do something, where the language could imply they do not have to speak with one voice. A key example is in the explanatory paragraph in the GOALS section where it says “members will independently assess the Settlement Agreement.” This implies each member will do their own assessment. The Mayor’s office indicates that the Committee needs to vote on its recommendations and can include minority opinions; once again we ask that be put in writing for clarification.

—Overall, we hope the City is sincere where it adds: “The parties recognize that meaningful public engagement involves the ability of community members to affect policies, practices and PPB culture, thereby improving outcomes and eliminating unconstitutional actions.” [Deliverables 3]

Thank you for moving in the right direction, and the opportunity to comment.
dan handelman
portland copwatch

Moore-Love, Karla

From: Roger Hardesty <rdh@hardspace.info>
Sent: Tuesday, August 22, 2017 9:59 PM
To: Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; ted@tedwheeler.com; Auditor, IPR Mail; Moore-Love, Karla
Cc: community.portland@usdoj.gov; 'Geissler, Jonas (CRT)'; david.knight@usdoj.gov; bill.williams@usdoj.gov; Seth.Wayne@usdoj.gov; Jaclyn.Menditch@usdoj.gov; adrian.brown@usdoj.gov; Michael_Simon@ord.uscourts.gov; copwatch@portlandcopwatch.org; Jo Ann Hardesty; Brian.Buehler@usdoj.gov; chair@albinaministerialcoalition.org; tomsteenson@comcast.net; info@mentalhealthportland.org; mdjaiona@aracnet.com; ashlee.albies@gmail.com; Kristen; jaclyn.weiner@usdoj.gov
Subject: Agenda Item 946, PCCEP 2.0 & Employer Responsibility in Portland Policing
Attachments: HardestyPCCEP_2.0_Testimony.pdf

Please find attached, **HardestyPCCEP_2.0_Testimony.pdf**. I reproduce [the communication](#) here, in the body of this email.



www.hardspace.info

22 August 2017

Commissioner Eudaly, Mayor, Commissioners ~

I respond to Agenda Item 946, [Amendments to Settlement Agreement in USA v City of Portland](#), to resolve unconstitutional use of force in policing. (One hour scheduled, on 190 pages, a time allotment that is to also address an entirely different matter on police use of force.) Aware that, on 3 August introduction of the Plan for Portland Commission on Community-Engaged Policing, Council delayed public participation by two hours (resulting in a third of community members signed up to testify having fatigued out of the process) and having received no auto-reply from any of your offices on my testimony in that matter, I am sure this 'input' on vital need for community engagement is merely pro-forma effort. In this communication, as courtesy, I reproduce my 19 August post, [Sheltering White Supremacy in Portland Policing](#).

I copy DoJ CRD investigators and the Court, sadly noting violation of SA 170. As you prepare for this hearing, pertinent documents have been sliding on and off the City's website without notice. There has been no means for providing intelligently informed consent of the governed. Artificially constrained deadline for 'input,' and return to reliance on perpetrators' unreformed communication style, they conspire to subvert the rule of law.

"I've received dozens of emails from people who don't support the amendment," said Commissioner Eudaly, on 3 August. At issue was the Mayor of Portland, Oregon's initial plan to change who gets to oversee implementation of a [2012 Federal plea deal to reform unconstitutional policing](#). Following predecessors' obstructionism, his [Portland Committee on Community-Engaged Policing](#) (PCCEP) intends [on 24 August](#) to legitimately circumvent direct community influence. The Mayor would prefer to choose who oversees compliance with intended police reform, and have his small band meet half the time in secret. To reduce the scope of public involvement, he must eliminate a Community Oversight Advisory Board (COAB) enshrined in an Obama-era agreement.

Eudaly asked, "Are we somehow eliminating tracking analysis and review of racial profiling data through any of these amendments?"

Race is only mentioned twice in the pre-Trump plea deal. SA 148 provides Portland Police Bureau (PPB) "shall continue to require that officers document appropriate demographic data regarding the subjects of police encounters," including the subject's race. PPB is "to consider *enhancements* to its data collection efforts" (*italics mine*) and report quarterly. Of course, the bureau, operating as unresponsive to external influence, has not fulfilled the 2012 obligation.

Mayor Wheeler's Senior Policy Advisor Nicole A. Grant finessed community concerns Eudaly found "compelling." In March 2017, while the Mayor was in backroom negotiations with law enforcement, a [Racial Equity Plan](#) (REP) rolled out of the Police Bureau. Note that SA 159 requires PPB to "maintain all data and records necessary to facilitate and ensure transparency and wide public access to information related to PPB decision making and activities ..." Elsewhere the records are required to be posted across web sites.

Transparent process, with opportunity for community engagement, was to replace cozy backroom dealings. And prevent Council from releasing hundreds of previously undisclosed pages of documents on a Friday, for passage the following Wednesday. Volunteers in community-based organizations have never been effective in accelerated turn-around times: often, study groups must get Board approval to take official positions. SA 170 requires "The Chief shall post on PPB's website final drafts of all new or revised policies that are proposed specific to force, training, community-based mental health services, crisis intervention, employee information system, officer accountability, and community engagement, to allow the public an opportunity for notice and comment, prior to finalizing such policies." Of course, only REP's final iteration appeared, and without fanfare.

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In a Trump-era renegotiation of plea deal terms, these covenants are to be set aside. Strong-man leadership is to replace broad-based community engagement.

Cops' REP was developed under the auspices of the City's Office of Equity and Human Rights. Despite years of extrajudicial killings, OEHR has never advocated PPB co-workers be held accountable for any conduct. Their primary mission is to address an equity spectrum in City procurement and hiring. They offer facilitation and training in jargon. "Bureaus had autonomy to focus their work," declares their [2016 report](#).

Decision to bury SA 148 on the penultimate page in cops' REP circumvents provisions calling for transparency and opportunity for community engagement. Further, OEHR's [Racial Equity Toolkit](#), purportedly employed to frame cops' racism, is not police specific. An incisive and growing [body of work](#) from police scientists has been designed to eliminate PPB's shame and detain policies (stop 'n frisk) and conclude race-based disparities in use of force. It is perpetuation of small-minded provincialism to make assessment using a toolkit designed to also accommodate racism in the water bureau. Eudaly undoubtedly fell for it.

Another result of keeping community participation at bay is that identifying racial disparities in [traffic stop data](#) is a concern in the REP section primarily devoted to recruitment, hiring and retention of police officers. Gone is 'enhancement' language.

It would have been my 'input,' should the City's Chicago-based COCL contractor have alerted locals of opportunity to influence police policy, to ask why data collection *required improvement*. DoJ's Civil Rights Division investigators never explicitly declared goals, but I suspect that – in subsequent investigation – they'd want evidence to discern whether race-based disparities in law enforcement warrant subsequent Federal intervention. The City of Portland is never going to voluntarily produce evidence of culpability; but at least racial justice advocates would have data describing the dodge.

To give Eudaly's concern deeper context, cops have been collecting 'stops data' since the turn of the century. They began making annual reports three years in retrospect. No outside agency influences design of data collection: we are spoon fed cops' analysis of their own conduct. (In the Chief Reese era, PPB hired Dr. Brian Renauer, and PSU's Criminal Justice Policy Research Institute, to see whether changing benchmarks would improve racial disparity outcomes in reporting. It did not.)

For Eudaly to be concerned, as to whether cops *measure* their performance, is to miss the larger point:

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stops. African American pedestrians are *four* times as likely to be stopped. And cops are hiding results: they won't demographically break down interventions for "mere conversation." Prime target for this practice: Black, male youth. Once detained, African American drivers and pedestrians are then twice as likely to be searched. The kicker? Blacks who've been stopped and searched are less likely to have warrants, weapons or drugs than Whites: this biased 'hit rate' then feeds into County law enforcement's racially disproportionate fines, sentencing and plea deals. (See the \$25,000,000 disparity [here](#).) City policy primes our school-to-prison pipeline. The entire scheme is a poverty assurance mechanism.

Sidenote: while the Mayor on 3 August falsely portrayed COAB dysfunction (items 40-51, [here](#)), as if it justified Commissioner's refusal to appoint replacement members, or allow the community to select their five representatives; no such analysis was given to our Human Rights Commission's (read 'cops') refusal to

The Obama-era plea deal mentioned race at SA 146d: the perpetrators' Human Rights Commission (HRC) was to finally implement Chief Sizer's 2009 Police Plan to Address Racial Profiling. Eudaly sat stone-faced as she and others were further finessed. (The Feds hoped to bring City Commissioners to task in 2012: local authority – including still-serving Fritz and Saltzman – never called for a first annual review of the 2009 Plan.) The Mayor's aide revealed HRC's police-centric Community Police Relations Committee (CPRC) simply "disbanded." The body, responsible for Federally mandated police reform, unilaterally quit operation ... without taking required action on racial profiling. (See sidenote, below.)

The City does not want to change police behavior. Eudaly is concerned that their conduct is *measured*, however. The thing is, year-after-year reporting ... that racial profiling goes on unabated ... merely telegraphs to the world that, "This is the way we police in the nation's Whitest city of its size."

The term "racial profiling" is to be excised in the Trump-era plea deal. The Mayor's plan, to use a puppet body to echo the City Attorney and report the City has complied with provisions, only requires PCCEP to "learn about" the cops' REP in orientation: there is no mandate to stop racist practice. When you get that far into the weeds, you'll discover "Develop strategies to address disparities," is to come in REP's 'Year Two.' In 2020 or 2021, whoever still wants racial justice will be able to assess whether planning – that was supposed to begin a decade earlier – has even *begun*. No date is envisaged, by which officer conduct is to actually change.

I must concur with Gregory Robert McKelvey's assertion: [Ted Wheeler has been secretly working with Jeff Sessions' Department of Justice to dismantle Portland's police accountability process](#). The intention is to leave White supremacy intact in PPB culture, until its proponents depart from office.

Pointedly, community awareness has advanced broadly since the parties ignored the community's proposed fixes to the plea deal at 2012 adoption.

Mayor Hales in 2014 erased disciplinary action; suspension for public tribute to five, Nazi-era German soldiers; from PPB Kapitän Mark Kruger's personnel record. Purging records of Nazi affiliation is stark reminder of a plan which parallels our intended police reform. Kruger was promoted to offer command staff training; he is regularly dispatched to participate in public convening addressing police accountability. [Demand for Kruger's resignation](#) mounts in the wake of City police and transit [collusion](#) with White supremacist uprising in Portland.

If the Mayor is sincere in his enthusiasm for PCCEP, his band of appointees need not come at the expense of leveraging "the ideas, talent, experience, and expertise of THE COMMUNITY" (SA 141). A Trump-era plea deal, to delay the very introduction of racial profiling remedy, and to keep perpetrators as shepherds of that planning process - as well as purportedly improving data collection - is unconscionable.

I counter-propose the Mayor task PCCEP with removing Kruger from influence. That, as Police Commissioner, he re-purpose anti-'gang' (anti-Black) suppression; to conduct gang tattoo and broad behavioral analysis *of serving officers*. Unearth bureau Oath Keepers, Ku Klux Klan adherents, and those of the Constitutional Sheriffs and Peace Officers Association. **Set COAB in place as a well-resourced, sincerely pursued initiative; follow on with PCCEP initiative to gut PPB of White supremacist influence.**

188570

Best,

Roger David Hardesty

rdh@hardspace.info

22 August 2017

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 The logo for 'hardspace' is displayed in white lowercase letters on a red rectangular background. Below the main text, the website address 'www.hardspace.info' is written in a smaller font.

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The Obama-era plea deal mentioned race at SA 146d: the perpetrators' Human Rights Commission (HRC) was to finally implement Chief Sizer's 2009 Police Plan to Address Racial Profiling. Eudaly sat stone-faced as she and others were further finessed. (The Feds hoped to bring City Commissioners to task in 2012: local authority – including still-serving Fritz and Saltzman – never called for a first annual review of the 2009 Plan.) The Mayor's aide revealed HRC's police-centric Community Police Relations Committee (CPRC) simply "disbanded." The body, responsible for Federally mandated police reform, unilaterally quit operation ... without taking required action on racial profiling. (See sidenote, below.)

The City does not want to change police behavior. Eudaly is concerned that their conduct is *measured*, however. The thing is, year-after-year reporting ... that racial profiling goes on unabated ... merely telegraphs to the world that, "This is the way we police in the nation's Whitest city of its size."

The term “racial profiling” is to be excised in the Trump-era plea deal. The Mayor’s plan, to use a puppet body to echo the City Attorney and report the City has complied with provisions, only requires PCCEP to “learn about” the cops’ REP in orientation: there is no mandate to stop racist practice. When you get that far into the weeds, you’ll discover “Develop strategies to address disparities,” is to come in REP’s ‘Year Two.’ In 2020 or 2021, whoever still wants racial justice will be able to assess whether planning – that was supposed to begin a decade earlier – has even *begun*. No date is envisaged, by which officer conduct is to actually change.

I must concur with Gregory Robert McKelvey’s assertion: [Ted Wheeler has been secretly working with Jeff Sessions’ Department of Justice to dismantle Portland’s police accountability process](#). The intention is to leave White supremacy intact in PPB culture, until its proponents depart from office.

Pointedly, community awareness has advanced broadly since the parties ignored the community’s proposed fixes to the plea deal at 2012 adoption.

Mayor Hales in 2014 erased disciplinary action; suspension for public tribute to five, Nazi-era German soldiers; from PPB Kapitän Mark Kruger’s personnel record. Purging records of Nazi affiliation is stark reminder of a plan which parallels our intended police reform. Kruger was promoted to offer command staff training; he is regularly dispatched to participate in public convening addressing police accountability. [Demand for Kruger's resignation](#) mounts in the wake of City police and transit [collusion](#) with White supremacist uprising in Portland.

If the Mayor is sincere in his enthusiasm for PCCEP, his band of appointees need not come at the expense of leveraging “the ideas, talent, experience, and expertise of THE COMMUNITY” (SA 141). A Trump-era plea deal, to delay the very introduction of racial profiling remedy, and to keep perpetrators as shepherds of that planning process - as well as purportedly improving data collection - is unconscionable.

I counter-propose the Mayor task PCCEP with removing Kruger from influence. That, as Police Commissioner, he re-purpose anti-'gang' (anti-Black) suppression; to conduct gang tattoo and broad behavioral analysis of *servicing officers*. Unearth bureau Oath Keepers, Ku Klux Klan adherents, and those of the Constitutional Sheriffs and Peace Officers Association. **Set COAB in place as a well-resourced, sincerely pursued initiative; follow on with PCCEP initiative to gut PPB of White supremacist influence.**

Best,

Roger David Hardesty

rdh@hardspace.info

Sidenote: while the Mayor on 3 August falsely portrayed COAB dysfunction (items 40-51, [here](#)), as if it justified Commissioner’s refusal to appoint replacement members, or allow the community to select their five representatives; no such analysis was given to our Human Rights Commission’s (read ‘cops’) refusal to convene CPRC. They were just allowed to shun their responsibilities. By Mayoral order, citizen appointments to HRC have been silent throughout the most viable local civil rights initiative to take place in two generations. No matter how many City boards the perpetrators throw into PCCEP member-selection processes, there is no historical evidence that political appointees will contravene local politicians responsible for their influence.

Moore-Love, Karla

From: Thomas.Etienne <thomas.etienne@protonmail.com>
Sent: Tuesday, August 22, 2017 4:48 PM
To: Wheeler, Ted; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Council Clerk – Testimony
Cc: Hull Caballero, Mary; Severe, Constantin; Moore-Love, Karla
Subject: Amendments to Settlement Agreement and Plan for PCCEP (Agenda 946)
Attachments: 20170824_TestimonySettlementAgreement_Agenda946.pdf

Mayor Wheeler & Portland City Council,

My name is Thomas Etienne, Portland resident and recent Army veteran returned to our community. Please find attached to this email my subsequent questions and observations on the proposed amendments to the Settlement Agreement that are scheduled for approval on August 24, 2017 (Agenda 946).

I will also submit my comments for addition as testimony to the Council Clerk. I'll take it on faith that my submission will receive due consideration and be added to the record since Portland has the best clerk in the country as per the Mayor's vocal praise during previous the council session on August 3. My questions and comments are in continuation from the testimony I provided on that date. Thank you for your diligence.

Respectfully,
Thomas Etienne

Phone: 503-741-9296

Email: thomas.etienne@protonmail.com

August 24, 2017

WRITTEN TESTIMONY

FROM: Thomas Etienne, thomas.etienne@protonmail.com

TO: Mayor Ted Wheeler, ted.wheeler@portlandoregon.gov

CC: Commissioner Chloe Eudaly, chloe@portlandoregon.gov
Commissioner Nick Fish, nick@portlandoregon.gov
Commissioner Amanda Fritz, amanda@portlandoregon.gov
Commissioner Dan Saltzman, dan@portlandoregon.gov
Auditor Mary Hull Caballero, mary.hullcaballero@portlandoregon.gov
IPR Director Constantin Severe, constantin.severe@portlandoregon.gov

SUBJECT: Amendments to Settlement Agreement and Plan for Portland Commission on Community-Engaged Policing

1. Hello, my name is Thomas Etienne. I am a private citizen and veteran recently returned to the Portland community communicating my views about the security and well-being of our City. I used the opportunity to speak on August 3, 2017 during the public testimony session on this matter (Agenda 872). I relied on my long experience as a former Army officer and veteran to describe some of hazards I foresee in implementing this proposal. My assertion is that amending the existing Settlement Agreement for City of Portland is likely to diminish and/or disregard the public's expectation for meaningful community oversight of serious public safety issues that have been evidenced in the past performance of the Portland Police Bureau. I was not able to attend the subsequent August 9, 2017 meeting which readdressed this issue (Agenda Item 893), but wish to submit the questions listed below in addition to providing an explanation of reasoning for my concerns and recommendations. I am interested in receiving a response and/or invitation to subsequent proceedings on this matter.

2. Questions on proposed amendments to the Settlement Agreement and Plan for Portland Commission on Community-Engaged Policing (PCCEP):

- a. Does the Mayor's Office perceive a justifiable risk that violation of the Settlement Agreement could occur if the PCCEP proposal is not implemented?
- b. Does the Mayor's Office believe that risk of violation of the Settlement Agreement is significantly higher if the existing Community Oversight Advisory Board (COAB) were to be reformed?
- c. Due to a Presidential administration that has demonstrated politically motivated bias and lack of commitment to broad public security; does the Mayor's Office have specific concerns that any violation of the Settlement Agreement must be

SUBJECT: Amendments to Settlement Agreement and Plan for Portland Commission on Community-Engaged Policing

avoided in order to prevent federal intervention from the current Department of Justice?

- d. What is the Mayor's Office assessment of potential risk to the City if a significant number of Portland residents lose faith in ongoing police reform efforts?
- e. After reviewing the revised PCCEP proposal published as Exhibit 4-1 under Agenda 946, will a newly established PCCEP have any liaison authority to report its recommendations directly to the appropriate office at the Department of Justice?

3. The remainder of this communication discusses my observations and conclusions surrounding the shared responsibility of promoting public safety in our City. I deliberately attempted to avoid using technical language and over emphasis on policy prescriptions since I believe this matter is highly dependent on the subjective perception of public trust.

4. After attending the August 3 council session, I was encouraged to see that the City Council and Mayor were making a credible effort to listen to community members who attended. However, it was very discouraging to observe how full access to the council chamber was not allowed. This decision immediately invited the very same difficulties pertaining to civil discourse which would be discussed during the next several hours. Not a promising departure point for an issue that is inseparable from trust.

5. In my assessment, I believe that past grievances and the sense of distrust displayed by community members engaging on this issue are very much at the core of why the police reform has and will continue to be adversarial. And by extension, the anger and previous harms experienced by many members of our community are very real and cannot be conveniently wished away out of a desire for smooth conduct of business to occur. My personal judgment is that an unfortunate majority of our modern governing processes have become intensely transactional in nature and thus encounter substantial difficulties in serving the needs of ordinary citizens who operate their lives with the give and take of interpersonal communication. An inconvenient reality of living with each one another as human beings demands that relationships will continue to matter far more than governance systems tend to incorporate into their designs. Unsurprisingly, the state of Portland's relationship between local government and many of its residents is tenuous at best. And at worst, significantly damaged as evidenced by the failure of the COAB.

6. With regards to the proposal to amend the role of the existing COAB in favor of a more independent PCCEP but with less authority: I argue that constructing yet another government designed intervention that extends no meaningful power to an engaged community will fail. This view is informed not only by my past military experience but also with due awareness and appreciation for the political landscape of America in 2017. Irrespective of party affiliation, the systemic crisis of our domestic politics is being

SUBJECT: Amendments to Settlement Agreement and Plan for Portland Commission on Community-Engaged Policing

extensively fueled by the retrenchment of public and private institutions that are failing to deliver functional services and protections for a growing number of Americans. I believe this pattern has evolved over several decades to a point where citizens are justifiably correct in demanding reforms which specifically encode accountability mechanisms into their processes. By my understanding, the now dormant COAB did include a meaningful degree of accountability in the form of having authority to report on Portland residents' evaluation of reforms implemented under the Settlement Agreement. The proposed PCCEP will eliminate that specific oversight capacity from the only component under the Settlement Agreement which guarantees a degree of accountability to our community.

7. As I attempted to communicate last week during public testimony, maintaining security and stability in a community is very much a function of acknowledging due respect and broad agency to its stakeholders. I learned as much from attempting to expand security in areas of the world where horrific violence was the only result if those stakeholders were not afforded a legitimate seat at the table to determine their own future. Thankfully, we do not experience open conflict in the country we call home and no concerned caring American wants to see increased hostility in the communities we work, live, and play in. However, the inability for meaningful change and reform in the light of obvious failures by our governing institutions is leaving many of those same caring citizens without options. Policy-making remains far too inflexible and loyal to special interests while providing no release valve for the social and economic pressures mounting against ordinary Americans. Working hard and playing by the rules is no longer part of a reliable strategy for so-called success except for an increasingly narrowing band of individuals and professions. All of these trends should represent great concern to those who want to preserve the stability and way of life we have been enjoying. I wore the uniform for many years and fought to defend the space for freedom to be maintained and extended here at home. Yet the ground conditions I've observed in recent years have instead led me to begin voicing these types of concerns out of sheer necessity.

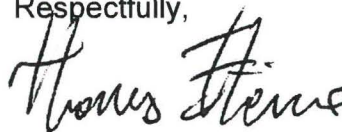
8. My recommendation is against amending the City of Portland Settlement Agreement in such a way that reduces community oversight. The existing COAB already represents a potential answer to the key problem of reestablishing trust and accountability with the Portland community. Making it function in a manner where skeptical members of the community are given good reason to place their faith in its process remains a recognizably difficult challenge. There will always be some unfortunate spoilers who cannot or will not contribute constructively to such a process, but that doesn't provide the basis for simply eliminating any potential sources of disruption to the execution of the Settlement Agreement. Requirements should not be weakened to facilitate compliance. Rather, it is the hard task for policy makers, managers, and individuals selected to represent their community to harden the design of their processes with resilience from detractors by instituting a convincing balance between actionable reforms and sufficient realism in their implementation.

SUBJECT: Amendments to Settlement Agreement and Plan for Portland Commission on Community-Engaged Policing

9. Accomplishing the task above is not the kind of work that can be fully captured in any set of transactional policies or protocols. Once again it requires forming relationships. My assumption for the failure of the attempted COAB is that it wasn't effectively designed or prepared to build relationships with an engaged community who possessed expectations beyond the scope of the Settlement Agreement. Thus what was designed to be a proscriptive policy driven mechanism could not contend with such stakeholders. Advancing yet another policy driven mechanism under the PCCEP does not provide any reassurance of success. One could also be forgiven for prejudging this amendment proposal against an alphabet soup menu of prior interventions: Independent Police Review (IPR) with a side order of Citizen Review Committee (CRC) followed by a second course of Compliance Officer/Community Liaison (COCL) with COAB seasoning. Serving up a fresh dish of PCCEP is not a promising strategy for breaking the pattern of inadequacy. To borrow from a bit by comedian George Carlin, we've made demonstrable progress up to 5-letters.

10. In closing, I genuinely hope that the Mayor and City Council are willing to absorb the feedback their constituents are providing. It is true that community input often does not arrive in a time or format which accommodates the undoubtedly taxing burden of running a city government. Nevertheless, my own career in military service demonstrated that duty and diligence demands answering requirements which are often cumbersome and annoying and sometimes even dangerous. Mercifully that last component remains largely absent from our domestic politics, even if the occurrence of disrespect and harsh words have sadly become more commonplace. Yet if those who served in uniform could at once point stabilize a thoroughly chaotic environment like Iraq, then I cannot accept any excuse for shrugged shoulders in the face of unfortunate setbacks here at home. Everyone we need and sufficient resources are available in our City to both administer justice and sustain reasonable order to promote the welfare of every Portlander. The question is whether or not our responsible leaders and officials have the depth of character and wisdom to do so.

Respectfully,

A handwritten signature in cursive script that reads "Thomas Etienne". The signature is written in black ink and is positioned below the word "Respectfully,".

THOMAS ETIENNE

Moore-Love, Karla

From: Roger Hardesty <rdh@hardspace.info>
Sent: Tuesday, August 08, 2017 2:32 PM
To: Commissioner Eudaly
Cc: City Auditor, Mary Hull Caballero; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; ted@tedwheeler.com; Auditor, IPR Mail; Moore-Love, Karla; community.portland@usdoj.gov; 'Geissler, Jonas (CRT)'; david.knight@usdoj.gov; bill.williams@usdoj.gov; Seth.Wayne@usdoj.gov; Jaclyn.Menditch@usdoj.gov; adrian.brown@usdoj.gov; Michael_Simon@ord.uscourts.gov; copwatch@portlandcopwatch.org; Jo Ann Hardesty; Brian.Buehler@usdoj.gov; chair@albinaministerialcoalition.org; tomsteenson@comcast.net; info@mentalhealthportland.org; mdjaiona@aracnet.com; ashlee.albies@gmail.com
Subject: Agenda Items 892-894, PCCEP & Employer Responsibility in Policing
Attachments: HardestyPCCEPandPleaDeal2.pdf

Please find attached, HardestyPCCEPandPleaDeal2.pdf. I reproduce the communication here, in the body of this email.

**Best,
 Roger Hardesty
 Portland, OR**



8 August 2017

Commissioner Eudaly, Mayor, Commissioners ~

On [Agenda Item 892](#) (Second Reading of 871) 'Post Deadly Force Procedures,' and your statement: "I've attempted to respond to concerns by community members before this hearing." I refer you to [my email of 21 July](#): 'Resolving Deadly Force Investigation Procedures, Portland Oregon,' which did not receive the favor of an auto-reply. I also refer you to Thursday's [oral testimony](#) by Lindsey Burrows, Portland Chapter, National Lawyers Guild.

In my 21 July submission I offered evidence from DoJ investigators and the City's own consultants, the OIR group. National best practices call for officers to promptly report use of force ... not making distinction as Portland does, as to whether force was lethal. As an employer, they suggest immediacy and "end of shift" language ... not the passage of hours. Long ago, City consultants in the PARC group debunked PPA's original premise, that officers need more time to recoup from trauma than civilians. The other national best practice is to promptly remove the officer from the scene, and to interview in a controlled space. They describe who should be excluded from the proceeding and who should lead it. Burrows testified interviews should happen as quickly as possible, and that IPR should lead it, I believe. Dan Handleman of Portland Copwatch says placing IPR in lead investigative role will create the wall between criminal and administrative investigations and protect officers' right to avoid self-incrimination in criminal cases. So 892 is fused with Agenda Item 894 'Amend Independent Police Review Code' (Second Reading of 873).

On Agenda Item 893 (Second Reading of 872) 'Gutting Community Participation in Settlement Agreement Oversight:' you should realize by the *Oregonian's* Editorial Board [pronouncement](#), that your amendment package failed to push against "Wheeler's central premise: That the city should ditch public oversight of the settlement's implementation." Frankly, #5, having PCCEP agendas "published on the City website within 30 days after the meeting date" perpetuates City failures under SA Sect. IX, where police policy did not go online in a timely manner, it did not flow to a COAB agenda, and was never exposed to town halls.

Vote 'No' on item 893. Do not "repeal and replace," as per testimony by Jason Renaud, Mental Health Association of Portland. No public business in off-the-record conclave. Empower COAB. Call for a deliberative and transparent process which heeds community demands that *someone* take responsibility for advising on how to make Portland police culture less lethal, and bring officers into compliance with their constitutional oaths.

The consummate failure in City failure to comply with community engagement provisions in [the plea deal](#) was not that Fritz screwed up the selection process; it was not due to the fact that perpetrators failed to screen out justice advocates. But, given your attention to how the Mayor will pick five (as many as eleven) cronies, I ask, "Why were none in this potential pool willing to testify on the record, in favor of a clandestine PCCEP?" We never heard the merits of the case from civilian partisans he'll consider for appointment ... after all the soft language in your amendments is observed.

My favorite moment in Thursday's hearing was your revelation that last-minute [memo from Kathleen Saadat](#), *did* provoke your response. Portrayed in the Mayor's ordinance (42) as "an extremely well-respected and talented leader," Saadat does not support COAB disestablishment. I heard gasps go up, at testimony pretending to parties' diligence, in running plea deal abdication past community members. The citizen member of PPB's Behavioral Health Unit Advisory Committee specifically refuted this hogwash. Among the small band invited to feed into COAB dissection, no one I know made recommendations which could logically lead to PCCEP. The fact that Wheeler did not have Saadat in his pocket should reveal to you that mere simulation of public involvement in police accountability proceeds apace in Council.

It is imperative to note that – when it came time to fix terms for a Settlement Agreement in 2012 – justice advocates, deeply engaged in a complex and time-consuming process for a considerable timespan, had *already* identified City obstruction in civic engagement. We'd by then been fed through fake input processes, and designed-to-fail initiative. We'd already been asked to "give it time to work" as one failed body was exchanged for another. And we know, across this timespan, that police culture did not change. Innocents die; the psyche of Black male youth and wider community continues to be impaired by shame and detain practices far removed from paper policy and command staff purview. Militarized police stand staunchly apart from community-based policing. Whole swathes of police misconduct go unchecked by IPR.

Thursday's hearing provides a case study for need to reform ongoing pattern and practice of City subterfuge and ineptitude in development of police policy. Consider how difficult it was to accommodate the special needs of the one uninvited civilian. Compare to plea deal provisions to reach out and engage this victim class. In 2012 it was decided to let the community build out the mechanism it wants: it is not now time to provide this Mayor with an echo chamber. COAB needs the resources to provide ADA services, to reach into underserved community the City persistently disenfranchises from participation.

Skip over months-long, backroom, coming-to-consensus informing the Wheeler proposal. Witness the document flood. Concurrent release hundreds of pages of legislation. [Sixty-two pages for 871. Exhibit 4 *alone*, for Item 872, at 70+ pages, was longer than the 2012 plea deal you seek to avoid. Few realize [PPB Directive 635.10](#) Crowd Management/Crowd Control (102 pages) also trundles into enactment, also calls for police accountability advocates' attention. (It incorporates none of the changes recommended after analysis by Portland Copwatch, Empower Portland and opaque community 'input.')] Perpetrators *planned* to prevent cogent engagement on all four issues.

It's abject failure in governance to expect three disparate legislative items to receive simultaneous testimony, let alone when confined to 180 seconds. Compare to town halls, as described in your plea deal: at one, the DA and perpetrators make their case on a specific issue; at another, the NLG or subject matter experts on national best practices. Imagine a Community Liaison then tasked with facilitating a third town hall, intent on drafting items of public concern to set before COAB, who would – in turn – research, opine, and have their report put before Council. That's what democracy looks like.

When you thanked "everyone" for participating, I'm sure you included the one third to one quarter of signed-up participants who fatigued out of Thursday's ordeal. In the City's hands, the process becomes the direct opposite of effective community engagement. Fritz, a continual proponent of delay, used COCL manipulation of an initial town hall – given to a police agenda, before COAB had been seated – to make certain that no one should expect PCCEP to tell us how to engage with police ... for nine months. For all we know, Wheeler offered the pair of you built-in concessions, to give appearance of mutual endeavor. Reject PCCEP; Commissioners are Agreement signatories, it's not wise politically, to allow Mayoral appointments report compliance only to him. How did 'community engagement' lead to strong-man governance?

When AMAC realized COCL expected *not* to give their contractually required quarterly report, prior to annual status conference in 2016, the community-based organization worked with DOJ investigators to engender considerable public turnout and get that plea deal provision met. The community has capacity to carry out this work: it requires the City to end obstructionism, and for Council to empower public oversight of actual police reform mechanisms.

On a final note; I have no idea what is expected to happen at the second reading tomorrow. I'm unable to counsel on whether you will proffer further amendment, or whether Fish was playing coy ... feigning to consider changes to Item 892. The way the perpetrators have rolled this out, it's impossible to discern whether opportunity for civic engagement exists ... prior to fighting PCCEP in judicial review.

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Best,

Roger David Hardesty
rdh@hardspace.info

8 August 2017


 The logo for 'hardspace' is displayed in white lowercase letters on a solid red rectangular background. Below the main text, the website address 'www.hardspace.info' is written in a smaller, lighter font.

Commissioner Eudaly, Mayor, Commissioners ~

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Best,

Roger David Hardesty
rdh@hardspace.info

Moore-Love, Karla

From: Philip Wolfe <philipjames73@hotmail.com>
Sent: Tuesday, August 08, 2017 8:31 PM
To: Philip Wolfe
Cc: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Moore-Love, Karla; Commissioner Saltzman
Subject: My testimony for tomorrow and concerns regarding last Thursday session
Attachments: Roger's testimony.pdf

Dear Mayor and Commissioners,

First of all before I go there, I wish to address an issue I encountered last Thursday which makes this a formal complaint with Karla's office.

Interpreters weren't qualified, at least, not for me. I asked them which agency they were assigned to. Passport and Anderson. I was shocked because they are not the most reliable agencies. Anderson is based in Salem. I would like to once again, have a meeting and train how this should be handled when it comes to getting interpreters. There are several agencies but it doesn't necessarily mean all of them are reliable. During my testimony, I had to watch the interpreters because I couldn't trust them being able to convey my message accurately. This disrupt my thought process when I testified. This is taking out my voice. For this to go smoothly, I need to be informed at least a week in advance so that interpreters can be arranged ahead of time and if trouble shall arise as time nears, we still would have time to rectify this. Evidently the office who arranged interpreters for us needs training, no offense. I appreciate the effort.

Second, I was told that the sign sheet is for people who weren't invited to testify though people with disabilities and children comes first. In that case, I had to wait before 12 people finish testifying then my turn. I am a person with a disability, why wasn't I placed first? I had to wait for 2 hours due to the "invited" or privileged people to testify, they can talk as much as they want. Tracy, DA attorney rambled for good half hour or so, yet we are limited to 3 minutes?

Third, I took the liberty to attach Roger Hardesty's testimony. I fully am with him on his testimony.

Fourth, based on my observation when the "privileged" folks did their testimonies, mostly the DA, City and Police, all of you looked up straight to them with respect. I appreciate Chloe's questions. But when community testified, I noticed the men looked down without looking straight at them. This is not respectful because this is not acknowledging us. You just went on with the motions person after person without questioning, or even a hello? "Yes I hear you... or I feel you..." stuff like that. Nothing. This confirms why the community has no trust in the City and this must be resolved ASAP since we got a new Chief of Police coming this October. This is an opportunity to restore trust if you listened to us.

Fifth, like everybody explained and it is recorded that DOJ found the city not in compliance but why weren't they being held accountable? Why didn't the City fix the problem? Why attempt to gut COAB in trash and create a new one when you could focus on COAB and fix it? Defib COAB. Restore. Grow. Your proposal is just a band aid totally dismissing COAB. With that said, I am urging you to WITHDRAW your proposal and work on COAB.

Philip J. Wolfe

Moore-Love, Karla

From: JOE WALSH <lonevet2008@comcast.net>
Sent: Monday, August 07, 2017 10:11 AM
To: Moore-Love, Karla; Wheeler, Mayor; Commissioner Fritz; Commissioner Saltzman; Commissioner Fish; kafoury, deborah; Smith; roberto lavato; bernstein
Subject: community input

TO: Portland Mayor, Ted Wheeler Portland City Commissioners, Nick Fish, Chloe Eudaly, Amanda Fritz, Dan Saltzman & Karla Moore-Love, Council Clerk.

FROM: Joe Walsh

RE: Agenda 8/3/2017: Approving amendments to Settlement Agreement and Plan for Portland Commission on Community-Engaged Policing

I could not be at the council meeting due to illness but did watch the meeting from my home and wish to go on the record opposing the creation to the committee as offered by the mayor. We do appreciate the attempt of Commissioners Eudaly and Fritz to try to make this committee something that we can be proud of with adding their amendments; sometimes you can not fix something that is broken, you must start over.

That is what all of the activists are telling you, start over and rethink what you are doing. Accountability and transparency are key to this committee and the council appointing the members is not going to do the job. The community must be involved and the committee must have real power and not just be another advisory body. If you continue with trying to control this committee you will most likely find yourself back in front of a federal judge. I am not going to go into all the reasons to start over, others have offered you good critiques, you will do what you want to do and we will see how the people of Portland react. We as an organization oppose this committee, but do want to see you interview police officers at the scene of any shooting or use of force.

<http://IndividualsForJustice.com>

For Justice, Peace and *Laughter,
 Joe Walsh-Lone Vet
 Individuals for Justice <http://individualsforjustice.com>
 Proud member of Oregon Progressive Party, <http://propparty.org/>

War is failure, occupation a disgrace!

~çÊœFunding these wars is killing our troops~çÊœ
<http://www.mfso.org/>

* Why laughter?? Because without it I would have gone insane years ago.

An ounce of practice is worth more than tons of preaching.
Mohandas Gandhi

Molly Ivins, "It's like, duh. Just when you thought there wasn't a dime's worth of difference between the two parties, the Republicans go and prove you're wrong."

"I have no country to fight for; my country is the earth,
and I am a citizen of the world."
Eugene V. Debs

"So keep fighting for freedom and justice, beloveds..." -- Molly Ivins

POST DEADLY FORCE PROCEDURES/DOJ SETTLEMENT
AGREEMENT/INDEPENDENT POLICE REVIEW CODE CHANGE

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME.

Number	Name (please print)	Address & Zip Code (optional)	Email (optional)
✓ 1	JO ANN HARDESTY	NAACP PORTLAND	
✓ 2	DAN HANDEMAN	PORTLAND COPWATCH	
✓ 3	AJ MENDOZA	BASIC RIGHTS OREGON	
✓ 4	JAN FRIEDMAN	DISABILITY RIGHTS OREGON	
✓ 5	JASON RENAUD	MENTAL HEALTH ASSOCIATION OF PORTLAND	
✓ 6	LINDSEY BURROWS	NATIONAL LAWYERS GUILD	Lindsey.burrows@gmail.com
✓ 7	BARBARA BUCHINSKI	PORTLAND COPWATCH	
✓ 8	CAROL LANDSMAN	PORTLAND COPWATCH	
✓ 9	PEGGY ZEBROSKI	PORTLAND COPWATCH	
✓ 10	MR WL BARNETT	PORTLAND COPWATCH	

POST DEADLY FORCE PROCEDURES/DOJ SETTLEMENT
AGREEMENT/INDEPENDENT POLICE REVIEW CODE CHANGE

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME.

Number	Name (please print)	Address & Zip Code (optional)	Email (optional)
✓ 11	Brandie Dieterle DeLaHoz	HRC	
12 <i>No</i>	Lightning	—	—
✓ 13	PHILIP J. WOLFE	NW Naito Parkway	philipjames73@hotmail.com
✓ 14	Joe Rowe	North Portland	ojoe22@gmail.com
✓ 15	Rev. Bill Sinkford	First Unitarian Church	
✓ 16	Isabel Sheridan		iasheridan44@gmail.com
✓ 17	Jennifer Nickolaus	97206	
✓ 18	THOMAS ETIENNE	97202	thomas.etienne@protonmail.com
✓ 19	SARAH IANNARONE	97236	
✓ 20	Tara Parrish	97206	

Agenda Item 871-873

TESTIMONY

3:10 PM TIME CERTAIN

POST DEADLY FORCE PROCEDURES/DOJ SETTLEMENT
AGREEMENT/INDEPENDENT POLICE REVIEW CODE CHANGE

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME.

Number	Name (please print)	Address & Zip Code (optional)	Email (optional)
✓ 21	Lisa Wright	1010 NE Fairling St Portland OR 97212	
22	Brian King	1603 SW Custer Dr Portland OR 97219	
23	ADAM MURRAY MILLON	804 NE	
✓ 24	Linda		
✓ 25	Desiree Hellegren	4632 NE 16th Ave. Pdx, OR 97211	
✓ 26	Laura Moulton	5131 NE Going St. Pdx OR 97218	
27 ^{not speaking}	Georgie Wier	2533 SE 38th Ave Portland, OR 97202	
28 ^{removed}	Mimi Hates Chloe German		
no 29	Oscar Guerra-Vera	Unite Oregon	oscar@uniteoregon.org
✓ 30	Martha Balsheim		mmbalsheim@gmail.com

POST DEADLY FORCE PROCEDURES/DOJ SETTLEMENT AGREEMENT/INDEPENDENT POLICE REVIEW CODE CHANGE

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME.

Number	Name (please print)	Address & Zip Code (optional)	Email (optional)
31	Ethan HARRISON	1902 NE 17th AVE, 97212	ethanharrison4@gmail.com
32	A.S. Mendez	1530 to 310 SW 4th Ave Suite 300 Portland	ajs@basicrights.org
33	Kris Ramsey		
34	ANNE COLEMAN		
35	SARAH GINE	Portland 97210	
36	Danny Robbins		
37			
38			
39			
40			

Moore-Love, Karla

From: Kimberly McCullough <KMcCullough@aclu-or.org>
Sent: Thursday, August 03, 2017 3:22 PM
To: Council Clerk – Testimony
Cc: Commissioner Saltzman; Wheeler, Mayor; Commissioner Fritz; Commissioner Fish; Commissioner Eudaly; Severe, Constantin; City Auditor, Mary Hull Caballero
Subject: 8/3/17 ACLU of Oregon Testimony re Item No. 871
Attachments: 8-3-17 ACLU of Oregon Testimony re Item No. 871.pdf

Please find the attached testimony of the ACLU of Oregon we wish to submit concerning Item No. 871 on this afternoon's agenda.

Thank you!

Kimberly McCullough

Pronouns: she/her/hers and they/them/their

Policy Director

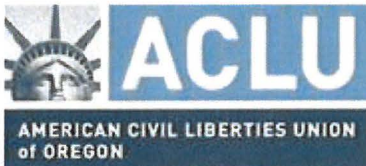
ACLU of Oregon

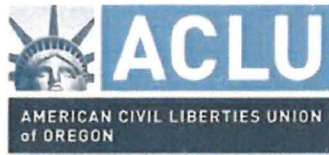
P.O. Box 40585, Portland, OR 97240

■ o 503.227.6928 ■ m 503.810.6939

■ kmccullough@aclu-or.org

www.aclu-or.org  





188570

**Testimony of Kimberly McCullough, Policy Director
Concerning Portland City Council Item No. 871
August 3, 2017**

Mayor Wheeler and Council Members,

The American Civil Liberties Union of Oregon¹ appreciates your consideration of our testimony concerning Item No. 871, an ordinance which would adopt new Post Deadly Force Procedures for Portland Police Bureau and authorize legal proceedings to determine whether requiring officers to provide statements in connection with an administrative deadly force investigation would preclude criminal prosecution.

We submit this testimony to express concern about this ordinance as drafted, and to urge you to either reconsider its adoption altogether or amend the ordinance before moving forward. We make this suggestion while appreciating the gravity of the tension presented when the City considers the constitutional, civil and public rights at stake when police officers use deadly force against members of the public they are sworn to serve.

On the one hand, we are longstanding and fierce advocates for the protections provided by the Fifth Amendment of the United States Constitution and Article I, section 12 of the Oregon Constitution, both for members of the public and law enforcement. It was because of this fact that we submitted an *amicus curiae* brief in *State v. Soriano*, 68 Or App 642 (1984) supporting the rights of a defendant held in contempt for refusing to testify in criminal proceedings.

On the other hand, a prompt administrative investigation into deadly force incidents is crucial for police accountability. Already this year, the City of Portland has seen multiple instances of deadly or serious harm at the hands of police officers, including the taking of the lives of two young men of color, Quanice Hayes and Terrell Johnson. The losses of those lives are tragedies for both their families and for our community. The public should not have to endure these tragedies without adequate investigatory procedures and full accountability if and when misconduct has occurred.

We believe, however, that these competing concerns can be adequately addressed by simply keeping administrative and criminal investigations wholly separate. Portland's Independent Police Review of the Portland City Auditor's Office has already provided

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 23,000 members in the City of Portland and over 44,000 members in the State of Oregon.

helpful legal analysis to this body outlining how separate investigations may occur without violating constitutional rights, and the National Lawyers Guild is submitting a separate memo with similar analysis and suggestions. We urge the City to carefully review these memos and pass an ordinance allowing for separate, but concurrent investigations as they suggest.²

It is a standard best practice for employers to implement internal policies and processes by which to ensure their employees are conducting themselves in their jobs appropriately. It is also a standard best practice to investigate employees, including collecting statements from them, when it is believed that internal policies may have been breached. The same is true when a potential broken rule results in the loss of life of another at the hands of a police officer.

Such investigations allow the employer to improve their policies and change their procedures to prevent future harm. And, if need be, such investigations allow the employer to fairly train, discipline or remove employees when harm could have been avoided and/or misconduct occurred.

The City of Portland and Portland Police Bureau (PPB) must be able to conduct an internal assessment of its employees and officers. The public needs a police bureau committed to ongoing improvement, transparency and the protection of civilian lives—even when those civilians are suspected of criminal action. When an officer causes harm to the public, prompt and independent scrutiny of personnel and policy concerns must occur to ensure future harm can be avoided and necessary changes are made.

Police officers are professionals. Professionals of all types—lawyers, doctors, engineers—have professional standards and employment policies that must be followed. Additionally, employees of all types must answer to their employer when they fail in their duties. Insulating police officers from professional standards or significantly delaying employer scrutiny only serves to promote public harm and distrust in the system. Police officers who breach PPB policies or standards should not be given special treatment that the rest of the hard-working public does not enjoy.

We were dismayed to read the Multnomah County District Attorney's (DA's) assertion that criminal investigations may not be kept independent from the police bureau's internal investigation given the close relationship between the two agencies. While we disagree

² Because we generally agree with both of these carefully-crafted memos, we will not provide additional constitutional analysis in this testimony beyond stating that (a) *Soriano* is clearly distinguishable from the facts and circumstances related to fully separated criminal and administrative investigations into deadly force by law enforcement, and (b) we agree with the court in *State v. Beugli*, 126 Or App 290, 294 (1994), that use and derivative use immunity—not transactional immunity—is the proper remedy when the right against self-incrimination is violated, absent a legislative grant of further immunity.

with the DA office's legal analysis, it was more troubling for us to see an elected office willing to create roadblocks rather than offer solutions to rebuild the public's trust in our law enforcement bodies.

It is the DA's responsibility to vigorously advocate for the public in cases of potential criminal misconduct by law enforcement. Rather than pushing for a less-accountable system, we hope that the DA's office will instead work with the City and PPB to ensure complete separation of administrative and criminal investigations. And if an officer claims transactional immunity when a truly independent criminal investigation has occurred, we hope that the DA will oppose such a claim in court.

In conclusion, the ACLU of Oregon believes that the PPB personnel investigation and any criminal investigation can occur separately, and simultaneously, without infringing upon a police officer's constitutional rights.

We urge you to reconsider or amend this ordinance, and not delay in adopting policy to allow for separate internal investigations to move forward with prompt collection of involved officers' statements. Rather than waiting for a court to give a green light, this policy should take effect as soon as possible. Failing to do so further risks the community's faith in its elected leaders' commitment to police accountability and breaks promises made to the public about the removal of the 48-hour rule.

Moore-Love, Karla

From: Kelly Iverson <kelly.e.iverson@gmail.com>
Sent: Thursday, August 03, 2017 12:32 PM
To: Wheeler, Mayor
Cc: Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla; community.portland@usdoj.gov
Subject: Item 872

I am a Portland resident. I am very concerned about police brutality and murders in my neighborhood and city.

The Portland Police department should have, at minimum, community oversight.

Kelly Iverson



To: Portland City Council
**From: A.J. Mendoza, Racial Justice & Alliance Building
Trainer, Basic Rights Oregon**
Date: August 3, 2017
Re: Portland Police Accountability

Mayor Wheeler and the Portland City Council,

I am A.J. Mendoza, Racial Justice Organizer at Basic Rights Oregon, the state's largest LGBTQ policy and advocacy organization.

The LGBTQ community knows well what it's like to be the target of police raids, violence, abuse and profiling, which is why we continue to stand with this coalition on this issue of policy accountability and transparency.

The mistrust and fear our collective communities have about our criminal justice system is based on real experiences and a long history of misconduct from a system in desperate need of reform.

This mistrust will not disappear until we deliver an open and transparent process around police accountability.

We recognize that this process can be painful and uncomfortable—this is democracy at work. The process of openness, transparency and inclusion will go a long way toward building the trust the community needs in our criminal justice system.

On behalf of Basic Rights Oregon, we join our partners in asking the City Council to:

- Open membership to the Citizen Review Committee to members of the community, in order to increase transparency and community trust. We would also like to see it expanded to a membership of 11-15 to better reflect the diversity of the community.
- We would also like to see the proposed 48-hour rule shortened to 24 hours. It's vital that officer testimony is collected as soon as possible following the use of deadly force by police. It is a national best practice to conduct administrative and criminal investigations at the same time. We would like the Department of Justice to stick by the agreement they made to the community.

We appreciate the work that has been done towards progress. Those who call Portland home deserve better.

Thank you for the opportunity to testify today.

COMMENTS on New 48 Hour Rule, DOJ Amendments/New COAB, and IPR

August 2/3, 2017

Mayor Wheeler and members of Council

Portland Copwatch has numerous concerns about the three items on today's agenda.

We're equally disturbed about the content and the process that was used to propose changes to the Deadly Force policy, the Settlement Agreement, and the Independent Police Review (IPR). The City should not cheat the community out of the time needed for a meaningful dialogue about these crucial policies in order to meet deadlines for training officers and reporting to Judge Simon. If the City would drop its writ to the Ninth Circuit and concede the Judge can call extra conference hearings, he could rule on changes being proposed in early 2018 rather than trying to rush things through for November.

Substantively, regarding item 871, it is good Mayor Wheeler is stepping up to challenge the DA's interpretation of a Supreme Court Case regarding compelling officer testimony after police shootings. However, the politically brave thing to do would be to require compelling officer testimony right away and then let a legal challenge play out, not write a draft policy and ask the court to weigh in. Receiving an opinion could take years or may not happen. Moreover, the draft says compelled interviews have to happen "within 48 hours" and the community's call has been for that to happen within 24 hours. There are numerous other issues with the Force and Deadly Force Directives which suggest Council should not allow these policies to go into place. The Police Association contract needs to be revised to allow IPR to conduct independent investigations of deadly force cases, including the ability to compel officer testimony. This would create a strong "firewall" between the criminal and administrative investigations.

Item 872 covers changes to the Agreement and the replacement for the Community Oversight Advisory Board (COAB). The Portland Commission on Community Engaged Policing (PCCEP) reminds us of a Monty Python sketch where a pet shop owner tries to replace a man's parrot with a slug, and the man is told it doesn't talk so he yells "well, it's hardly a replacement then, is it?" The first order of business for COAB was to "independently assess the implementation of the Agreement." That clause is struck from the new Agreement. Then PCCEP is allowed to host forums by the Compliance Officer to take community input, but the guidelines do not suggest PCCEP can comment on implementation.

Moreover, having PCCEP meet behind closed doors will generate the opposite result of what the City is seeking. Instead of building trust with the Bureau, it will create mistrust and contempt. The Behavioral Health Unit Advisory Committee (BHUAC) already meets behind closed doors, as does the Police Review Board (PRB). If you want to build relationships, stop cutting the community out of important discussions.

It is outrageous that the City put its interpretation of why COAB failed into the cover ordinance. The worst offending part in paragraph 46 says "criminal behavior" became a regular feature of COAB meetings. Seriously? By the City's own admission, one key issue was failure to give adequate training to COAB. But it was poor facilitation by both Justice De Muniz and Kathleen Saadat that helped lead to the devolvement of COAB, which will not be fixed by the new structure. Also, the main focus of PCCEP is on channeling "community engagement" information to and from the Bureau, which sounds like creating a civilian public relations arm of the police.

PCW made dozens of recommendations for amendments before the Agreement was finalized by Council in 2012, at the Fairness Hearing in 2014, and last November at DOJ's request. Very few of our issues is being addressed today. While in the legal sense, this Agreement is between the US DOJ and the City, both entities are created by and responsive to the people. Therefore all the closed-door discussions might be informative, but the discussion we're starting now should lead to a more meaningful and trust-building Agreement than what is on the table.

Regarding item 873, we have some concern that IPR being able to propose findings when they conduct an investigation will create an argument that Citizen Review Committee (CRC) appeals have to be deferential to the Bureau's finding since another set of eyes has been on the case. We counter that IPR already has the right to "controversy" a commander's findings and send a case to the PRB. The focus should be on bringing PRB meetings out from behind closed doors and integrating those hearings with CRC, which would create more transparency in our "byzantine" system. One more point on oversight—if officers elect to skip PRB hearings citing new paragraph 131h, the cases should still be reported in the semi-annual reports for transparency's sake.

(continued)

DETAILS PART 1— PROCESS CONCERNS

Portland Copwatch is concerned that the City sought to fix COAB a year ago by suspending that Board's activities for two months. Rather than come up with a plan, the City let COAB dwindle from 15 members to 5, finally drowning it in the bathtub in January. The cover ordinance indicates that the City, PPA, DOJ and AMA Coalition were involved in discussions from late 2016 to early 2017 on replacing COAB, but then the City used confidential mediation sessions in the Ninth Circuit to continue those discussions without the Coalition— per paragraph 59. Paragraphs 58 and 62 show the AMAC asked to be included but was denied to do so until July 14, just two weeks before this plan was released. That is not enough time to digest and debate such an important matter, especially when the members of the AMA Coalition allowed into those mediations weren't allowed to share information with the community, and that includes a member of Copwatch who couldn't ask for feedback from the rest of the group.

It is not clear why the City believes using a confidential legal process is a good way to create a community-based panel charged with advising the Bureau on how to effectively engage the community.

It's frustrating that these agenda items were put forward after PCW and our allies asked the Bureau in early July for more time to review the Force and Deadly Force Directives, since 40 substantial pages were released on a holiday weekend with a two week deadline. Chief Marshman told us the Bureau and DOJ had spent nine months working out the details, including their discussion with the District Attorney about compelled testimony. Yet the DA's memo from late March suggesting the City delay compelled interviews, and the IPR Director's June memo telling the City that was poor policy were not released until after we and the Coalition uncovered the "new 48-hour rule" in the Deadly Force policy.

There needs to be more transparency, more open dialogue, and more time given for people who aren't paid to review these documents.

DETAILS PART 2— THE NEW 48 HOUR RULE

The DOJ came to town promising us a better, more accountable Bureau. The City rushed through a revised contract with the Police Association last October, even though the contract did not expire until June. Mayor Wheeler, as incoming Police Commissioner, should have been allowed to negotiate that contract to fit his vision of the Bureau. PCW and others were strongly opposed to the contract because the PPA had insisted the 48 hour rule was crucial for their officers, based on fake science. They tried to block COAB from recommending removal of the rule from the contract. So when they so easily gave it up for a multi-million dollar raise, it was clear they had something up their sleeve. That something is the focus on transactional immunity and delaying the administrative investigation until the end of the Grand Jury process.

This is yet another example of the City and the DOJ not fulfilling their promise to the community.

Let's look at this situation in historical context. Over and over families eagerly anticipate the justice system will hold officers accountable for the deaths of their loved ones, and over and over they are disappointed as the Multnomah DA has not indicted an officer for killing someone for 48 years. The PPA's attorney said to us, during discussions on creating IPR in the year 2000, that if IPR compels officers to testify in deadly force we would have to give up the ability to prosecute, and we don't want that, do we? These promises are like Lucy holding out the football for Charlie Brown over and over and saying she won't pull it out of the way when he goes to kick it. And here we in the community are lying on our backs again as the football has been pulled away once more.

We say, compel officers to testify to Internal Affairs. If they admit to wrongdoing (or refuse to testify), they will be fired. If it turns out somewhere down the line that an officer should have been indicted, we will have a huge outcry from the family and the community and can revisit the policy.

DETAILS PART 3— CHANGES TO THE SETTLEMENT AGREEMENT

The proposed changes to the Settlement Agreement include one good item: the Citizen Review Committee (CRC) will have 90 days to hold appeal hearings, not 21 days, and their time will not be counted against the Bureau's efforts to close cases in 180 days. CRC, the community, and even Council members raised this concern in 2012.

But there are also problems with the proposed changes. New paragraph 69c codifies deferring to the DA under Oregon law about compelling officer testimony. It changes rules for writing reports, including officers' reports and After-Action reports, based on the new Directive. We are concerned that if the City really wants to find an alternative to the DA's plan (cover ordinance paragraphs 75-76), the revised Agreement will make that difficult.

(continued)

The changes also create and limit the PCCEP to replace the Community Oversight Advisory Board, including:

Creating the cumbersome new name about “Community Engaged Policing” and removing the word “Oversight”;

Cutting out the existing Agreement’s description of a diverse membership (old paragraph 142b);

Assuming the new board will be selected, trained and seated to meaningfully advise a new community survey within four months of the Agreement being amended (paragraph 146); and

Removing the requirement that all meetings be open to the public (see paragraph 151).

Some of the major issues PCW asked the DOJ and City to address, but are not contemplated here are:

Defining de-escalation as calming a situation down using verbal and physical tactics. The Bureau incorporates that definition but also seems to think threatening someone with a Taser is de-escalation, or moving from using a Taser to using pepper spray. The first example is a threat, the second is an abatement of force (paragraph 67);

Explaining what “avoiding a higher level of force” means, since the force continuum has been dropped (paragraphs 68 and 74);

Closing loopholes to use Tasers in situations which do not present an immediate threat, as required by the Ninth Circuit. Loopholes exist for tasing handcuffed subjects (68-g), using multiple Tasers on one person (68-d) or using the stun gun without a warning (68-b). These are all reflected in the new Force Directive, horrifying, and apparently constitutionally unsound.

DETAILS PART 4— THE PCCEP

PCW remains opposed to creating a body to replace COAB which has no ability to review and make recommendations about the implementation of the Agreement. PCCEP is envisioned to exist after the City is in full compliance. But even then, someone will need to examine policies and practices to ensure there is no backsliding, only movement to go beyond the Agreement.

Also, the Mayor is picking all the members, meaning there is no community involvement and the rest of Council will no longer be engaged in police reform.

Furthermore, there will only be 5-9 members who are being asked to tackle big subjects like racial justice and use of force. They will need more volunteer power. Plus, such a small group cannot reflect Portland’s diversity.

There are some parameters in the Agreement and PCCEP document that could be beneficial, though each positive step has shortcomings. Agreement paragraph 142 says the AMA Coalition has to be consulted if the structure is to be modified, though the DOJ still has final approval.

Stop data that was previously shared with the (defunct) Community Police Relations Committee (CPRC) will be shared with PCCEP (paragraph 148), but they are not being asked to help develop enhanced data collection as COAB was (paragraph 149).

The COCL will move back from semi-annual compliance reports to quarterly reports, but they do not have to cover all aspects of the Agreement. Even though the revised paragraph 159 doesn’t say so, the cover ordinance (paragraph 80) indicates all aspects have to be reviewed over the course of a year. Also the COCL does not have to give its reports to PCCEP as they did with COAB (also Agreement paragraph 159).

The COCL’s town halls to present their quarterly reports will be created in consultation with PCCEP, but the Commission is not expected to make comments on the reports (paragraphs 160-161). They are merely being given an option to host the COCL quarterly meetings. Since the COCL has no connection to this community and it should not be incumbent on the AMA Coalition to hold these forums, this should be required.

If PCCEP holds quarterly town halls as one of the two meetings in every third month, this means they will hold 20 private meetings and 4 public meetings per year.

(continued)

DETAILS PART 5— THE OVERSIGHT SYSTEM

PCW does not have strong feelings about IPR being allowed to propose recommended findings when they conduct “independent” misconduct investigations. We repeat that this should not affect CRC’s ability to review cases and make proposed findings under the current or a future standard of review. For the Agreement’s requirement for “meaningful independent investigations” to take place, IPR has to be given the power to compel officer testimony, rather than having police Internal Affairs order officers to answer IPR’s questions.

The new ordinance will allow the officer’s supervisor to return cases to IPR or IA for further investigation, which the PRB and CRC can already do. This could cause more delays, even though the goal is to streamline the complaint process.

With all the ideas the Auditor failed to put forward to Council, IPR is sneaking in a new code change to re-brand dismissals as “administrative closures.” Perhaps this is to indicate that sometimes IPR conducts preliminary investigations before dismissing cases, but it seems like PR.

Changes to the Agreement could also improve the oversight system, such as:

Taking out paragraph 61, which limits CRC to the deferential “reasonable person” standard. Removal would allow the City to change that standard more easily to “preponderance of the evidence.”

Striking the provision in paragraph 43 prohibiting appeals of deadly force cases to CRC;

Requiring Police Review Board civilian members to hold semi-annual meetings to share their thoughts about the process and go over PRB reports (add to paragraph 131); and

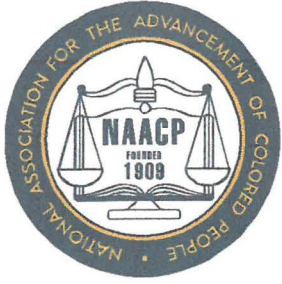
Allow the civilian complainant, or a representative for a person killed by police, to attend PRB hearings.

Finally, at the April hearing on IPR, Council promised to hold a work session on further changes. That has not happened yet. As the only group to have members attend every CRC meeting ever, PCW would like to be included in such a session.

CONCLUSION

In conclusion, PCW has only scratched the surface of the issues in today’s ordinances. We ask City Council to delay implementation of the Force and Deadly Force Directives— which are not effective until August 19 according to the Bureau— and delay the vote until a full, transparent dialogue has happened. The DOJ and PPA should be at the table at this public hearing so the community can hear their feedback.

PORTLAND COPWATCH
PO Box 42456 Portland, OR 97242 (503) 236-3065
Incident Report Line (503) 321-5120 copwatch@portlandcopwatch.org www.portlandcopwatch.org



NAACP

PORTLAND, OREGON
BRANCH

188570

PRESIDENT - JO ANN HARDESTY
1st V.P. - E.D. MONDAINE
2nd V.P. - NONI CAUSEY
SECRETARY - MELISSA LANG
TREASURER - CLEOPHAS CHAMBLISS

August 3, 2017

NAACP Portland Branch Statement on Proposed Amendments to the Settlement Agreement to *United States of America vs City of Portland*.

The NAACP Portland Branch opposes proposed amendments to the settlement agreement, which were reached through negotiation between the US Department of Justice, the City of Portland, and the Portland Police Association (PPA), without community input. As proposed, the amendments:

- Eliminate the independent community oversight provided by the Community Oversight and Accountability Board (COAB) and replace it with the Portland Commission on Community-Engaged Policing (PCCEP), which is embedded in the Mayor's office and designed to provide input on how the Portland Police Bureau can better present itself to the public;
- Enshrine into ordinance the currently disputed resurrection of the 48-hour rule that allows police officers who kill community members to not provide a statement until they are cleared of wrongdoing;
- Eliminate participation in oversight by City Commissioners other than the Mayor/Police Commissioner;
- Make it optional for the PPB to incorporate recommendations from the PCCEP on the Community Engagement Plan;
- Eliminate tracking, analysis and review of racial profiling data by the community.

The design of the proposed PCCEP is flawed, from the small number of members; to the significant workload; to the lack of clear criteria for inclusion or any requirement that the membership generally match the makeup of the community; to the fact that all qualifications, appointments, and removals are at the discretion of the Mayor. Although the available tools and resources address some of the concerns raised by former COAB Chair Kathleen Saadat, it fails to address barriers to community participation, such as the large time commitment and lack of a corresponding stipend.

Instead of providing the necessary leadership and working to resolve the problems that were identified with the initial implementation of the COAB, the DOJ, the City and the PPA have simply eliminated independent community oversight of this critical Settlement Agreement, in contradiction to the importance placed on community oversight in the original Agreement.

Jo Ann Hardesty, President
NAACP Portland Branch



ROD UNDERHILL, District Attorney for Multnomah County
1021 SW Fourth Avenue • Room 600 • Portland, OR 97204-1193
Phone: 503 988-3162 • Fax: 503 988-3643 • www.mcda.us

**Multnomah County District Attorney Rod Underhill's Statement
To Portland City Council on August 3, 2017**

Good afternoon. My name is Rod Underhill and I am the Multnomah County District Attorney. Thank you for inviting me to speak with you today. First, I want to make it very clear, my office has, as a standing practice, taken every case in which an officer's use of physical force results in a death to a Multnomah County Grand Jury to determine whether the officer's actions were criminal or not. My office will continue this practice without interruption after today.

If the grand jury returns an indictment, I believe that, legally and ethically, we can, and we will, make our best efforts to argue the legal viability of that indictment. If a motion to dismiss is filed, we will make every appropriate argument available.

As your District Attorney, a primary goal of mine has been for our citizens to have confidence in their public safety system. Confidence in the public safety system includes, among other things, faith in a fair and thorough criminal investigation while providing individuals with the protections found in the U.S. and Oregon Constitutions.

Confidence in our system is enhanced when we have responsible transparency. This is a significant part of why I refer all officer involved use of force - where a death occurs - to a grand jury of citizens selected by the court.

Further, I have then obtained permission from the court to transcribe and release the testimony of the witnesses that came before the grand jury. This practice is among the most transparent in the country. I believe this has increased the community's confidence in their public safety system. I have a deep concern that if a grand jury does return a "true bill" and an indictment is issued for homicide against an officer, the indictment will be at substantial risk of being challenged and, quite possibly, dismissed.

I assert that if an indictment for homicide were dismissed by the court, public confidence in our criminal justice system will be seriously undermined. In its simplest terms—we need to get this right.

Because one of my primary duties as your District Attorney is to prosecute the perpetrators of criminal acts, I believe that I owe it to our community to let them know when a policy or practice by one of our criminal justice system partners may impact or inhibit my performance of that duty.

I have informed the city, the federal government, and others, of the potential ramifications of some of the proposed changes to the Portland Police Bureau's use of force policy. Notably, the belief of the need for the criminal investigation to precede the compelling of

a statement from an involved officer. That is not to say that the administrative investigation cannot occur concurrently with the criminal investigation. I am telling you that there are substantial legal risks to the investigative action of compelling the statement of an involved officer. This is just one, albeit significant, of the many aspects of a thorough investigation.

This is not a new position of the District Attorney's Office. My office's track record on this is clear, and has been for years. My concern regarding my office's ability to prosecute an indicted individual stems from our reading of a string of Oregon cases, the analysis of which is supported by the Oregon Department of Justice.

The cases include federal (*Garrity v. New Jersey*) and state. Notably, the 1984 Oregon Supreme Court case of *State v. Soriano*. *Soriano* states that when a person is compelled by external factors to choose between making a statement that may place them in legal jeopardy and some other result – like losing their employment - three things may occur with regard to the statement:

- (1) the statement may not be used as evidence in a criminal case (use immunity);
- (2) any evidence that was obtained as a result of the receipt of that statement may not be used in a criminal case (derivative use immunity); or
- (3) a criminal case may not be brought against the person (transactional immunity).

State v. Soriano, is the leading Oregon case, and the court settles on (3) and says that the state may only legally compel a statement from a person asserting his or her right to remain silent with a promise of transactional immunity. The Court in *Soriano* further commented that it is not possible for the State to erect a wall between the compelled statement and the criminal investigation.

Since the Soriano decision, the Oregon appellate courts have revisited the issue in a handful of cases. My office produced a memorandum explaining our analysis in which we wrote that “[t]he breadth of consequences for not providing full transactional immunity is what remains unclear. Certainly, the consequence is use and derivative use immunity. However, it is also possible transactional immunity may be required in certain circumstances.”

I acknowledge today, and we wrote in our memorandum, that the case law since Soriano, is not completely clear on this point. I am here to point out that I believe that the risk that a court may determine that transactional immunity will result from the compulsion of a statement from an involved officer is substantial. In other words, the risk of dismissal of a grand jury's indictment is real. I understand that reasonable legal analysts could reach a different opinion.

It is critical that the legal analysis surrounding the issue of administrative-side, compelled statements of involved officers be accurate. As I said earlier, we need to get this right. This council must possess the best legal analysis possible.

To that end, I continue to completely support the City of Portland's efforts to attempt to seek guidance from Oregon's courts.

Particularly, I support the city's efforts to have our courts review the constitutional implications of the city's administrative practices surrounding the issue of compelling statements from involved officers. Oregon Revised Statutes, Chapter 33, provides for "validation" actions and I support the city continuing to explore that option. Everyone will benefit from the clarity a reviewing court will offer. I encourage you to act with a strong sense of urgency. The sooner the better.

Moore-Love, Karla

From: DJ T <djtntt@gmail.com>
Sent: Thursday, August 03, 2017 8:46 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz;
Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: support Exhibit B for more equitable police oversight

I support Exhibit B as a 'least worst' option for police oversight. Portland communities need more accountability from those sworn to serve and protect, not less.

Thank you,
Derrick Travers
97218

Moore-Love, Karla

From: Serena Cline <sncline@gmail.com>
Sent: Thursday, August 03, 2017 3:00 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Saltzman; Moore-Love, Karla; Commissioner Fritz; Commissioner Fish
Subject: Re: Opposition to amendments

Ive taking off work and have arrived to find out that we are yet again shut out. We are being told at the door that that room is 'full.' As you can see, the room is not full.



Another disappointment.

Serena Cline

Sent from my iPhone

On Aug 3, 2017, at 2:15 PM, Serena Cline <sncline@gmail.com> wrote:

I am writing to register your objections to the police amendments.

Among the many problems, the amendments would replace the Community Oversight Advisory Board (COAB) with the Portland Commission on Community-Engaged Policing (PCCEP), a pretend oversight body which claims its guiding principles to be, "To work with local government and Portland's diverse constituencies to solicit and disseminate information between the community and Portland Police Bureau (PPB) to achieve the desired outcomes of meaningful community engagement with and trust in the PPB and policing which exceeds constitutional requirements."

The key points of concern are that the amendments:

- Remove community oversight from the settlement agreement.
- Remove the city council from the settlement agreement—leaving the mayor as the appointing body of the PCCEP and the only person receiving reports.
- Do not include a proposal for a fairness hearing.
- Imply community advocates were involved in criminal behavior.
- Eliminate all outside review of improvements, and instead puts the PCCEP in charge of PR for the police department.

The writing of these amendments happened completely behind closed doors, without community input. I am very disappointing with our city on the issues related to policing. I attended the hearings on the police contract. I watched after community member after community member got up and opposed the contract. These individuals were well informed, well spoken, and respectful. As a response, the city called a 2 hour lunch (at 11am). That was a systematic way of silencing the community. When you returned to

session, the room was filled with disrespect and contention. Those of us that had taken the morning off work to share our opinions were silenced. We were then completely shut out of the process. It is disgusting to see how strategically the city works to shut out the community voices when it comes to policing. This is just another example. Again, I requested leave from work to come down to City Hall to show my discontent over the community being shut out, as well as my passion to be involved in this process.

Please make this an open process. You have well educated and dynamic leaders of color in this city who need a seat at the table. The systematic racism in our law enforcement is an issue that we can address and make a significant impact on... we just need to work together (not be shut out).

Thank you for your time. Serena Cline

Born and raised in Portland - Current resident of NW Portland

Mayor Wheeler, Members of City Council,

I hope you are as concerned as I am that the proposed amendments to the DOJ Settlement Agreement would weaken an already-stressed Agreement (in terms of actually creating change in the culture of the PPB regarding citizen rights, especially for People of Color).

As a White woman over 65, I have always been treated with respect and even deference by the PPB. So I know what it feels like to be taken at face value, to be assumed to be the law-abiding citizen I am. For many in the city, including some of my Black friends, this is not true. They have been assumed to be up to no good - profiled just for being in a public place - or in a predominantly White neighborhood after dark. They have been humiliated, but not physically harmed. Other Portland People of Color have not been so lucky.

I have read the positions of the AMA Coalition and the NAACP. I agree with all their points. I will highlight just two.

I think it is urgent that the City move forward with the alternative directive, allowing compelled officer testimony shortly after deadly force incidents, but shortened from "within 48 hours" to "within 24 hours," a national norm. It is national best practice to conduct administrative and criminal investigations at the same time, and that is what the DOJ Agreement promised the community.

I think that the CRC's current standard of review, "reasonable person," should be changed to "preponderance of evidence." I sat in on one CRC hearing a few years ago: a Black man my age, who, it turns out, was a volunteer for seniors at St. Mary's Cathedral, had been stopped for jay-walking on NW 19th Ave. and questioned by police as though he were a criminal. The CRC took 2 votes that night - the official one (no action taken) and an unofficial one (the way they wished they could have voted, if the standard had not been the "reasonable person" one). In that second vote, the majority thought action to discipline the senior officer involved should be taken. The CRC would have been able to vote their conscience if the standard had been "preponderance of evidence."

Isabel Sheridan

1300 NE 16th Ave., #1304
Portland, OR 97232
503-915-3433
iasheridan44@gmail.com

Moore-Love, Karla

From: Josh Hetrick <joshuahetrick@gmail.com>
Sent: Thursday, August 03, 2017 11:33 AM
To: Moore-Love, Karla
Subject: reject unjust amendments to the Department of Justice Settlement Agreement

The proposed amendments to the Department of Justice Settlement Agreement must be rejected! Portland needs more transparency and community input on policing, not less. We need more racial justice, not less. We need a police department that works for and with citizens, not one that looks for ways to avoid accountability. These amendments are poor policy, and the secretive method in which they were constructed must similarly be rejected.

Josh Hetrick
Brooklyn, Portland, Oregon

Moore-Love, Karla

From: Daphne Wysham <daphne.wysham@gmail.com>
Sent: Thursday, August 03, 2017 11:08 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Cc: community.portland@usdoj.gov; clerk@portlandoregon.gov
Subject: Police oversight/reform

Dear Portland City Council:

I would like to share my dismay over your decision to disband the Community Oversight Advisory Board (COAB) of the Portland Police.

I hope you reinstate it to allow transparency and public oversight of a troubled police department.

Sincerely,

Daphne Wysham

--

Daphne Wysham
Director, Climate Justice Program
Center for Sustainable Economy
202-510-3541 (cell)
Skype: daphne.wysham
Twitter: daphnewysham

Moore-Love, Karla

From: Marisha Childs <marisha.childs@gmail.com>
Sent: Thursday, August 03, 2017 11:03 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla

I am writing to express my vehement objection to the proposed amendments to the Dept. of Justice settlement agreement.

1. Why no public input about something that will impact all of us? Community oversight is essential in a community that has zero trust with law enforcement.
2. Removing the city council and allowing only the mayor as the appointing body and the only person to receive reports sets a bad tone to the community.
3. Why no fairness hearing?
4. Eliminates outside review of improvements...its akin to the fox watching the hen house.

For a community that sings its own praises of inclusion, making these amendments without input from the community is yet another slap in the face that if you are on the fringes, you are not welcome.

Thank you,
Marisha Childs

Moore-Love, Karla

From: pdx97217@gmail.com on behalf of Mental Health Association
<info@mentalhealthportland.org>
Sent: Thursday, August 03, 2017 10:48 AM
To: Moore-Love, Karla; Parsons, Susan
Subject: testimony for 8/3 ITEM # 872
Attachments: PDX Council testimony for 832017.pdf

Hi Karla.

Would you distribute this testimony to the Mayor and Council?

See attached, and below.

Thanks!

--
--

Jason Renaud
www.linkedin.com/in/jasonrenaud
Mental Health Association of Portland
www.mentalhealthportland.org

Alien Boy: The Life and Death of James Chasse
www.alienboy.org

Oregon Law & Mental Health Conference
<https://olmhc.org/>

###

Testimony to Portland City Council
August 3, 2017
On the Plan for Portland Commission on Community-Engaged Policing - ITEM #872

Jason Renaud
Mental Health Association of Portland
info@mentalhealthportland.org

The proposal to make changes to the settlement agreement reopens the agreement, but doesn't include the community in those change decisions, and doesn't go far enough to fulfill the goal of the settlement - to rebuild trust of the community with the police around harm to people with mental illness.

My suggestion is to repair - not repeal and replace.

The COAB failed because of city-led management, not because of its inherent structure. There were problems with the structure - but those were not what caused the COAB to be criticized or fail. Poor management led to

mistrust within the COAB, which led to mistrust by community members. Police brutality is a hot issue. Don't think people should be calm and reasonable. That's not a smart management approach.

Four distinct problems with the proposal.

One - private meetings doing public business. That's a non-starter. I can't endorse private meetings doing public business.

Two - The proposed plan knocks off independent assessment of the agreement. No good. Others will speak about this.

Three - Too few people involved. It's fair to say 5 - 9 people don't represent Portland so there will be discontent about representation. Review what you're asking volunteers to do. Even with new management, we're going to be back here in a year asking why items have been ignored. It's too much work and volunteers will end up relying on staff. That's not community oversight.

Four - exclusive mayoral control gets the council off the hook. The council needs to stay on engaged - not as monitors but as legislators. Why? Because the DOJ won't be here forever and this council needs to learn how police oversight works. You need to each stay thoroughly woke.

Please understand - harm to people with mental is not a Portland problem. Though all the persons killed by Portland police for the past decade have been people in a mental health crisis, the same fact is true for all the police departments of Multnomah County, Washington County, Clackamas, and Clark County.

This is not exclusively a Portland problem. It's not exclusively a police problem. It's a multi-government multi-system problem where the state, counties, sheriffs and police chiefs and DAs, parole and probation, community mental and addiction health providers, as well as community members need to be part of the solution.

The sooner this council comes to understand this is a systemic problem, the sooner your people will stop killing my people.

###

Testimony to Portland City Council

August 3, 2017

On the Plan for Portland Commission on Community-Engaged Policing - ITEM #872

Jason Renaud

Mental Health Association of Portland

info@mentalhealthportland.org

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188570

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The sooner this council comes to understand this is a systemic problem, the sooner your people will stop killing my people.

###

Moore-Love, Karla

From: Jennifer Montpetit <jlmontpetit@outlook.com>
Sent: Thursday, August 03, 2017 10:27 AM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Objection to Amendments to DOJ Settlement Agreement

Mayor Wheeler,

I am writing to voice my objection on the amendments to the DOJ Settlement Agreement and ask that you do the same. It is critical that community input be considered regarding these amendments and, unfortunately, that has not been the case. Of utmost concern regarding these amendments is that they will eliminate the role of community voice and oversight of the Portland Police. Community voice and oversight is crucial in helping to ensure that policing is constitutional and just. I ask that you oppose these amendments.

Sincerely,

Jennifer Montpetit

Moore-Love, Karla

188570

From: Alfred Noble <houston@livingprooffarm.com>
Sent: Wednesday, August 02, 2017 11:21 PM
To: Moore-Love, Karla
Subject: Portland Police Oversight

Dear Council Clerk Moore-Love,

I have sent this email to Mayor Wheeler, Commissioner Eudaly, Councilman Fish, and Commissioners Fritz and Saltzman. I am sending it to you as well for reference.

It is imperative to pay close attention to the police force in a large city such as Portland, particularly since Portland has a higher than average population of POC. For years the police of Portland have had little oversight in how they handle important community issues, such as de-escalation tactics and the treatment of protestors of both sides. I need not remind you that the Portland Police Bureau worked together with right-wing militia members to arrest and detain left-wing protestors, which is at best grossly unprofessional and at worse evidence of political bias in a supposedly non-partisan group.

I am writing you this email to ask you not to support recent amendments that eliminate what little power of oversight exists for the PPB and instead install a group that is simply a PR liason between the police and the community, with no power whatsoever to sanction the PPB. Such amendments leave it to the police themselves to monitor their own wrongdoing; if they decided that they needed to cover up wrongdoing from some of their officers, it would be trivial to do so. This is grossly irresponsible.

The lack of transparency alone should set off warning lights. I believe Mitch McConnell's healthcare bills speak for themselves: legislature cooked up behind closed doors is largely done if the contents erode the powers and rights of the governed.

Thank you very much for your time.

Sincerely,
Alfred Houston Noble IV

236 N Killingsworth St, Apt. B304
Portland, OR 97217

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

Moore-Love, Karla

From: Kristen Chambers <kristen@ktp-law.com>
Sent: Wednesday, August 02, 2017 5:23 PM
To: Wheeler, Ted; Fritz, Amanda; Commissioner Fish; Saltzman, Dan; Eudaly, Chloe; Moore-Love, Karla
Cc: ashlee@albiesstark.com; Hull Caballero, Mary; Severe, Constantin
Subject: AMAC statement on Police Post Deadly Force Procedures Ordinance
Attachments: AMAC position on deadly force directive plan.pdf

Mayor Wheeler and City Commissioners,

On behalf of the AMAC, I am sending you the attached AMAC statement on the proposed ordinance regarding compelling officer testimony in administrative investigations of deadly force.

Kristen Chambers

KIRKLIN THOMPSON & POPE LLP

1000 S.W. Broadway, Suite 1616, Portland, OR 97205

(TEL) 503-222-1640 (FAX) 503-227-5251 kristen@ktp-law.com www.ktp-law.com

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The AMA Coalition for Justice and Police Reform (AMAC) calls on the City of Portland to modify its plan regarding compelling testimony in deadly force incidents.

The AMAC commends Mayor Wheeler for his efforts in putting forth a proposal, known as Exhibit B, which requires police officers who use deadly force to be interviewed, and for seeking judicial clarification of the District Attorney's legal opinion. However, the AMAC strongly believes the City should not adopt the proposed ordinance that will go before City Council for a vote tomorrow.

First, AMAC firmly recommends the City change Exhibit B so that officer testimony is compelled within 24 hours. Prompt statements from officers who use deadly force are critical to the integrity of the administrative investigation, which in turn is critical to police accountability. The City has already bargained with the PPA to get rid of the 48 hour waiting period for officers—the same principles require a shortened window here as well.

Second, the proposed ordinance requires the City to implement the deadly force policy, known as Exhibit C, for the foreseeable future. This policy, which delays compelled testimony of officers until after the criminal investigation is complete, is unacceptable, and should not be implemented.

Third, the dangers of implementing Exhibit C while awaiting a court ruling far outweigh the risks in immediately implementing a policy substantially similar to Exhibit B. The District Attorney has confirmed that he will continue to investigate officer deadly force cases and submit them to grand jury. Based on the case analysis put forth in the National Lawyers Guild August 2, 2017 memo to the City on this subject, transactional immunity would not apply to officers compelled to testify. Therefore, so long as the City takes measures to build a strict wall between the administrative and criminal investigations—preferably via IPR or Oregon DOJ or another independent agency administering one of the investigations—there will be no barrier to prosecution.

Fourth, even if the DA's legal analysis is correct, a hypothetical future indictment of an officer during the time period that the City awaits a court ruling is far less likely than an administrative investigation of an officer's use of deadly force.

For the above reasons, the AMAC advocates for the City's immediate implementation of Exhibit B (with the 24 hour modification), prompt pursuit of a court's opinion regarding the District Attorney's legal concerns, and enhanced efforts to have administrative and criminal investigations completely separate.

Moore-Love, Karla

From: Lindsey Burrows <lindsey@oconnorweber.com>
Sent: Wednesday, August 02, 2017 5:19 PM
To: Wheeler, Mayor; Commissioner Fritz; Commissioner Fish; Commissioner Saltzman; Commissioner Eudaly; Moore-Love, Karla
Cc: City Auditor, Mary Hull Caballero; Severe, Constantin; rod.underhill@mcdca.us; Timothy.Sylwester@doj.state.or.us; benjamin.gutman@doj.state.or.us
Subject: NLG memo on compelled officer testimony
Attachments: NLG Compelled Officer Testimony Memo 8.2.17.pdf

Dear Mayor Wheeler and Commissioners Fritz, Fish, Saltzman, and Eudaly:

Attached, please find the Portland Chapter of the National Lawyers Guild (NLG)'s memorandum in response to the City's proposal on compelled officer testimony.

Thank you for your attention, and please feel free to contact the NLG at portlandchapter@nlg.org if you have questions about this memo. We will also have a representative at the hearing tomorrow to give testimony and answer any questions.

Respectfully,

Lindsey Burrows

Lindsey Burrows
Associate
O'Connor Weber
lindsey@oconnorweber.com

oconnorweber.com
522 SW 5th Ave, Suite 1125
Portland, Oregon 97204
(503) 226-0923

THE CONTENTS OF THIS EMAIL MAY BE CONFIDENTIAL AND PRIVILEGED. If you believe that you are not the intended recipient, please notify O'Connor Weber as soon as possible and immediately delete this email.

**NATIONAL LAWYERS GUILD
PORTLAND, OREGON CHAPTER**



3519 NE 15TH AVE #155
PORTLAND, OREGON 97212

MEMORANDUM

DATE: AUGUST 2, 2017

TO: PORTLAND CITY COUNCIL

FROM: PORTLAND CHAPTER OF THE NATIONAL LAWYERS GUILD

ENDORSED BY: AMA COALITION FOR JUSTICE AND POLICE REFORM
OREGON JUSTICE RESOURCE CENTER
NAACP PORTLAND BRANCH

CC: PORTLAND CITY AUDITOR
IPR DIRECTOR
MULTNOMAH COUNTY DISTRICT ATTORNEY
OREGON DEPARTMENT OF JUSTICE

RE: RESPONSE TO THE CITY'S COMPELLED OFFICER TESTIMONY
PROPOSAL

I. INTRODUCTION

The City of Portland is currently shaping its policy regarding compelled statements from officers involved in deadly force incidents. The public has a strong interest in obtaining prompt interviews of police officers who use deadly force. At the same time, there is a risk that compelling an officer to respond to questions about a deadly force incident in violation of the officer's right against self-incrimination could jeopardize a criminal prosecution of the officer, if adequate safeguards are not in place.

Mayor Wheeler's current proposal for handling this issue, as described below, does not appropriately balance these competing concerns. The proposal is founded on an inaccurate assessment of Oregon law. In addition, the proposal requires an inadequate policy to remain in operation while the City attempts to obtain a court opinion on a policy that does not go far enough to hold officers accountable.¹

As this memo demonstrates, Oregon law clearly supports immediate implementation of a directive that compels officers who have used deadly force to provide a statement within 24 hours. The National Lawyers Guild (NLG) urges the City to take this course, starting with policies and procedures that ensure separate administrative and criminal investigations, with a plan to transfer the administrative investigation piece to the Independent Police Review (IPR) as soon as possible.

II. BACKGROUND

When an officer is involved in a deadly force incident, two investigations take place. Detectives from the Portland Police Bureau (PPB) homicide division conduct a criminal investigation, while members of the PPB's Professional Standards Division (Internal Affairs/IA) conduct an administrative review to determine if the officer should be subject to workplace discipline. As to the latter investigation, when and how the City may compel an officer to answer questions about the use of deadly force has been a subject of controversy for many years.

In June 2011, the U.S. Department of Justice (DOJ) commenced an investigation into whether the PPB engaged in civil rights violations relating to officers' use of force. At the time of the DOJ investigation, the Portland Police Association's (PPA) collective bargaining agreement with the City provided that, in an employment discipline investigation, an officer must receive 48 hours of advance notice before being required to submit to an interview or write a report, so long as the delay did not jeopardize the investigation.² Police practices experts and police accountability advocates roundly criticized this provision, known as the "48-hour rule."³

¹ The arguments in this memo are not intended to apply to procedures for obtaining statements from suspects who are not police officers. Police officers are permitted to do things that members of the public are not. Because officers are authorized to use force on behalf of the government and may therefore violate the constitutional rights of others, they need to be held to standard of accountability that factors in their special responsibilities.

² Labor Agreement Between the Portland Police Association and the City of Portland, July 1, 2010 - June 30, 2013, at p. 33.

³ See Constantine Severe, Director of Independent Police Review, Memorandum to Mayor Ted Wheeler and Police Chief Michael Marshmen, June 9, 2017, at p. 2, 4 (noting this opposition).

In 2012, the DOJ issued the findings of its investigation, which concluded that the PPB had engaged in a pattern or practice of using excessive force on individuals with actual or perceived mental illness.⁴ The DOJ's findings letter also found that the PPB's supervisory review of officers' use of force was "insufficient to identify and correct patterns of excessive force in a timely fashion."⁵ The DOJ noted that "Multnomah County District Attorney previously requested that PPB not conduct IA investigations of officer-involved shootings until after the completion of the DA's investigation and/or criminal prosecution."⁶

The DOJ, however, recommended that "PPB should make clear in its policy that administrative and criminal investigation shall run concurrently."⁷ It further stated that "PPB should also clearly set forth in policy that though IA may use criminal investigation material in appropriate circumstances, all administrative interviews compelling statements, if any, of the subject officer and all information flowing from those interviews must be bifurcated from the criminal investigation in order to avoid contamination of the evidentiary record in the criminal case."⁸ The DOJ also took issue with the 48-hour rule, because it delayed statements from officers and their completion of use of force reports and thereby defeated "contemporary, accurate data collection" regarding use of force incidents.⁹

Near the end of 2012, the DOJ filed a complaint against the City of Portland, which, consistent with the DOJ's findings, alleged that the PPB had engaged in a pattern or practice of using excessive force on individuals with actual or perceived mental illness, in violation of the Fourth Amendment to the U.S. Constitution. At the same time, the City and the DOJ asked the Court to approve the parties' Proposed Settlement Agreement. The Settlement Agreement requires that the PPB review its policies for compelled statements from officers and submit them to the DOJ for review and approval.¹⁰

Despite this provision in the Settlement Agreement, the 48-hour rule remained part of the City's collective bargaining agreement with the PPA until 2016. In February 2016, the DOJ publicly opposed the rule and took the position that officers' routine completion of use-of-force reports or discussion of the use of force with department officials did not implicate their rights

⁴ Thomas E. Perez, Assistant Attorney General, Civil Rights Division, Findings Letter to Mayor Sam Adams, Sept. 12, 2012.

⁵ *Id.* at 22.

⁶ *Id.* at 30.

⁷ *Id.* at 31.

⁸ *Id.*

⁹ *Id.*

¹⁰ *United States v. City of Portland*, No. 12-cv-2265, Settlement Agreement Pursuant to Federal Rule of Civil Procedure 41(a)(2), at ¶ 124.

against self-incrimination.¹¹ The Multnomah County District Attorney's Office was involved in the "ongoing conversations on this topic."¹² Finally, in September 2016, the City, under then-Mayor Hales, reached a new collective bargaining agreement with the PPA, agreeing to police pay raises projected to cost \$6.8 million a year in exchange, in part, for the elimination of the 48-hour rule.¹³

In March 2017, however, the Multnomah County District Attorney's office authored a memo, in line with its position articulated in 2012, taking the position that if the City compelled an officer who has used deadly force to complete an administrative interview, there is a high risk that it would confer "transactional immunity" to the officer. (hereinafter "DA's memo"). See Exhibit A to the City's proposed ordinance, attached. Transactional immunity means the officer would be completely immunized from criminal prosecution for the incident. This memo recently became public, after the PPB announced its proposed Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, and the Albina Ministerial Alliance Coalition for Justice and Police Reform issued a press release with concerns about the directive.¹⁴

The new Directive 1010.10 provides that the PPB shall not compel statements from officers who have used deadly force until **after the DA has concluded the criminal investigation**, except in exceptional circumstances where information is immediately necessary to protect life or otherwise ensure the safety of the public. A homicide detective may ask the officer involved to give a voluntary statement, but the officer has the right to refuse. Additionally, the officer is not required to complete a written report of the incident.

In sum, under the new policy, officers who have used deadly force can choose to remain entirely silent, including by refusing to write a police report, until after they are cleared of all criminal charges, without negative consequence. Thus, instead of the 48-hour rule, officers who use deadly force now have a much longer time--potentially weeks or months¹⁵--before they are required to answer questions about the incident.

¹¹ Maxine Bernstein, "Feds want Portland police who use deadly force to file an account immediately," The Oregonian, Feb. 2, 2016, *available at*: http://www.oregonlive.com/portland/index.ssf/2016/02/federal_justice_officials_pres.html.

¹² *Id.*

¹³ Brad Schmidt, "Portland police union reaches tentative deal on pay hikes, end of 48-hour rule," The Oregonian, Sept. 13, 2016, *available at*: http://www.oregonlive.com/portland/index.ssf/2016/09/portland_police_union_reaches.html.

¹⁴ PPB to Create 'New 48-Hour Rule' for Officer Involved Shootings" *available at* http://media.oregonlive.com/portland_impact/other/AMACoalitionreleaseJuly2017.pdf.

¹⁵ See Constantine Severe, Director of Independent Police Review, Memorandum to Mayor Ted Wheeler and Police Chief Michael Marshmen, June 9, 2017, at p. 4 (noting that the DA's proposal creates a "de facto 40-day rule.").

Despite public opposition to the new rule, Mayor Wheeler has not delayed its implementation. Instead, he introduced an ordinance to address the issue, a copy of which is attached to this memo. The proposed ordinance is two-fold. First, it sets forth a proposed alternative Directive 1010.10 (Exhibit B, attached), which requires an administrative interview of officers who use deadly force within 48 hours of the incident and directs the City Attorney to seek a court ruling to clarify whether the City may adopt that policy without immunizing the involved officers from criminal prosecution. Second, the ordinance provides that while the City awaits that ruling—which could take years or not be allowed at all¹⁶—the original proposed Directive 1010.10 (Exhibit C, attached), which permits officers to wait until the criminal investigation is over before providing a statement or being interviewed by administrative investigators, will remain in place.

III. ANALYSIS OF THE DA’S MEMO: The Oregon Constitution does not grant transactional immunity to police officers who are the subject of parallel internal and criminal investigations.

Contrary to the DA’s memo, Oregon law is clear on the issue of officer immunity--it is derivative use immunity, not transactional immunity that applies when an officer is compelled to speak.

Article I, section 12,¹⁷ of the Oregon Constitution, like the Fifth Amendment¹⁸ to the United States Constitution, protects Oregonians from self-incrimination. The DA’s memo asks the City to make a troubling choice in the name of the Oregon Constitution: either forfeit immediate and complete investigations into a police officer’s use of deadly force *or* forfeit a subsequent prosecution of any police officer who complies with that investigation.

¹⁶ It is questionable whether a court will have jurisdiction to hear the City’s case in the first place. Oregon has “a strong precedent against advisory opinions. Mere difference of opinion as to the constitutionality of an act does not afford ground for invoking a judicial declaration having the effect of adjudication.” *Gortmaker v. Seaton*, 252 Or 440, 444, 450 P2d 547, 549 (1969) (citation omitted). See also *TVKO v. Howland*, 335 Or 527, 534, 73 P3d 905, 908 (2003) (“[C]ourts cannot issue declaratory judgments in a vacuum; they must resolve an actual or justiciable controversy.”); *Eacret v. Holmes*, 215 Or 121, 125, 333 P2d 741 (1958) (“There is no case for declaratory relief where the plaintiff seeks merely to vindicate a public right to have the laws of the state properly enforced and administered.”) (citations and quotations omitted); *Morgan v. Sisters Sch. Dist. No. 6*, 353 Or 189, 195, 301 P3d 419, 423 (2013) (for a declaratory judgment, “there must be some injury or other impact upon a legally recognized interest beyond an abstract interest in the correct application of the validity of a law”) (citation and quotations omitted); ORS 33.710(4) requires a justiciable controversy.

¹⁷ Article I, section 12, provides that “No person shall * * * be compelled in any criminal prosecution to testify against himself.”

¹⁸ The Fifth Amendment provides that “No person * * * shall be compelled in any criminal case to be a witness against himself.”

That ultimatum is unnecessary. Rather, an internal investigation that compels testimony may proceed contemporaneously with a criminal investigation. The only limitation on the criminal investigation is that, if the internal investigation compels the officer to speak, the compelled testimony and the evidence derived from it must be excluded from the criminal trial. The Oregon Constitution does provide *some* limits on the criminal prosecution but it does not, as the DA's memo threatens, forestall it.

A. The District Attorney's interpretation of Article I, section 12, conflicts with binding case law from the Court of Appeals and the Oregon Department of Justice's previous position on the issue in the Court of Appeals.

The Oregon Court of Appeals has squarely rejected the idea that Article I, section 12, of the Oregon Constitution grants a police officer transactional immunity when he is compelled to testify as part of an internal investigation.¹⁹ In *State v. Beugli*, the criminal defendant was an Oregon State Police Trooper accused of a series of crimes, including sexual abuse in the second degree, official misconduct, and harassment. The charges arose out of complaints that the Trooper had inappropriately touched multiple women. The Oregon State Police initiated an internal investigation into the complaints. Internal investigators interviewed the Trooper multiple times pursuant to the internal investigation. During each interview, the investigators advised the Trooper that he was required to answer questions and submit a report about the alleged sexual contact. The Trooper complied.

While the internal investigation was underway, the Oregon State Police initiated a parallel criminal investigation. The criminal investigatory team was given the names of the women who had reported that the Trooper assaulted them, but it was not provided the statements or reports that the Trooper created during the internal investigation.

Four months after the criminal investigation began, the Marion County District Attorney filed an information charging the Trooper with multiple crimes. The Trooper moved to dismiss the information, arguing that he was entitled to full transactional immunity because he was compelled to make statements during the internal investigation. The trial court agreed with the Trooper and dismissed the indictment, concluding that transactional immunity was required.

The Oregon Department of Justice (ODOJ), represented by a now-Supreme Court Justice, appealed. The ODOJ acknowledged that the Trooper was compelled to testify during the internal investigation. But, the ODOJ argued, the remedy for that violation was simply the

¹⁹ *State v. Beugli*, 126 Or App 290, 868 P2d 766, *rev den*, 320 Or 131 (1994). Former Oregon Supreme Court Chief Justice Paul De Muniz authored *Beugli* when he was on the Oregon Court of Appeals.

exclusion of the compelled statements and any evidence derived from it in the criminal case; transactional immunity was not required.

The Court of Appeals agreed with the ODOJ. Specifically, the court held that Article I, section 12, does not and cannot affirmatively grant transactional immunity. Transactional immunity could be guaranteed by statute or contract (say, during plea negotiations with the DA's office), but never by Article I, section 12. The court wrote:²⁰

The right to transactional immunity arises only when the legislature has granted it as a substitute for the right against self-incrimination guaranteed by Article I, section 12, of the Oregon Constitution. In the absence of a legislative decision to grant immunity, the remedy for unconstitutionally compelled testimony is suppression of that testimony and any evidence derived from it.

Because the Trooper was not promised or contractually guaranteed transactional immunity in exchange for his testimony, transactional immunity was not available. Instead, the presumptive Article I, section 12, remedy applied—the compelled statements and the evidence derived from them were excluded from the criminal prosecution.

Other cases from the Oregon Court of Appeals interpreting *State v. Soriano* are consistent with *Beugli*. For example, in *Graf*, the Court of Appeals explained that, under Article I, section 12, a “[d]efendant’s constitutional right is the right not to be compelled to testify against himself, not a right to immunity.”²¹ Similarly, in *State v. White*,²² the Court of Appeals concluded that, under *Soriano*, “The authority to immunize a witness derives solely from statute[,]” not from Article I, section 12. And, in 2015, the court reaffirmed that “Article I, section 12, protects only the right to not to be compelled to testify against oneself; it does not, in itself, confer transactional immunity whenever that testimony is given.”²³

The Oregon Court of Appeals has clearly stated that derivative use immunity, not transactional immunity, is required when an internal investigation compels officer testimony. The City should not, in the name of the Oregon Constitution, sacrifice the public’s need for a timely and independent investigation into police use of deadly force.

²⁰ *Beugli*, 126 Or App at 294 (citations omitted).

²¹ 114 Or App at 282.

²² 96 Or App 713, 773 P2d 824, *rev den*, 308 Or 382 (1989).

²³ *Oatney v. Premo*, 275 Or App 185, 369 P3d 387 (2015), *rev den*, 359 Or 847 (2016).

B. The District Attorney's interpretation of *Soriano* is incorrect.

The DA's argument that Article I, section 12, conveys transactional immunity to a police officer when an internal investigation compels his testimony relies on the Supreme Court's 1984 decision in *Soriano*. As a preliminary matter, it is worth noting that the position in the DA's memo is solely based on that 1984 case; there are no more-recent cases supporting such a position, and, in fact, all of the Oregon appellate cases interpreting *Soriano* have rejected the DA's position.

The underlying case in *Soriano* was a contempt case. The defendants were subpoenaed to testify at a Klamath County Grand Jury hearing. They invoked their rights under the 5th Amendment and Article I, section 12, not to testify. The trial court nevertheless ordered them to testify, and granted them derivative use immunity under two, now amended, Oregon statutes.²⁴ The defendants still refused to testify, and the trial court held them in contempt.

The defendants appealed, arguing that the Oregon statutes limiting the available immunity to derivative use immunity, rather than transactional immunity, violated Article I, section 12. The Oregon Court of Appeals agreed, and the Oregon Supreme Court adopted the decision of the Court of Appeals as its own.

In so concluding, the court relied on the United States Supreme Court's admonition that "It is quite clear that *legislation* cannot abridge a constitutional privilege, and that it cannot replace or supply one[.]"²⁵ That reliance was appropriate, since the question in *Soriano* was whether an immunity *statute* must grant transactional immunity in order to support a contempt conviction. That is, the question in *Soriano* was *not* whether Article I, section 12, of the Oregon Constitution requires transactional immunity whenever a person's right against self-incrimination is violated.

The answer to the latter question—the proper remedy for an Article I, section 12, violation—has been resolved and reaffirmed in numerous cases in the Oregon appellate courts. In *State v. Vondehn*,²⁶ the Oregon Supreme Court rejected the state's argument that something *less* than derivative use is required to remedy an Article I, section 12, violation. Rather, there, the Supreme Court definitely stated that, when the state violates a person's rights under Article I, section 12, "[t]hat constitutional violation requires suppression of both the answers that [the] defendant gave in response to, and the [physical evidence] that the police identified and seized as

²⁴ Former ORS 136.617 (1984) and former ORS 136.619 (1984).

²⁵ *Soriano*, 68 Or App at 662 (quoting *Counselman v. Hitchcock*, 142 US 547, 585, 12 S Ct 195, 35 L Ed 1110 (1892) (emphasis added)).

²⁶ 348 Or 462, 476, 236 P3d 691 (2010).

a result of, that interrogation.”²⁷ The remedy for an Article I, section 12, violation is the exclusion of the compelled statements and any evidence derived from those statements from the defendant’s criminal trial.

Finally, the DA’s memo makes much of the court’s statement in *Soriano* that it is “unrealistic to give a dog a bone and to expect him not to chew on it.”²⁸ That statement in *Soriano* was actually a quotation from an earlier Oregon case, *State ex rel Johnson v. Woodrich*.²⁹ In *Woodrich*, the prosecutor in a criminal case compelled testimony via a psychiatrist that the prosecutor hired. And in *Soriano*, the prosecutor attempted to compel testimony during a Grand Jury. Thus, the court used the analogy to explain that the prosecutor could not fairly “unsee” evidence that its own team compelled.

But in the scenario at issue here, the prosecutor is not the same entity compelling the testimony; the internal investigator, not the prosecutor, has the “bone.” Correctly structured, there would be no evidence for the prosecutor to “unsee.” That is, if the dog does not have a bone, there is no risk that he will chew on it. To the extent that the DA’s memo offers the metaphor to persuade the City, its reliance on it is—at best—unavailing.

This analysis reveals that the Mayor’s proposal to seek permission from a court before implementing its proposed Directive 1010.10 (Exhibit B, attached, which requires officers to submit to administrative interviews before any criminal investigation is over) is unnecessary and will unreasonably delay implementation of a critical police accountability policy. The City has a choice of routes it can legally pursue to maintain the integrity of the administrative and criminal investigations, which are explored in the next section.

IV. PROPOSED SOLUTIONS: Separate investigations are the standard and should be implemented.

The City has options in structuring a policy that maintains the integrity of both the administrative and the criminal investigations. The City could 1) grant IPR the authority to conduct independent investigations of deadly force incidents; or 2) wall-off IA investigations from the PPB criminal investigation or use an outside agency to conduct the criminal investigation.

Both of these options are intended to create a barrier between the administrative and criminal investigations so they run concurrently and do not contaminate the other. As explained

²⁷ See also *State v. Delong*, 357 Or 365, 371-72, 350 P3d 433 (2015) (explaining *Vondehn*).

²⁸ 68 Or App at 665.

²⁹ 279 Or 31, 566 P2d 859 (1977).

above, the rule in Oregon is derivative use immunity; when an officer is compelled to testify in an administrative proceeding, the prosecutor cannot use the compelled statements or any evidence obtained as result of the compelled statements in the criminal prosecution. In other words, the criminal investigation must be entirely independent from the administrative investigation. This is not an uncommon arrangement—federal law provides derivative use immunity for officers who give compelled statements upon threat of termination.³⁰

The seminal case establishing the rule of immunity for compelled testimony was *Garrity v. New Jersey*.³¹ That case held that “protection of the individual under the Fourteenth Amendment against coerced statements prohibits use in subsequent criminal proceedings of statements obtained under threat of [termination].”³² Later cases clarified the rule.³³ From these cases evolved what is now known as a “*Garrity* Warning.” A *Garrity* Warning advises officers of their rights when they are compelled to speak and the consequences of any voluntary statement. Based on this long-standing legal standard, many law enforcement agencies have developed practical ways to facilitate successful parallel investigations, as explained below.

A. Have IPR conduct the parallel administrative investigation.

It is the NLG’s position that investigations of PPB deadly force incidents should be conducted by IPR. This would serve the dual purposes of walling off the administrative investigation from the criminal investigation and increasing public trust in police accountability. The perceived barriers to giving IPR this authority that have been raised in the past are surmountable and do not outweigh its value and benefits.

One such perceived barrier is that IPR does not have authority to compel officer testimony. This is not true. The City can require the Police Commissioner or Chief to administer the *Garrity* warning and instruct the officer to answer all IPR’s questions under threat of

³⁰ *Garrity v. New Jersey*, 385 US 493, 87 S Ct 616, 17 L Ed 2d 562 (1967); *Kastigar v. United States*, 406 US 441, 92 S Ct 1653, 32 L Ed 2d 212 (1972).

³¹ 385 US 493, 87 S Ct 616, 17 L Ed 2d 562 (1967).

³² *Id.* at 500.

³³ See, e.g., *Gardner v. Broderick*, 392 US 273, 278, 88 S Ct 1913, 20 L Ed 2d 1082 (1968) (holding that public employees may be compelled to answer questions directly related to the performance of their official duties, but they cannot be terminated for refusing to waive their right to immunity); *Uniformed Sanitation Men Ass'n, Inc. v. Comm'r of Sanitation*, 392 US 280, 283, 88 S Ct 1917, 20 L Ed 2d 1089 (1968) (holding that public employees cannot be terminated from their employment for refusing to voluntarily answer questions after being told that their responses could be used against them in subsequent proceedings); *Kastigar*, 406 US at 461 (holding that use and derivative use immunity, not transactional immunity, applies when testimony is compelled).

termination.³⁴ This is precisely how the City of Minneapolis handles this situation.³⁵ Moreover, Portland's City Code already provides.³⁶

A Bureau employee shall attend investigative interviews conducted by IPR, cooperate with and answer questions asked by IPR during an administrative investigation of a member conducted by IPR. If an employee refuses to attend an investigative interview after being notified to do so by IPR or refuses to answer a question or questions asked by IPR during an investigative interview, the Police Chief or Police Commissioner shall direct the employee to attend the interview and answer the question or questions asked.

Another perceived barrier is the fact that IA has more resources, expertise, and investigators than IPR. This barrier can be overcome by diverting funds from (and sharing certain resources, like training from experienced investigators, between) Internal Affairs to IPR.

The NLG recognizes that this course of action will require changes to City Code, a potential minor change to the PPA collective bargaining agreement, and a restructuring of the City's funding and resources for investigations of police misconduct. Considering the reality that some of these changes will take time, the NLG proposes the City implement the protocol in the next section until these changes can be made.

B. Have the Portland Police Bureau or an outside agency continue to conduct the parallel administrative investigation independently of the criminal investigation.

As the DOJ recommended five years ago in its Findings Letter,³⁷ a criminal prosecution of an officer can be successful where an administrative investigation is already underway, so long as the criminal investigation is not contaminated by compelled statements obtained during the administrative investigation. To accomplish this, the IA administrative interviews

³⁴The NLG has argued that IPR can administer *Garrity* warnings, since IPR is involved in officer discipline. IPR is a voting member of the Police Review board, and the Auditor recommends the Board's citizen member. Portland City Code 3.20.140. IPR also has authority to controvert findings or proposed discipline and compel review by the Police Review Board. Portland City Code 3.20.140; 3.21.070. The NLG maintains this argument, but recommends here that the the Chief/Commissioner administer the warning because it is a more likely approach for the City to presently adopt.

³⁵ See Minneapolis Civilian Police Review Authority Administrative Rule 7(D), available at http://www.ci.minneapolis.mn.us/news/news_20030924crarules ("A 'Notice to Give Garrity Warning' shall be sent by the Manager to the chief requesting him/her to order the Officer(s) to cooperate with the investigation. With this order to cooperate, the chief shall give a *Garrity* Warning.")

³⁶ Portland City Code 3.21.220.

³⁷ DOJ Findings Letter at 31.

compelling statements of an officer and all information flowing from those interviews should be bifurcated from the criminal investigation.

Adequate protections are already in place, since parallel criminal and administrative investigations are standard practice for local, state, and federal governments. For example, as the DA's memo notes,

the criminal investigative team must now be segregated from the internal administrative investigation team and no information that the internal administrative investigation team collects much reach any personnel that will have contact with the criminal investigation team. For example, the involved agency's Police Chief should not know the nature or content of the compelled statements since the Police Chief would have contact with the criminal investigation team. It is important to note that this is already the current practice of police shooting investigations in Multnomah County.³⁸

And the Use of Force Directive currently provides that, "all personnel involved in the administrative review shall keep information garnered from the Professional Standards Division interview strictly confidential, nor permitting disclosure of any such information or its fruits to the criminal investigation."³⁹ Further, a current directive also requires "involved and witness members not to discuss the incident,"⁴⁰ which reduces the risk that compelled statements will contaminate the concurrent criminal investigation.

Other municipalities have pursued two general models of bifurcated investigations. In some cities, bifurcated investigations are successfully accomplished within the police agency, and, in others, the city utilizes an outside agency.

One example of the former is Eugene, Oregon's system. While the investigators for the criminal investigation are employed by the bureau, Eugene's policy provides that no administratively coerced statements will be provided to the criminal investigators.⁴¹ It appears that the City of Portland's current policies are consistent with this model.

One example of the latter is the protocol in Wisconsin. The Wisconsin DOJ leads criminal investigations of officer-involved deaths and then presents findings to the DA.⁴² Thus,

³⁸ DA's memo at 4.

³⁹ PPB Directive 1010.10, Policy Para. 3.

⁴⁰ PPB Directive 1010.10.2.3.1.2.

⁴¹ Eugene, Oregon Police Department, Policy No. 810.4.2(d), Use of Deadly Force Incident Criminal Investigation, Criminal Investigation Procedure (2014).

⁴² Amari L. Hammonds, Katherine Kaiser Moy, Rachel R. Suhr & Cameron Vanderwall, Stanford Criminal Justice Ctr., *At Arm's Length: Improving Criminal Investigations of Police Shootings* 19 (2016).

no investigators employed by the same agency as the involved officer are part of the criminal investigation. This allows the criminal investigation to proceed without any concern that it will be contaminated by compelled statements or evidence obtained through them.

Ultimately, it is important to recognize that parallel criminal and administrative investigations occur regularly at all levels of government. While an outside agency creates a clearer and stronger barrier between the two investigations, properly separated internal investigations can maintain the integrity of the criminal investigation.

V. CONCLUSION

As explained above, transactional immunity is *not* required by Oregon law. It would be a disservice to the public and a threat to justice if the City waits for a court opinion on this issue before implementing a policy to hold officers administratively accountable. While the NLG does not believe that a court ruling on transactional immunity is necessary, it understands the City's desire to feel confident in its approach.

Therefore, while the City is awaiting a ruling from the court, it should immediately implement a directive similar to proposed 1010.10 (Exhibit B) but with the requirement that officers give a statement or undergo an administrative interview within 24 hours, which is more time than it already requires of witness officers.⁴³ As the DOJ pointed out in 2012, delaying officer statements defeats "contemporary, accurate data collection." It also provides the opportunity for officers to prepare coached statements after consulting with their attorney and union representative. Neither of these serve the interests of accountability and justice. We urge the City to be rid of the 48-hour rule for good!

Compelling the officer's statement in the context of a bifurcated, parallel investigation is clearly permissible under Oregon law, and outweighs the risks (and potential benefits) of approaches that attempt not to do so. The NLG recommends the City take this course, starting with policies and procedures that ensure separate administrative and criminal investigations, with a plan to transfer the administrative investigation piece to IPR as soon as possible.

⁴³ See PPB Directive 1010.10.1.2.5.

From: Kirsten Adkerson <kirstenadkerson@gmail.com>
Sent: Wednesday, August 02, 2017 4:58 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Transparency and Justice

Hello,

I am writing you today demanding that you put a stop to removing the public's voice from the systems that are supposed to serve and protect. **I object to any amendments that remove the public from Portland Police's oversight.**

I for years have worked with victims of crime, and in no way does this support them in being safe and having access to justice. Victims of domestic violence will not call the police if they think it is a literal death sentence to the one hurting them. They will not call the police if they think that they may end up being the ones shot or arrested. People will not call the police if they need help with a family member having a mental health crisis if they think that that family member will be tortured or killed because they did not follow police directions. Neighbors will not call the police if they suspect a burglary if they think that their neighbor will be shot by accident.

Portland Police must be safe and serve all communities, not just white rich communities who want safe spaces from homeless people. Portland Police must serve the homeless, poor folks, trans folks, black and latin@ folks, immigrant folks, undocumented folks. By serving everyone with respect and safety everyone is safer.

If you have a true commitment to earning the public's trust and respect you must listen to their voices and act upon them rather than silencing them. The community is giving you the tools to become what is needed, take heed.

Thank you for your time,
Kirsten Adkerson

Moore-Love, Karla

From: Tabitha Boschetti <tabitha.bos@gmail.com>
Sent: Wednesday, August 02, 2017 11:27 PM
To: Council Clerk – Testimony
Subject: Testimony on Item 872 for 8/3/17, DOJ Settlement

Members of City Council-

I am writing with concern regarding the proposed amendments to the DOJ settlement and proposals for a transformed police oversight body.

I have heard concerns from NAACP and the Albina Ministerial Alliance that the current proposal from Mayor Wheeler only puts us further in the wrong direction, undermining what community accountability there is. I'm not as knowledgeable as those groups, but here are some things that stood out as red flags for me as I read through the red lines in Exhibit 4:

- Removal of language about who is implementing this order on page 50. That's a bureaucrat's quibble, but documents that don't say who is responsible for implementation are pretty suspect--even if it's redundant with another section, it's worth repeating for clarity.
- A change from "independently assessing..." to "soliciting information" on page 51. What is the need to weaken that?
- Replacement of specific committee composition language with very vague language (pg 51-54)
- Pg 57, changing the role of the advisory committee from working "together" on a community engagement plan to having their "input" "considered." Being realistic about input is important to community engagement, yes, but a topic as serious as police brutality, and a body as committed as an explicit oversight committee, is worth going up Arnstein's ladder a notch or two.
- Pg 61, removal of language about summarizing public comments. Even if this is tasked to someone else, taking out this language wholesale leaves it so that there's a public hearing, but not even cursory follow-up specified.
- Pg 62, paragraph 160 another swap from co-creation to merely being consulted

On something positive, I actually thought it sounds good that the City would have to provide administrative support to the body, though that's purely from an outside perspective and I'd care more what people with closer experience with these processes think.

Our officers are not so fragile that they cannot handle oversight with a high level of community co-creation in those activities. For Council to go out of its way to seemingly weaken an oversight body troubles me. The City of Portland owes it to all of the people who live, work, or simply pass through our city to work to actually increase police accountability.

Thank you for your consideration,

--

Tabitha Boschetti
tabitha.bos@gmail.com
27 SE 72nd. 97215

From: Joe Rowe
Sent: Wednesday, August 02, 2017 5:30 PM
To: portland@usdoj.gov
Cc: Council Clerk – Testimony
Subject: I oppose city amendment proposals

Dear DOJ staff.

I was a victim of Portland police abuse and false arrest. What I endured is just a fraction of the injustice thrust upon the African American and other at risk populations in Portland.

Please do not accept the city attempts to limit an independent body. This body would conduct and move forward the processing of police abuse claims

Do not limit the membership nomination or appointment process of that team to just the mayor. It should be an open nomination and decision of victimized groups.

I won my case on Appeal before 3 judges. Most victims of police abuse do not have the ability to appeal or win under any circumstances.

Joe Rowe
Please do not publish my email name

Moore-Love, Karla

From: Cornelia Wagner <cwagnerpdx@gmail.com>
Sent: Wednesday, August 02, 2017 11:06 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla; community.portland@usdoj.gov
Subject: amendments to doj settlement agreements

Dear Mayor Wheeler,

I would like to know where you stand on the amendments to the DoJ Settlement Agreement which will be discussed tomorrow at the city council meeting?

I want to encourage you to listen to your constituents' concerns that these amendments would remove community oversight and the city council from the settlement agreement, leaving the you as the only appointing body of the PCCEP. That these amendments were written without community input is completely unacceptable. You promised transparency and improving the community's role in policing so we can create a more just system and you need to stand by your commitment!

Sincerely,
Cornelia Wagner
Portland, OR 97202

Moore-Love, Karla

From: Ellen Metz <chezmetz@gmail.com>
Sent: Wednesday, August 02, 2017 9:46 PM
To: Moore-Love, Karla
Subject: Transparency in the Police Department

I am writing to insist that Portland resist our violent and unfair history and shoulder the responsibility of equitable police oversight. Do not amend the Dep't of Justice Settlement Agreement to eliminate the role of community voice and oversight of the Portland Police. These amendments were developed in secret between the City, the Department of Justice, and the Portland Police Union, and they reflect Portland's unfair history of disproportionate scrutiny and incarceration of low income and communities of color.

Say no to **all** of the following:

- Lack of community oversight from the settlement agreement.
- Removing city council from the settlement agreement—leaving the mayor as the only person receiving reports.
- Lack of a proposal for a fairness hearing.
- Implying community advocates were involved in criminal behavior.
- Eliminating all outside review of improvements, leaving the PCCEP in charge of PR for the police department.

Your constituents are watching and will respond to your votes in kind with our votes.

Thank you,

Ellen Metz

Moore-Love, Karla

From: Alison Dennis <dennis.alison@gmail.com>
Sent: Wednesday, August 02, 2017 9:23 PM
To: Moore-Love, Karla
Subject: Please Vote NO on DOJ Settlement Agreement Amendments

Dear Council Clerk Moore-Love,

As a Portland citizen concerned about police conduct and excessive use of force against fellow citizens, I urge you to vote against the proposed amendment to the 2012 federal Settlement Agreement.

It is imperative that the people have a means of overseeing the conduct of the Police Bureau. This is why Portland needs to hold promised public town hall meetings and the Community Oversight Advisory Board (COAB) must be allowed to weigh in on much needed reforms.

This oversight board should not be replaced by the Portland Commission on Community-Engaged Policing (PCCEP), a commission selected directly by Mayor Wheeler. This type of oversight should be conducted by an independent group of citizens in order to serve as a system of checks and balances for the city government and remain in compliance with the DOJ Settlement Agreement.

Sincerely,

Alison Dennis
2711 NE Clackamas St
Portland, OR 97232

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A stylized, calligraphic logo consisting of a large, bold letter 'A' with a smaller 'D' nested inside its lower curve. The lines are thick and elegant, resembling a signature or a brand mark.

Moore-Love, Karla

From: jennifer Moore <moorjenn@yahoo.com>
Sent: Wednesday, August 02, 2017 7:10 PM
To: Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Wheeler, Mayor; Moore-Love, Karla
Subject: COAB

Save the Community Oversight Advisory Board! We need REAL community oversight of police; replacing the COAB with a group consisting only of the Mayor's hand-picked cronies would guarantee that Portland police will not have real accountability.

We need an independent, broad-based community oversight!

Sincerely,

Jennifer Moore
Portland OR

Moore-Love, Karla

From: brian.king@kaiber.com
Sent: Wednesday, August 02, 2017 3:59 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: objections to Dept. of Justice settlement amendments

Mayor Wheeler,

I am a Portland resident. I object to the amendments to the Department of Justice Settlement Agreement that replace the Community Oversight Advisory Board (COAB) with the Portland Commission on Community-Engaged Policing (PCCEP) that will be considered at the Aug. 3 City Council meeting. In the recent survey of priorities in the search for the next Police Chief, the people of Portland clearly asked for "transparency" and a "commitment to accountability", but the amendments appear to be the opposite. Please let me know where you stand on these amendments.

Regards,
Brian King

Moore-Love, Karla

From: Mark Woodlief <markwoodlief@gmail.com>
Sent: Wednesday, August 02, 2017 3:55 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Department of Justice settlement agreement amendments

- Greetings,

I regret I am unable to attend the City Council meeting tomorrow in person. I am writing to express my deep displeasure with Portland's proposed amendments to the 2014 Department of Justice settlement agreement.

First, the amendments were written with no public input. This is inappropriate and wrong.

Second, the amendments do not come anywhere close to serving, or protecting, the Portland populace.

Third, if the City of Portland is out of compliance with the DOJ settlement agreement, now is the time for accountability and reform, not for attempting to place a bandage on a more complicated and severe wound that affects the health of the community you serve.

I urge you to embrace the opportunity before you to build, rather than dismantle, community. It is the just, sustainable approach Portland requires.

Sincerely,

--
Mark Woodlief
503.201.4671

Moore-Love, Karla

From: Kevin Moore <kevinmoore@gmail.com>
Sent: Wednesday, August 02, 2017 12:29 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla; community.portland@usdoj.gov
Subject: Please Save the Community Oversight Advisory Board

To all concerned,

In the 2012 plea deal a Community Oversight Advisory Board (COAB) was authorized to “independently assess the implementation of this Agreement.” However, the board remains underfunded and understaffed. Only five of the 15 voting representatives were seated with community involvement, then their terms elapsed; when appointed members left their seats, they were not replaced. COAB deserves appropriate funding and support staff for self-directed mission – and to be heard by the Mayor and the Council.

Under the current plea deal, a Compliance Officer was to give COAB thirty days to “informally comment on his report on recommendations regarding necessary steps to achieve compliance.” The Officer “shall also hold open town hall meetings on a quarterly basis where he/she will ... receive public comment on his/her assessments of compliance and recommendations.”

Unfortunately, the Mayor's proposal circumvents the public process. Item 872, for vote Thursday, proposes amending the Feds' 2012 Settlement Agreement. It will swap out broad-based community oversight for a small band of the Mayor's political appointees. A proposed Portland Commission on Community-Engaged Policing (PCCEP) will determine when “a public meeting will further its mission.”

I join the PDX NAACP and Portland Copwatch in calling for the preservation and robust support of the COAB, and oppose creating the PCCEP.

Thank you for your time,
Kevin Moore
Portland, OR 97212

Moore-Love, Karla

188570

From: Frann Michel <frannmichel@gmail.com>
Sent: Wednesday, August 02, 2017 12:16 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla; community.portland@usdoj.gov
Subject: Unacceptable amendments to DoJ settlement - no PCCEP

Dear Mayor and Commissioners,

I write to express my objections to the proposed amendments to the Department of Justice Settlement.

The amendments remove community oversight from the settlement agreement; remove the City Council from the settlement agreement—leaving the mayor as the appointing body of the PCCEP and the only person receiving reports; do not include a proposal for a fairness hearing; imply community advocates were involved in criminal behavior; and eliminate all outside review of improvements, and instead put the PCCEP in charge of PR for the police department.

We have recently learned that Mayor Wheeler has been working with Attorney General Sessions to oppose police reform amendments. This is not someone I would trust with the guiding oversight power in our city.

The recent behavior of the Portland Police has not reflected the promises made by Candidate Wheeler to demilitarize policing. Police routinely appear at peaceful demonstrations in riot gear. The current chief of police has a history of domestic violence and dishonesty, and should not be eligible for the permanent job. At the "free speech" (white-supremacist) / pro-diversity (anti-Nazi) events this summer, the police have treated dangerous rightists with extreme consideration, offering free Tri-Met rides and allowing them to drink beer before arrest and to participate with police in violently arresting peaceful protesters. In contrast, peaceful protesters have had weapons pointed at them, been kettled and arrested—only to have the erroneous charges dropped. It will surely be more cost-effective to avoid citizen lawsuits in the first place.

COAB had problems. It could have been much more successful had it been able to choose its own chair; had it replaced vacancies promptly; had it had an adequate budget (instead of \$458,000/year being wasted on Chicago boys). Imagine if that money had been spent on Town Halls for subject matter experts to inform a community seeking to end cops' extra-judicial killings and assure ourselves that the US Constitution is in force in Portland.

But the proposal amendments remove community oversight, remove City Council involvement, eliminate outside review, and impugn the integrity of community activists.

The lack of transparency in the development and consideration of the proposed amendments is unacceptable.

With the Albina Ministerial Alliance for Justice and Police Reform, I call on you to—at the very least—provide for more extensive public discussion.

Sincerely,

Frann Michel, Ph.D.

1803 SE Washington #2
Portland 97214
franmichel@gmail.com

From: Amy Johnson <amy.marie.j@gmail.com>
Sent: Tuesday, August 01, 2017 10:30 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: DOJ Settlement Amendments

Mayor Wheeler,

I live in Portland and I am writing to voice my opposition to the proposed amendments to the Department of Justice settlement agreement with the Portland Police Bureau. It is critical that we maintain transparency and community involvement to ensure that progress is made in meeting the requirements of the agreement and improving the relations between the police and the community. The disproportionately aggressive responses of the Portland Police Bureau to protests this year only further demonstrate the reason the settlement agreement with the Department of Justice was necessary and why continued accountability to the community is important. I urge you not to move forward with the proposed amendments to the settlement.

Sincerely,
Amy Johnson

From: Bonnie Robbins <robbinsbonnie@gmail.com>
Sent: Tuesday, August 01, 2017 6:25 PM
To: Moore-Love, Karla
Subject: DOJ and PPB

I am writing to insist that Portland prove their resistance to our violent and unfair history.

Do not amend the Dept of Justice Settlement Agreement to eliminate the role of community voice and oversight of the Portland Police. The community was included in the settlement for a reason - they are the people with first-hand information about what is going on in the streets. They are the people that need to be reassured that justice will (start to) prevail.

The amendments were developed in secret between the City, the Department of Justice, and the Portland Police Union. We need transparency. There is nothing in the new agreement to assure that Portland's unfair history of disproportionate scrutiny and incarceration of low income and communities of color will change.

Say no to **all** of the following:

- Lack of community oversight from the settlement agreement.
- Removing city council from the settlement agreement—leaving the mayor as the only person receiving reports.
- Lack of a proposal for a fairness hearing.
- Implying community advocates were involved in criminal behavior.
- Eliminating all outside review of improvements, leaving the PCCEP in charge of PR for the police department.

Begin the process of healing and trust-building. Thank you,
Your constituent,

Bonnie Robbins

From: Betsy Zucker <betsyzucker@gmail.com>
Sent: Tuesday, August 01, 2017 4:30 PM
To: Wheeler, Mayor; Commissioner Saltzman; Commissioner Fritz; Commissioner Fish; Commissioner Eudaly
Cc: Moore-Love, Karla; community.portland@usdoj.gov
Subject: Police Accountability and the DOJ in Portland

Mayor Wheeler, and Commissioners Fritz, Saltzman, Fish, and Eudaly,

I am writing to express my concern about the proposed amendments to the Portland/DOJ settlement which will be proposed at City Council this Thursday.

Unfortunately, I will be unable to attend the hearing itself.

The Department of Justice settlement demanded certain measures related to community engagement, and changes in PPB's illegal use of force. The Department of Justice documented significant problems with the Police Bureau's use of force, especially in situations involving citizens with mental illness. In addition, there are known problems with racial profiling, and excessive use of force against African American citizens. For all of these reasons, it is important to have vigorous citizen oversight of the Portland Police Bureau - and the proposed amendments do exactly the opposite.

As a longtime resident of Portland, outraged by the multiple examples of excessive use of deadly force against individual citizens, and excessive use employed against peaceful protestors, I want the most transparent, community-responsive oversight of the police. Therefore, I urge you to vote against any changes in the DOJ settlement, and to vote FOR increased civilian oversight.

Betsy Zucker
Southeast Portland

Moore-Love, Karla

From: Hull Caballero, Mary
Sent: Tuesday, August 01, 2017 3:19 PM
To: Severe, Constantin; Council Clerk – Testimony
Subject: FW: Proposed Amendments to DOJ Settlement Agreement

FYI

From: Isabel Sheridan [mailto:iasheridan44@gmail.com]
Sent: Tuesday, August 01, 2017 2:57 PM
To: Wheeler, Mayor <MayorWheeler@portlandoregon.gov>; Commissioner Fritz <amanda@portlandoregon.gov>;
 Commissioner Eudaly <chloe@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>;
 Commissioner Fish <nick@portlandoregon.gov>
Cc: Hull Caballero, Mary <Mary.HullCaballero@portlandoregon.gov>
Subject: Fwd: Proposed Amendments to DOJ Settlement Agreement

Isabel Sheridan

1300 NE 16th Avenue, #1304
 Portland, OR 97232
 C: 503-915-3433

----- Forwarded message -----

From: Isabel Sheridan <iasheridan44@gmail.com>
Date: Tue, Aug 1, 2017 at 1:53 PM
Subject: Proposed Amendments to DOJ Settlement Agreement
To: Isabel Sheridan <iasheridan44@gmail.com>

I am writing to you before the City Council meeting Thursday, August 3, 2017, to ask where you stand on the proposed amendments to the DOJ Settlement Agreement. I hope you are as concerned as I am that those amendments would weaken an already-stressed Agreement (in terms of actually creating change in the culture of the PPB in terms of citizen rights, especially for People of Color).

For the record, I am White and have always been treated with respect and even deference by the PPB. So I know what it feels like to be taken at face value, to be assumed to be the law-abiding citizen I am. For many in the city, including some of my Black friends, this is not true. They have been assumed to be up to no good - profiled just for being in a public place - or in a predominantly White neighborhood after dark. They have been humiliated, but not physically harmed. Other Portland People of Color have not been so lucky.

I sat in on one CRC hearing a few years ago: a Black man my age (over 65), who, it turns out, was a volunteer for seniors at the St. Mary's Cathedral, was stopped for jay-walking on NW 19th Ave. and questioned by police as though he were a criminal. The CRC took 2 votes that night - the official one (no action taken) and an unofficial one (on the way they wished they could have voted, if the standard had not been the "reasonable person" one). In that second vote, the majority thought action to discipline the senior officer involved should be taken.

I have read the positions of the AMA Coalition and the NAACP. I agree with all their points. I will highlight just two.

I think it is urgent that the City move forward with the alternative directive, allowing compelled officer testimony shortly after deadly force incidents, but shortened from "within 48 hours" to "within 24 hours," a national norm. It is national best practice to conduct administrative and criminal investigations at the same time, and that is what the DOJ Agreement promised the community.

I think that the CRC's current standard of review, "reasonable person," should be changed to "preponderance of evidence."

I look forward to your replies and to your responses to the citizens of Portland at the City Council meeting this Thursday.

Isabel Sheridan

1300 NE 16th Avenue, #1304
Portland, OR 97232
C: 503-915-3433

Moore-Love, Karla

From: Anie Day <dreadpirateanie@gmail.com>
Sent: Tuesday, August 01, 2017 2:20 PM
To: Commissioner Fish
Cc: Moore-Love, Karla
Subject: Amendments to DOJ Settlement Agreement

Hello City Council Member Nick Fish

I am very concerned about the the amendments to the Department of Justice Settlement Agreement, for which there will be a hearing on Aug 3rd.

These amendments would remove community oversight and city council involvement from the settlement agreement. The amendments do not allow for outside review of improvements, nor a fairness hearing. We need more transparency and community involvement in Portland's police and justice system, not less.

Thank you.

Moore-Love, Karla

From: Benjamin Kerensa <bkerensa@gmail.com>
Sent: Tuesday, August 01, 2017 1:00 PM
To: Moore-Love, Karla
Cc: Council Clerk – Testimony
Subject: Written Testimony for Aug 2 and Aug 3 City Council Meeting Agendas
Attachments: Letter for Aug 2 Agenda Items.pdf; Letter Aug 3 Agenda Items.pdf

Hello Karla,

Please find attached written testimony for Aug 2 and Aug 3 City Council Meeting Agendas.

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Benjamin Kerensa

BENJAMIN KERENSA

August 1st, 2017

RE: Agenda Items 871, 872, 873 for August 3, 2017

Dear Portland City Council,

Agenda Item 871

I am disappointed that Mayor Ted Wheeler has not been transparent and forthcoming with the community surrounding the 48-hour notice, which he received notice on earlier this year, but was not disclosed until just recently. While Mayor Wheeler is now trying to push back, the reality is he let the public down by not letting the public know about this issue sooner. I definitely support reform on interviewing officers after use of force and think the delays the District Attorney Office are advising are not in the public's best interest.

Agenda Item 872

I strongly oppose this proposed amendment to the settlement with the DOJ and I share the concerns of the NAACP that this proposal coming from the Mayor would replace the COAB with an essentially pretend oversight body, that the City Council would be removed from the picture, and the Mayor would hand select members of the new body and reports would go to him alone. As we have seen with the Mayor's pretend public process for selecting a new Chief, he cannot be trusted alone to serve the public's interest around police reform. In that process, he put only one community member on the committee to select the next chief and put multiple business lobbyists and multiple police officers putting businesses and policies interests before the general public. We must start getting police reform right and I would implore City Council to reject this proposal from the Mayor and open up some City Council work sessions to come up with a better proposal or fix some of the issues with COAB and go back to that model.

Agenda Item 873

I support this change. It is a good first step but this also calls into question how fair the findings are for investigations currently complete or that will soon be completed. As an example, the October 12th, 2016 protest, January 20th, 2017 protest and June 4th, 2017 protest will likely all only have findings from a police commander, which is not a very independent police investigation at all.

In reality, police commanders and the police chief should never be the ultimate decider on investigations. We should rely on neutral third party IPR staff or other members of the public to make findings. The fact that our police force basically gets to decide when misconduct occurs and doesn't, really means we do not have independent investigations at all.

188570

We have police giving fellow officers passes most of the time and when those findings are appealed, often the CRC overturns those findings which shows police supervisors are giving a lot of passes in their findings.

Again, this is a first step but I would implore a lot more changes at IPR before the end of the year to make investigations more thorough and fair. I would also repeat my call for modification of the City Code to allow appeal of Director Dismissals as I believe that process is entirely unfair and allows one person, the Director, to make mistakes and offers complainants no remedy to an erroneous dismissal.

Sincerely,

Benjamin Kerensa

Moore-Love, Karla

From: Roger Hardesty <rdh@hardspace.info>
Sent: Tuesday, August 01, 2017 11:39 AM
To: Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; ted@tedwheeler.com; Auditor, IPR Mail
Cc: community.portland@usdoj.gov; 'Geissler, Jonas (CRT)'; jared.hager@us.doj.gov; david.knight@usdoj.gov; bill.williams@usdoj.gov; Seth.Wayne@usdoj.gov; Jaclyn.Menditch@usdoj.gov; adrian.brown@usdoj.gov; michelle.jones2@usdoj.gov; Michael_Simon@ord.uscourts.gov; Brian.Buehler@usdoj.gov; Moore-Love, Karla
Subject: Plan to Amend Plea Deal, USA v City of Portland
Attachments: HardestyPCCEPAndPleaDeal.pdf

Mayor, Commissioners ~

Please find attached, **HardestyPCCEPAndPleaDeal.pdf**. I reproduce the communication here, in the body of this email. I encourage a 'NO' vote on Agenda item 872. Do not be the first local government in the nation to support the Trump Era roll-back in civil rights enforcement.



RDH

31 July 2017

Mayor, Portland City Council ~

I write with regard to [Agenda Item 872](#) – **Ordinance approving amendments to Settlement Agreement between the United States and City of Portland ... and a Plan for Portland Commission on Community-Engaged Policing (PCCEP)**

“The Parties may jointly stipulate to make changes, modifications, and amendments to this [Agreement](#), which shall be effective, absent further action from the Court, 45 days after a joint motion has been filed with the Court.” (SA 187)

Until that time, “Quarterly meetings shall facilitate the sharing of information on the Agreement and its implementation with the broad community body, and permit the COCL and the COAB to receive comments and concerns.” (SA 163) “The public shall have the opportunity to raise comments or concerns at the open town hall meeting or via online and/or electronic mail submissions.” While this remains the law of the land, and while the parties suppress town halls and Community Oversight Advisory Board (COAB), the Compliance Officer Community Liaison (COCL) shall still, after soliciting community concerns, “make recommendations to the City regarding measures necessary to ensure *full* and timely implementation of this Agreement.” (SA 161, italics mine) You’ve not fired your COCL. Why is the contractor not at work, carrying out the plea deal’s terms? Are we to believe the Mayor’s PCCEP is the *only* body capable of fencing out community aspirations for a more just society? I contend refusal to employ the COCL forms part of an ongoing pattern; mirrored by releasing hundreds of pages of documents last Friday, and limiting constituent expression to 120-180 seconds of ‘input’ ... before a body not known to deliberate on, let alone incorporate public testimony in amended legislation.

In their [2016 Status Report](#) (pg. 114 & onward), DoJ investigators late last year deemed the City was in abject non-compliance with their USA v City of Portland plea deal Agreement, regarding Community Engagement and Creation of COAB. (SA Sect. IX) After once again obstructing judicial review with legal action and secret mediation; the City, partnering with the police union and US Attorney General Sessions’ DoJ, abdicated the spirit of mutual endeavor as recorded in this covenant: the parties used that time spent beyond public awareness to come to terms which further obstruct informed consent of the governed. They propose to disestablish civilian oversight.

For almost a generation we’ve heard Council’s hands were tied, after officers repeatedly used 48-hour ‘waiting periods’ to concoct false narratives of their extrajudicial killings. (Pg. 3, [here](#)) As if some *other* body had secretly negotiated consecutive, collective bargaining agreements to keep cops’ self-exoneration scheme operating. Now we are to

understand that clandestine negotiation was required “to achieve the desired outcomes of meaningful community engagement with and trust in PPB.” ([PCCEP](#), Guiding Principle)

The community does not require “systems to increase public outreach” by perpetrators who have never admitted complicity. It is, ultimately, The People’s responsibility to ensure that the US Constitution is in force. To take responsibility as citizens, we must “*leverage* the ideas, talent, experience, and expertise of the community.” (SA 141, italics mine) We must *apply pressure* whenever any Form of Government becomes destructive of unalienable Rights ... to fundamental Life and pursuit of Happiness. “Government of the people, by the people, for the people,” ought not confine the public to imbibing ‘perceptions’ of procedural justice and police legitimacy ... when the Mayor’s small band of appointees “determines a public meeting will further its mission.” (PCCEP, pg 4)

A case has been made, documenting the City’s brutal and illegal conduct. ([DoJ Findings](#), pg. 12 & onward) It becomes reasonable to embrace the extraordinary contrivance of checks and balances to lethal exercise of power. It is, frankly, un-American for perpetrators of misconduct to sit in assessment of remedy. It is malfeasance to propose such now; given the City’s long history of obstructionism. (See Mayor Katz’ & Chief Moose’s 1998 Community Policing Strategic Plan, Chief Kroeker’s 2000 ‘Blue Ribbon’ Panel, and – my favorite – a 2010 Police Oversight Stakeholder Group, after which the Mayor set aside a community-inspired Majority Report in favor of creating a ‘temporary’ and ‘Independent’ Police Review Division ... whipped up outside the public process by the Auditor and police union. A body which two years later was discovered to be at the core of a “self-defeating accountability system” described in DoJ Findings.)

Police science has evolved in the interim. As has common awareness that serial City conclaves never influenced police conduct. Instead of burdening COAB with ceremonial appointments who shirked subcommittee work, a good faith effort would have been to supply the body with researchers educated in that scientific field. Instead of employing a City contractor to prevent COAB from setting its agenda, and seating Commissioners’ lackeys on its Executive Committee, to act as gatekeepers choosing what proposals could get *on* that agenda, the City could have in good faith entertained any one of the dozens of recommendations to defy obstruction and issue from that advisory body. (See [COAB Accountability Subcommittee Recommendations](#))

The Mayor conjures up “criminal behavior became regular features of meetings, resulting in arrests.” (Item 46, Ordinance) Of course there was no ongoing criminal behavior, simply the very dissent an elitist Council now tries to arrest its own way out of. The lone COAB arrest indicates the City fails to broadly value mediation. “Public unrest,” however did arise at the outset: after the City Attorney – under threat of legal action – counseled COAB members to end contact with justice advocates beyond the sphere of City influence. “Unrest” was sustained by the choice of a contrarian front man as ‘liaison,’ and Council’s do-nothing political appointees.

Imagine a community invited to town halls designed to convey [best practices](#) as they have been applied nationally. Compare to the proposed, insular PCCEP, intent on downloading assurances. Where City Hall hangers-on will benignly report to the Mayor whatever response he’d like from his band of hand-picked and provincial minds. History informs us this will have no effect on the City’s illegal use of force.

There was no “public unrest” at the police-centric and heavily armed Community Police Relations Committee. Yet the parties suppressed this body as well. CPRC is tasked with implementing a [2009 Police Plan to Address Racial Profiling](#). (SA 146d) Commissioner Fritz in 2014 [falsely declared](#) “The DoJ Settlement is about mental health issues. It’s not about race.” By passing Item 872, Council will make this a reality. The only remnant of racial justice under the Mayor’s proposal will be to continue asking cops to measure racial disparity in police interactions. Stop ‘n Frisk data, collected since the turn of the century, *without termination of the practice*, is simply to telegraph: “This is the way we police, in the Whitest American City of its Size.”

Neither the City’s Office of Neighborhood Involvement, its Office of Equity and Human Rights nor political appointees to its (at times suppressed) Human Rights Commission have ever taken action on behalf of victims of racist or violent policing. No one should expect different from PCCEP. The City uses self-constituted bodies in “public outreach” to justify or pivot from its humanity-denying practices. It *does* employ them in occasional assessment, to ascertain how well the subterfuge is working.

This currently constituted Council in particular, introducing Stalking Orders and personal ejection strategies, when not retreating to cloistered chambers to avoid community engagement, should not be allowed to deconstruct its plea deal. Underlying deprivation of constitutional protection has not gone away. Morally just leadership has not appeared. From the PPB Chief to the US Attorney, the cultural response remains steadfast: avoid detection for wrongdoing. Only outside agency will bring about improved justice delivery. Community oversight remains imperative. Transparent process – with full and robust representation by the victim class, broadly – presents the least strident means to apply law enforcement to ongoing procedural corruption.

If the Mayor wants another self-approval body, Council may as well fund it. Introduction of PCCEP does not need to come at the expense of an informed public, however. My counter-proposal would be to divert half of the nearly half-a-million-dollars spent annually on COCL; since they have serially failed to provide a worthy Community Liaison, and seek to abandon that workload. Fund a self-directed COAB. For all we know, they'll resolve City collusion in no-bid contracting for PPB candidate pre-hire psych evaluations. It is time to change the culture underpinning unconstitutional policing. Even *if* the Federal government wants local cops militarized.

Full disclosure: the lead DoJ Trial Attorney in USA v City of Portland in 2014 stated COAB “came about specifically from a suggestion by one of the community members here today from Hardesty Consulting.” (pg. 37, [Oral Testimony, Federal Fairness Hearing, USA v City of Portland](#)). The [Civilian Compliance & Review Authority](#) was actually a work product of both partners, submitted under a single signature.

The Mayor avers “Online communities existed with the sole purpose of “disrupting and disbanding COAB.”” (Ordinance 46) You should *also* know I joined that Facebook group, whose purposes were varied. An organizing tool for actual, real-world community dialogue, it received presentations from the COAB members chosen in a quasi-community process that deviated from those clearly specified in the plea deal. Initially aghast at the prospect of ‘Shut Down/Disband COAB,’ I found it gratifying to engage, upon realizing the City “did not provide sufficient training to the COAB members prior to them being seated or beginning their work.” (Ordinance 38) I recognized immediately that “it would have been better to ... give the COAB greater agenda-setting authority.” (Ordinance 40) I thought it intellectually dishonest for obstructionists to ward a public body away from authors of legislative intent for their work. Until I realized Council never thought to invite on-the-record testimony from the County District Attorney ... as it drafted a police union contract he now threatens to use as grounds to offer immunity to killer cops. This closeted PCCEP is intended to continue segregation of information exchange.

The City contractor, City Attorney and Commissioner Fritz oversaw “the lack of a coherent framework [which] created very significant obstacles to the COAB's success.” (Ordinance 39) It was not *inadvertent* as the Mayor contends: obstructionism forms a pattern of narrowing community engagement to the point where it only exists in names of bodies they wield dominance over.

The Mayor coyly asserts “It was unclear how best to replace members.” (Ordinance 46) The record should reflect that, instead of fulfilling their vital commitment to COAB, one ceremonial appointment left to seek election to office; another was appointed to a higher-status (and goal-directed) body. Instead of bringing clarity to COAB member replacement process, the Mayor is suddenly able to design a detailed selection process for his PCCEP echo chamber.

Item 46 also describes “difficulties obtaining and sustaining a quorum” at COAB. This too forms part of a pattern of systemic, bureaucratic obstructionism. In 2011, the City’s Charter Review Committee began to take up work on Consult Hardesty vision that COAB did not. Proposal for truly independent police oversight was intended to go out for voter approval. Ceremonial appointments failed to make themselves available: that work also died for lack of a quorum.

I urge a ‘No’ vote on Item 872. A police accountability advocate for some time, I firmly believe badges do not grant police rights not recognized in constitutionally sound governance. I do not want local government to unilaterally re-write its plea deal: to vote for this is abuse of power. As with the 48-hour Rule, it is not equal application of law. Apply whatever promises you make here today, about the wonders of PCCEP capability, to good-faith efforts toward a Community Oversight Advisory Board. Get out of the way; stop promulgating the Police Bureau’s agenda. Become responsive to the will of The People.

Do not be the first local government to roll back a racial justice agenda in the Trump era. Abide by the law. Provide a local Community Liaison whose record indicates likelihood that cops' in-the-field conduct will change. Make your personal COAB appointments among those who are earnest, and willing to oversee sustained effort. Encourage the Human Rights Commission and Portland Commission on Disability Chairs to make appointments which will *leverage* the capacity of those bodies. Fund COAB. Allow them to hire staff and researchers so that they, like Council itself, can direct trained professionals.

As with COAB recommendations, this self-serving Ordinance shunts aside [deep needs analysis offered by the Albina Ministerial Alliance Coalition for Justice and Police Reform](#) in 2016, and to which six remaining COAB members were signatories. If the parties seek to amend their plea deal, it would be wise to offer COAB legal counsel. "Lack of clarity regarding the COAB's role, mission, process and structure resulted in what eventually became insurmountable barriers." (Ordinance 39) The City Attorney holds deep responsibility for this failure.

The signal reason to narrow scope in oversight of plea deal compliance is to avoid further detection. (PCCEP, pg 1) "Facilitate the sharing of information on the Agreement and its implementation with the broad community body and permit the COCL and the COAB to receive comments and concerns." (SA 163) Let us get to actionable results by taking civic responsibility. Un-reformed cops are going to do more than break bones in City Hall; or deploy grenades, fists and chemical weapons on our streets. Leaving direct action as the only means of community engagement, in an era of unconstitutional policing, is unconscionable.

Best,

Roger David Hardesty
rdh@hardspace.info

31 July 2017

Mayor, Portland City Council ~

I write with regard to [Agenda Item 872](#) – **Ordinance approving amendments to Settlement Agreement between the United States and City of Portland ... and a Plan for Portland Commission on Community-Engaged Policing (PCCEP)**



“The Parties may jointly stipulate to make changes, modifications, and amendments to this [Agreement](#), which shall be effective, absent further action from the Court, 45 days after a joint motion has been filed with the Court.” (SA 187)

Until that time, “Quarterly meetings shall facilitate the sharing of information on the Agreement and its implementation with the broad community body, and permit the COCL and the COAB to receive comments and concerns.” (SA 163) “The public shall have the opportunity to raise comments or concerns at the open town hall meeting or via online and/or electronic mail submissions.” While this remains the law of the land, and while the parties suppress town halls and Community Oversight Advisory Board (COAB), the Compliance Officer Community Liaison (COCL) shall still, after soliciting community concerns, “make recommendations to the City regarding measures necessary to ensure *full* and timely implementation of this Agreement.” (SA 161, italics mine) You’ve not fired your COCL. Why is the contractor not at work, carrying out the plea deal’s terms? Are we to believe the Mayor’s PCCEP is the *only* body capable of fencing out community aspirations for a more just society? I contend refusal to employ the COCL forms part of an ongoing pattern; mirrored by releasing hundreds of pages of documents last Friday, and limiting constituent expression to 120-180 seconds of ‘input’ ... before a body not known to deliberate on, let alone incorporate public testimony in amended legislation.

In their [2016 Status Report](#) (pg. 114 & onward), DoJ investigators late last year deemed the City was in abject non-compliance with their USA v City of Portland plea deal Agreement, regarding Community Engagement and Creation of COAB. (SA Sect. IX) After once again obstructing judicial review with legal action and secret mediation; the City, partnering with the police union and US Attorney General Sessions’ DoJ, abdicated the spirit of mutual endeavor as recorded in this covenant: the parties used that time spent beyond public awareness to come to terms which further obstruct informed consent of the governed. They propose to disestablish civilian oversight.

For almost a generation we’ve heard Council’s hands were tied, after officers repeatedly used 48-hour ‘waiting periods’ to concoct false narratives of their extrajudicial killings. (Pg. 3, [here](#)) As if some *other* body had secretly negotiated consecutive, collective bargaining agreements to keep cops’ self-exoneration scheme operating. Now we are to understand that clandestine negotiation was required “to achieve the desired outcomes of meaningful community engagement with and trust in PPB.” ([PCCEP](#), Guiding Principle)

The community does not require “systems to increase public outreach” by perpetrators who have never admitted complicity. It is, ultimately, The People’s responsibility to ensure that the US Constitution is in force. To take responsibility as citizens, we must “*leverage* the ideas, talent, experience, and expertise of the community.” (SA 141, italics mine) We must *apply pressure* whenever any Form of Government becomes destructive of unalienable Rights ... to fundamental Life and pursuit of Happiness. “Government of the people, by the people, for the people,” ought not confine the public to imbibing ‘perceptions’ of procedural justice and police legitimacy ... when the Mayor’s small band of appointees “determines a public meeting will further its mission.” (PCCEP, pg 4)

A case has been made, documenting the City's brutal and illegal conduct. ([DoJ Findings](#), pg. 12 & onward) It becomes reasonable to embrace the extraordinary contrivance of checks and balances to lethal exercise of power. It is, frankly, un-American for perpetrators of misconduct to sit in assessment of remedy. It is malfeasance to propose such now; given the City's long history of obstructionism. (See Mayor Katz' & Chief Moose's 1998 Community Policing Strategic Plan, Chief Kroeker's 2000 'Blue Ribbon' Panel, and – my favorite – a 2010 Police Oversight Stakeholder Group, after which the Mayor set aside a community-inspired Majority Report in favor of creating a 'temporary' and 'Independent' Police Review Division ... whipped up outside the public process by the Auditor and police union. A body which two years later was discovered to be at the core of a "self-defeating accountability system" described in DoJ Findings.)

Police science has evolved in the interim. As has common awareness that serial City conclaves never influenced police conduct. Instead of burdening COAB with ceremonial appointments who shirked subcommittee work, a good faith effort would have been to supply the body with researchers educated in that scientific field. Instead of employing a City contractor to prevent COAB from setting its agenda, and seating Commissioners' lackeys on its Executive Committee, to act as gatekeepers choosing what proposals could get *on* that agenda, the City could have in good faith entertained any one of the dozens of recommendations to defy obstruction and issue from that advisory body. (See [COAB Accountability Subcommittee Recommendations](#))

The Mayor conjures up "criminal behavior became regular features of meetings, resulting in arrests." (Item 46, Ordinance) Of course there was no ongoing criminal behavior, simply the very dissent an elitist Council now tries to arrest its own way out of. The lone COAB arrest indicates the City fails to broadly value mediation. "Public unrest," however did arise at the outset: after the City Attorney – under threat of legal action – counseled COAB members to end contact with justice advocates beyond the sphere of City influence. "Unrest" was sustained by the choice of a contrarian front man as 'liaison,' and Council's do-nothing political appointees.

Imagine a community invited to town halls designed to convey [best practices](#) as they have been applied nationally. Compare to the proposed, insular PCCEP, intent on downloading assurances. Where City Hall hangers-on will benignly report to the Mayor whatever response he'd like from his band of hand-picked and provincial minds. History informs us this will have no effect on the City's illegal use of force.

There was no "public unrest" at the police-centric and heavily armed Community Police Relations Committee. Yet the parties suppressed this body as well. CPRC is tasked with implementing a [2009 Police Plan to Address Racial Profiling](#). (SA 146d) Commissioner Fritz in 2014 [falsely declared](#) "The DoJ Settlement is about mental health issues. It's not about race." By passing Item 872, Council will make this a reality. The only remnant of racial justice under the Mayor's proposal will be to continue asking cops to measure racial disparity in police interactions. Stop 'n Frisk data, collected since the turn of the century, *without termination of the practice*, is simply to telegraph: "This is the way we police, in the Whitest American City of its Size."

Neither the City's Office of Neighborhood Involvement, its Office of Equity and Human Rights nor political appointees to its (at times suppressed) Human Rights Commission have ever taken action on behalf of victims of racist or violent policing. No one should expect different from PCCEP. The City uses self-constituted bodies in "public outreach" to justify or pivot from its humanity-denying practices. It *does* employ them in occasional assessment, to ascertain how well the subterfuge is working.

This currently constituted Council in particular, introducing Stalking Orders and personal ejection strategies, when not retreating to cloistered chambers to avoid community engagement, should not be allowed to deconstruct its plea deal. Underlying deprivation of constitutional protection has not gone away. Morally just leadership has not appeared. From the PPB Chief to the US Attorney, the cultural response remains steadfast: avoid detection for wrongdoing. Only outside agency will bring about improved justice delivery. Community

oversight remains imperative. Transparent process – with full and robust representation by the victim class, broadly – presents the least strident means to apply law enforcement to ongoing procedural corruption.

If the Mayor wants another self-approval body, Council may as well fund it. Introduction of PCCEP does not need to come at the expense of an informed public, however. My counter-proposal would be to divert half of the nearly half-a-million-dollars spent annually on COCL; since they have serially failed to provide a worthy Community Liaison, and seek to abandon that workload. Fund a self-directed COAB. For all we know, they'll resolve City collusion in no-bid contracting for PPB candidate pre-hire psych evaluations. It is time to change the culture underpinning unconstitutional policing. Even *if* the Federal government wants local cops militarized.

Full disclosure: the lead DOJ Trial Attorney in USA v City of Portland in 2014 stated COAB “came about specifically from a suggestion by one of the community members here today from Hardesty Consulting.” (pg. 37, [Oral Testimony, Federal Fairness Hearing, USA v City of Portland](#)). The [Civilian Compliance & Review Authority](#) was actually a work product of both partners, submitted under a single signature.

The Mayor avers “Online communities existed with the sole purpose of “disrupting and disbanding COAB.”” (Ordinance 46) You should *also* know I joined that Facebook group, whose purposes were varied. An organizing tool for actual, real-world community dialogue, it received presentations from the COAB members chosen in a quasi-community process that deviated from those clearly specified in the plea deal. Initially aghast at the prospect of ‘Shut Down/Disband COAB,’ I found it gratifying to engage, upon realizing the City “did not provide sufficient training to the COAB members prior to them being seated or beginning their work.” (Ordinance 38) I recognized immediately that “it would have been better to ... give the COAB greater agenda-setting authority.” (Ordinance 40) I thought it intellectually dishonest for obstructionists to ward a public body away from authors of legislative intent for their work. Until I realized Council never thought to invite on-the-record testimony from the County District Attorney ... as it drafted a police union contract he now threatens to use as grounds to offer immunity to killer cops. This closeted PCCEP is intended to continue segregation of information exchange.

The City contractor, City Attorney and Commissioner Fritz oversaw “the lack of a coherent framework [which] created very significant obstacles to the COAB's success.” (Ordinance 39) It was not *inadvertent* as the Mayor contends: obstructionism forms a pattern of narrowing community engagement to the point where it only exists in names of bodies they wield dominance over.

The Mayor coyly asserts “It was unclear how best to replace members.” (Ordinance 46) The record should reflect that, instead of fulfilling their vital commitment to COAB, one ceremonial appointment left to seek election to office; another was appointed to a higher-status (and goal-directed) body. Instead of bringing clarity to COAB member replacement process, the Mayor is suddenly able to design a detailed selection process for his PCCEP echo chamber.

Item 46 also describes “difficulties obtaining and sustaining a quorum” at COAB. This too forms part of a pattern of systemic, bureaucratic obstructionism. In 2011, the City’s Charter Review Committee began to take up work on Consult Hardesty vision that COAB did not. Proposal for truly independent police oversight was intended to go out for voter approval. Ceremonial appointments failed to make themselves available: that work also died for lack of a quorum.

I urge a ‘No’ vote on Item 872. A police accountability advocate for some time, I firmly believe badges do not grant police rights not recognized in constitutionally sound governance. I do not want local government to unilaterally re-write its plea deal: to vote for this is abuse of power. As with the 48-hour Rule, it is not equal

application of law. Apply whatever promises you make here today, about the wonders of PCCEP capability, to good-faith efforts toward a Community Oversight Advisory Board. Get out of the way; stop promulgating the Police Bureau's agenda. Become responsive to the will of The People.

Do not be the first local government to roll back a racial justice agenda in the Trump era. Abide by the law. Provide a local Community Liaison whose record indicates likelihood that cops' in-the-field conduct will change. Make your personal COAB appointments among those who are earnest, and willing to oversee sustained effort. Encourage the Human Rights Commission and Portland Commission on Disability Chairs to make appointments which will *leverage* the capacity of those bodies. Fund COAB. Allow them to hire staff and researchers so that they, like Council itself, can direct trained professionals.

As with COAB recommendations, this self-serving Ordinance shunts aside [deep needs analysis offered by the Albina Ministerial Alliance Coalition for Justice and Police Reform](#) in 2016, and to which six remaining COAB members were signatories. If the parties seek to amend their plea deal, it would be wise to offer COAB legal counsel. "Lack of clarity regarding the COAB's role, mission, process and structure resulted in what eventually became insurmountable barriers." (Ordinance 39) The City Attorney holds deep responsibility for this failure.

The signal reason to narrow scope in oversight of plea deal compliance is to avoid further detection. (PCCEP, pg 1) "Facilitate the sharing of information on the Agreement and its implementation with the broad community body and permit the COCL and the COAB to receive comments and concerns." (SA 163) Let us get to actionable results by taking civic responsibility. Un-reformed cops are going to do more than break bones in City Hall; or deploy grenades, fists and chemical weapons on our streets. Leaving direct action as the only means of community engagement, in an era of unconstitutional policing, is unconscionable.

Best,

Roger David Hardesty
rdh@hardspace.info

Moore-Love, Karla

From: Rabbi Ariel Stone <rabbiaristolstone@gmail.com>
Sent: Tuesday, August 01, 2017 11:36 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Subject: amending the DOJ settlement agreement re: Portland Police

To the Mayor and Members of the Portland City Council,

I am writing to insist that Portland resist our violent and unfair history and shoulder the responsibility of equitable police oversight. Any attempt to amend the Department of Justice Settlement Agreement does not support our community's efforts to eliminate the role of community voice and oversight of the Portland Police.

These amendments were developed in secret between the City, the Department of Justice, and the Portland Police Union, and they reflect Portland's unfair history of disproportionate scrutiny and incarceration of low income and communities of color.

We object to:

- Lack of community oversight from the settlement agreement. This expresses disrespect for the people of Portland, who in our democracy should share the responsibility of determining the policing they find appropriate.
- Removing city council from the settlement agreement—leaving the Mayor as the only person receiving reports. This brings undue and insupportable pressure upon the Mayor, who deserves the support of the Council in all matters that come before it as they seek to do the will of the people.
- Implying community advocates were involved in criminal behavior. This is still a country in which all are innocent until proven guilty.
- Eliminating all outside review of improvements, leaving the PCCEP in charge of PR for the police department. This dangerously narrows the scope of oversight.

Your constituents are watching and will continue our efforts to support badly needed reform of our Portland Police.

Sincerely,

Rabbi Ariel Stone

Congregation Shir Tikvah
www.shirtikvahpdx.org
503.473.8227

188570

In the second half of 5777 Shir Tikvah is focused upon **#Jewish Resistance**. As Rabbi Nakhman of Bratslav urged, We Are Forbidden To Despair.

please note: emails to the Rabbi are not answered on Shabbat or holy days, nor on Monday, the Rabbi's day off. You are welcome to call the Shir Tikvah office on any working weekday to speak with us.

office: 7550 NE Irving Street Portland, OR 97213 at the NE corner of 76th Avenue and Irving Street
daven with us for Shabbat and holy days at 621 NE 76th Street

Rabbi Ariel's book is available here: [Because All Is One](#)
Rabbi Ariel's blog is [Torah for the 21st Century](#)
Follow her on Twitter [@ravarielstone](#)

Moore-Love, Karla

From: jillian <birdstheword@gmail.com>
Sent: Tuesday, August 01, 2017 10:47 AM
To: Moore-Love, Karla
Subject: where do you stand on police oversight?

I am writing to insist that Portland resist our violent and unfair history and shoulder the responsibility of equitable police oversight. Do not amend the Dep't of Justice Settlement Agreement to eliminate the role of community voice and oversight of the Portland Police. These amendments were developed in secret between the City, the Department of Justice, and the Portland Police Union, and they reflect Portland's unfair history of disproportionate scrutiny and incarceration of low income and communities of color.

Say no to **all** of the following:

- Lack of community oversight from the settlement agreement.
- Removing city council from the settlement agreement—leaving the mayor as the only person receiving reports.
- Lack of a proposal for a fairness hearing.
- Implying community advocates were involved in criminal behavior.
- Eliminating all outside review of improvements, leaving the PCCEP in charge of PR for the police department.

Your constituents are watching and will respond to your votes in kind with our votes.

Thank you,

Jillian Vento-Feldman

Moore-Love, Karla

From: Hyung Nam <hyung_n@yahoo.com>
Sent: Tuesday, August 01, 2017 10:47 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Thursday's vote on police oversight

Dear Mayor Wheeler and Commissioners Eudaly, Fish, Fritz, and Saltzman, I am concerned about the vote on Thursday which would weaken police oversight. I'm concerned that amendments have been proposed without public input. We know that Portland has serious issues with police accountability and I'm concerned that the amendments would worsen the problems. We need to follow Judge Simon's call for community oversight of the settlement agreement. We also need a proposal for a fairness agreement, as well as independent review.

Thank you.
Hyung Nam

Moore-Love, Karla

From: Hull Caballero, Mary
Sent: Tuesday, August 01, 2017 8:22 AM
To: Severe, Constantin; Council Clerk – Testimony
Subject: FW: Police Accountability and Community Oversight

FYI

From: Betsy Toll [mailto:betsy.toll@gmail.com]
Sent: Monday, July 31, 2017 6:00 PM
To: Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Eudaly <chloe@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Wheeler, Mayor <MayorWheeler@portlandoregon.gov>; Hull Caballero, Mary <Mary.HullCaballero@portlandoregon.gov>
Subject: Police Accountability and Community Oversight

Dear Friends in City Hall,

The issue of citizen involvement in police oversight and meaningful adoption of community input in relation to the Portland Police Bureau has never been more critical than it is today. I am employed and thus unable to attend the meeting at City Hall this week. Please accept these comments as my testimony on this vital issue.

It is distressing to see Portland's city leaders pushing a "repeal and replace" approach to this volatile and potentially explosive issue. COAB, like the ACA, was flawed and needed improvement. Instead, it was thrown out and now faces being replaced with a structure, and within a process, that is less democratic and includes less citizen involvement. Our hope that COAB would be improved upon with full partnership of concerned, affected, respected, and knowledgeable citizens and community groups representing the full diversity of Portland is being betrayed.

Far too much of the discussion about police oversight in Portland is taking place behind closed doors with a limited pool of participants and limited citizen input. The insiders behind those doors include little of the depth, breadth, and diversity of Portland's communities. Top-down modes of governance and secretive insider decision-making may be efficient, but they corrode democracy in Portland just as they do in Washington DC.

With an increasingly weaponized and militarized police force whose culture disdains citizen concerns and authority, the issue of citizen oversight has immense implications for the quaint principles of government of, by, and for the people. Please answer this question:

Why was the Albina Ministerial Alliance Coalition for Justice and Police Reform (AMA) included in only 1 meeting regarding the creation of the new Portland Commission on Community Engaged Policing (PCCEP)?

Much that we all love about our city — and there is a lot — pales in significance to the escalating tensions between police and the people, exacerbated by insider-ism, white privilege (look at the list of recipients in this email), and the scourge of militarization.

As a taxpayer, voter, and citizen, I urge you to side with the people and side with history by supporting:

- Much greater transparency and a full commitment (not lip service) to inclusivity and diversity regarding citizen oversight of the police.
- A significantly larger PCCEP of at least 11-15 members, if not 14-18, to be at least somewhat more representative of Portland's diverse communities and concerns.

- A new Deadly Force Directive that requires officers, like every other citizen (and they are, after all, just citizens, too), to be compelled to give testimony if not immediately or on demand, then within 24 hours, maximum, from the time of officer-involved use of force events, whether deadly or not.

I regret that I will be unable to attend the meeting on Thursday, and would greatly appreciate your response to each of my above points.

Thank you kindly,

Betsy Toll
3841 SE 51st Ave.
Portland, OR 97206

Betsy Toll / Director

Living Earth / PO Box 86834, Portland, OR 97286

Living Earth nurtures peace, justice, beauty, and balance in our lives and in our world. Visit Living Earth to learn more.

Moore-Love, Karla

From: Hull Caballero, Mary
Sent: Monday, July 31, 2017 10:01 AM
To: Council Clerk – Testimony
Subject: FW: NEWS: AMA Coalition Calls for City to Slow Down, Involve Community and Preserve Accountability

FYI

-----Original Message-----

From: AMA Coalition c/o Portland Copwatch [mailto:justice@portlandcopwatch.org]
 Sent: Saturday, July 29, 2017 3:41 PM
 To: News Media <newsmedia@portlandcopwatch.org>
 Cc: Commissioner Fritz <amanda@portlandoregon.gov>; Commissioner Eudaly <chloe@portlandoregon.gov>; Commissioner Saltzman <dan@portlandoregon.gov>; Commissioner Fish <nick@portlandoregon.gov>; Wheeler, Mayor <MayorWheeler@portlandoregon.gov>; Hull Caballero, Mary <Mary.HullCaballero@portlandoregon.gov>
 Subject: NEWS: AMA Coalition Calls for City to Slow Down, Involve Community and Preserve Accountability

Albina Ministerial Alliance Coalition for Justice and Police Reform
 c/o Maranatha Church
 503-288-7242

Media contact: Dr. T. Allen Bethel, AMA Coalition 503-288-7242
 Dr. LeRoy Haynes, Jr, AMA Coalition 503-288-7242

NEWS ITEM For Immediate Release

July 29, 2017

AMA Coalition Calls for City to Slow Down, Involve Community and Preserve Accountability

The Albina Ministerial Alliance (AMA) Coalition for Justice and Police Reform is calling for its affiliated groups, members, and the broader community to come to the City Council hearing scheduled for Thursday, August 3 at 3 PM regarding the US Department of Justice (DOJ) Settlement Agreement. The Coalition calls upon the City to slow down the process to ensure the community is involved both in the changes being proposed to the Agreement and in the formation of a replacement for the Community Oversight Advisory Board (COAB).

As noted in documents posted by the City for hearing, the AMAC asked to participate in the mediation sessions during which the City and the DOJ hammered out most of the details in the proposed changes to the Agreement, and the creation of the new "Portland Commission on Community Engaged Policing (PCCEP)." However, the other parties only invited the AMAC in on July 14 for one round of talks. And while some of the Coalition's concerns were incorporated into the new documents, they do not go far enough.

In addition to not having provided the materials to the community with enough lead time, the Council has only set aside 90 minutes to discuss four complex and important issues. The AMAC hopes the City will allow for a lengthier, more meaningful discussion.

SETTLEMENT AGREEMENT AND NEW COMMUNITY BOARD (item 872)

AMAC supports one important change, which allows the Citizen Review Committee, an all-volunteer body, a full 90 days to hold appeal hearings on misconduct cases instead of the 21 originally outlined in the Agreement (Paragraph 121).

But AMAC cannot support the PCCEP Plan the City currently proposes. Even though COAB was not as effective as it could be, it played a pivotal role in helping bring about transparency and reform. It is of great concern to AMAC that a small, non-public, Mayor-appointed, and Mayor-controlled membership will not effectively reach the community for input, recommendations, or advice. The AMAC strongly opposes the proposed changes to the Settlement Agreement (Paragraphs 141 and 142) and PCCEP outline which remove the community's independent oversight of the agreement.

AMAC is deeply concerned that the City's proposal will keep the PCCEP mostly behind closed doors (Paragraph 151). This will reduce transparency and increase community distrust.

Also, a board of only 5-9 members cannot adequately reflect the diversity of the city-- or take on the tasks assigned to the PCCEP. AMAC suggests a membership of 11-15.

AMAC is alarmed by the addition of proposed Paragraph 69(c) to the Settlement Agreement, allowing police officers to delay writing their reports after deadly force incidents. This weakens the Settlement Agreement's requirement to simultaneously investigate shootings criminally and administratively (Paragraph 122), and threatens accountability.

NEW FORTY-EIGHT HOUR RULE (item 871)

Regarding the Mayor's proposal to request court review of the Deadly Force Directive guiding investigations into police shootings, the AMAC believes the City should move forward with the alternative Directive which allows compelled officer testimony shortly after the incidents, but to shorten the timeline from "within 48 hours" to "within 24 hours." It is a national best practice to conduct administrative and criminal investigations at the same time, and that is what the DOJ Agreement promised the community.

CHANGES TO IPR (item 872)

The AMAC is seeing the proposal from the Independent Police Review (IPR) regarding making proposed findings to its investigations for the first time and needs more time to consider the implications. The first concern that comes to mind is that having IPR propose findings might negatively affect the community's ongoing call to change the CRC's standard of review to something less deferential than the current "reasonable person" standard.

The City's current proposal imagines gaining community trust and engagement in a vacuum, as if it were possible to accomplish this without transparency and accountability. The City of Portland will only see an increase in community engagement and trust when it truly starts wanting to include the community and be responsive to the community's concerns.

For information contact Dr. T. Allen Bethel or Dr. LeRoy Hayes, Jr., co-chairs of the Albina Ministerial Alliance Coalition for Justice and Police Reform, at 503-288-7242.

Moore-Love, Karla

From: Joslyn Baker <joslynbaker66@gmail.com>
Sent: Monday, July 31, 2017 8:01 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: hearing on amendments to DOJ Settlement

Dear Mayor Wheeler and City Council Members,

I am writing regarding the Portland City Council scheduled hearing on amendments to the Department of Justice Settlement Agreement for Thursday August 3, 3:10. **These amendments, eliminate the role of community voice and oversight of the Portland Police, and were developed in secret between the City, the Department of Justice, and the Portland Police Union.**

Let me be blunt. The Department of Justice under Jeff Sessions opposes police reform agreements. But the real problem starts here in Portland, where the City and Portland Police Bureau have been fighting Judge Simons' oversight of the settlement agreement since 2014, and they are now using the new DOJ position as a license to modify the agreement into meaninglessness. At the same time, the City now claims they are out of compliance if they don't make these amendments immediately, with zero public input.

Among the many problems, the amendments would replace the Community Oversight Advisory Board (COAB) with the Portland Commission on Community-Engaged Policing (PCCEP), a pretend oversight body which claims its guiding principles to be, "To work with local government and Portland's diverse constituencies to solicit and disseminate information between the community and Portland Police Bureau (PPB) to achieve the desired outcomes of meaningful community engagement with and trust in the PPB and policing which exceeds constitutional requirements."

I hope you will reconsider these amendments.

Sincerely - Joslyn Baker
8850 N Bayard Ave
Portland, OR 97217

Moore-Love, Karla

From: Philip Wolfe <philipjames73@hotmail.com>
Sent: Monday, July 31, 2017 6:19 PM
To: Philip Wolfe
Cc: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Moore-Love, Karla; Commissioner Saltzman; Mathew dos Santos
Subject: Re: ASL interpreters for this August 3, 2017 at the City Hall

Dear Mayor and Commissioners,

I would like to express my concerns regarding Ted Wheeler's reins on " Portland Commission on Community-Engaged Policing " (PCCEP) replacing Community Oversight Advisory Board (COAB) per se DOJ's Settlement Agreement.

Ever since Ted took over the seat as our Mayor, Ted has made it clear he does not support the continuation of COAB after community's outcry pleas. This was filmed on live www.cocl-coab.org. Ever since the election of our new president, Donald Trump, I have noticed that our community has been very vocal, resisting against Trump, however, the Portland Police to this day, hasn't honored our community's voice. More than 250 civilians were arrested and their bogus charges were all dropped--all on our community tax payers. Police has showed up in riot gears become the new face of Portland--all under Ted Wheeler's administration. Our community's safety has been compromised. Our community's right to voice as their first amendments were violated. This absolutely does not match Ted's promise to de-militarize. The Nazi group showed up to counter-protest last June 2017. They were offered protection. They were offered platform to preach hate. They were offered free ride home safely at the courtesy of Tri-Met. They offered help in arresting peace protesters--all under Ted Wheeler's administration. I have volunteered in being one of the interview panel for our new Chief of Police. I was turned down. Now, with Trump's recent speech on endorsing police brutality, Ted refused to respond on Twitter after all day tweets from community and their concerns. The next day, Ted finally responded, only he quoted from Portland Police Bureau, " Portland Police Bureau officers are expected to treat everyone with dignity & respect, even when they are a suspect." That's it. Nothing personal acknowledgement from Ted at all. In the meantime, Ted magically made sure that our current Chief of Police, Mike Marsham who has a history of domestic violence and a recent administrative leave for lying, to be our finalist candidate for our new Chief of Police after the fact that Mike has failed miserably on building trust like he has promised. Now with the very recent news that Ted has been working with Jeff Sessions on opposing police reform amendments... this is very serious matter that I take it home after 3 years of unpaid full time work on police reform. This is a huge blow to my groin so with that said, I have a problem with Ted Wheeler taking reins on PCCEP.

To further my concerns regarding PCCEP:

- Removing our ONLY community oversight from the Settlement Agreement
- Removing the City Council from the Settlement Agreement which leaves our Mayor as the appointing body of the PCCEP and the only person receiving reports
- This does not include a proposal for a fair hearing
- This implies community advocates/activists were involved in criminal behaviors
- This eliminate all outside review of improvements and instead puts the PCCEP in charge of PR for the police department

With a note that the writing of these amendments happened completely behind closed doors, without any community inputs. The lack of transparency or community involvement from the City, DOJ, and Police Union is absolutely revolting.

" Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." ~ Louis Brandeis

Please take my letter in serious consideration.

Philip J. Wolfe
COAB, Chair
PCOD Commissioner
Police Reform Activist

COCL COAB

www.cocl-coab.org

The following is information about a public forum organized by the Albina Ministerial Alliance Coalition for Justice and Police Reform....

From: Philip Wolfe <philipjames73@hotmail.com>

Sent: Monday, July 31, 2017 5:42 PM

To: Philip Wolfe

Cc: mayorwheeler@portlandoregon.gov; Chloe@PortlandOregon.gov; nick@portlandoregon.gov; Amanda@portlandoregon.gov; karla.moore-love@portlandoregon.gov; dan@portlandoregon.gov; Mat dos Santos (MdosSantos@aclu-or.org)

Subject: ASL interpreters for this August 3, 2017 at the City Hall

Dear Karla,

I understand that you are responsible in coordinating accommodations per request, yes? I would like to attend this August 3, 2017, at 1pm for 2pm agenda on approving the DOJ settlement agreement amendments. Also I would like a 30 minute after so I can have an opportunity to interact with our community after whenever the session is over. The reason I ask for 1pm and a half hour after is so that I can have opportunity to interact with our community before meeting starts and after meeting ends.

Also, as COAB's chair, it is my responsibility to protect COAB's integrity so with that said, I would like to have a time slot in where I can have a few minutes to testify.

Thank you.

188570

Philip J. Wolfe
COAB, Chair
PCOD Commissioner
Police Reform activist

cc: Ted Wheeler
Nick Fish
Chloe Eudaly
Amanda Fritz
Dan Salesman
Mat dos Santos

Moore-Love, Karla

From: Georgia Wier <georgiawier@gmail.com>
Sent: Monday, July 31, 2017 4:13 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Subject: no on amendments to Dept of Justice Agreement

To: Mayor Wheeler, Portland City Council Commissioners, and Council Clerk:

I strongly object to the amendments to the Department of Justice Settlement Agreement. These amendments eliminate the very important role of community voices and oversight of the Portland Police. I'm particularly upset that the City, the Department of Justice, and the Portland Police Union developed these amendments in secret.

I know that Jeff Sessions opposes police reform agreements. But Portland should not kowtow to the racist, backward attitudes of the current national administration. The Portland Police in Portland has problems of its own, and we as a city need to see that these are addressed—with community involvement and oversight.

The Portland branch of the NAACP (I count myself a member of this esteemed organization) has identified what the amendments did that greatly weaken the agreement:

1. Remove community oversight from the settlement agreement
2. Remove the city Council from the settlement agreement--leaving the mayor as the appointing body of the PPCCEP and the only person receiving reports
3. Do not include a proposal for a fairness hearing
4. Imply community advocates were involved in criminal behavior
5. Eliminate all outside review of improvements, and instead puts the PCCEP in charge of PR for the police department

Where do you stand on the amendments to the Department of Justice Settlement Agreement? I look forward to your reply.

Sincerely,

Georgia Wier

2533 SE 38th Ave

Portland, OR 97202

georgiawier@gmail.com

Moore-Love, Karla

From: Leora Troper <leora.troper@gmail.com>
Sent: Monday, July 31, 2017 4:07 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Subject: No eliminating the role of community voice and oversight of the Portland Police!

Dear Mayor Wheeler and Portland City Council,

I am extremely disturbed to hear that you are considering amending the Department of Justice Settlement Agreement with regards to the Portland Police Bureau. Our city has a long history of police violence and inequity, and it is past time for the City, especially its leaders, to shoulder the responsibility of equitable police oversight. Do **not** amend the Department of Justice Settlement Agreement to eliminate the role of community voice and oversight of the Portland Police. These amendments, which were developed in secret between the City, the Department of Justice, and the Portland Police Union, will only hurt our communities of color and, more broadly, our city as a whole.

We Portlanders imagine that our brand is one of equality and openness, but the actions of our police regularly say the exact opposite. Having a community voice and community oversight of the Police Bureau is vital to turning around our shameful history of disproportionate scrutiny and incarceration of low income and communities of color.

As a voter and a citizen, I urge you to say **no** to all of the following:

- Lack of community oversight from the settlement agreement.
- Removing city council from the settlement agreement—leaving the mayor as the only person receiving reports.
- Lack of a proposal for a fairness hearing.
- Implying community advocates were involved in criminal behavior.
- Eliminating all outside review of improvements, leaving the PCCEP in charge of PR for the police department.

Your constituents are watching. Your votes will influence ours.

Sincerely,

Leora Troper

Voter

--

Leora Troper
<https://artisanmemoirs.com>
Crafting the well-told life.

Moore-Love, Karla

From: DJ T <djtntt@gmail.com>
Sent: Monday, July 31, 2017 3:39 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Portland demands equitable police oversight

I am writing to insist that Portland resist our violent and unfair history and shoulder the burden of equitable police oversight. Do not amend the Dep't of Justice Settlement Agreement to eliminate the role of community voice and oversight of the Portland Police. These amendments were developed in secret between the City, the Department of Justice, and the Portland Police Union, and they reflect Portland's unfair history of disproportionate scrutiny and incarceration of low income and communities of color. Say no to **all** of the following:

- Lack of community oversight from the settlement agreement.
- Removing city council from the settlement agreement—leaving the mayor as the only person receiving reports.
- Lack of a proposal for a fairness hearing.
- Implying community advocates were involved in criminal behavior.
- Eliminating all outside review of improvements, leaving the PCCEP in charge of PR for the police department.

Your constituents are watching and will respond in kind to your votes.

Thank you,

Derrick Travers, 97218

Moore-Love, Karla

From: Judith Perry <judy1of4perry@hotmail.com>
Sent: Monday, July 31, 2017 2:50 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Department of Justice Settlement Agreement

Dear Mayor Wheeler:

I urge you and the other City Council members to oppose replacing the established Community Oversight Advisory Board with a new entity. I know that our well-respected Social Justice Minister at First Unitarian Church was on the board for several years in the recent past and I consider the Advisory Board's work important to the community.

I also hope you will not eliminate the City Council's role in the Justice Department Agreement. You are a necessary window for the public into police matters .

Please let me know your position on this important matter.

Thank you

Judith Perry
2021 NE Clackamas St. #7
Portland, OR 97232

Moore-Love, Karla

From: DJ T <djtttt@gmail.com>
Sent: Monday, July 31, 2017 3:39 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Portland demands equitable police oversight

I am writing to insist that Portland resist our violent and unfair history and shoulder the burden of equitable police oversight. Do not amend the Dep't of Justice Settlement Agreement to eliminate the role of community voice and oversight of the Portland Police. These amendments were developed in secret between the City, the Department of Justice, and the Portland Police Union, and they reflect Portland's unfair history of disproportionate scrutiny and incarceration of low income and communities of color. Say no to **all** of the following:

- Lack of community oversight from the settlement agreement.
- Removing city council from the settlement agreement—leaving the mayor as the only person receiving reports.
- Lack of a proposal for a fairness hearing.
- Implying community advocates were involved in criminal behavior.
- Eliminating all outside review of improvements, leaving the PCCEP in charge of PR for the police department.

Your constituents are watching and will respond in kind to your votes.

Thank you,

Derrick Travers, 97218

Moore-Love, Karla

From: Judith Perry <judy1of4perry@hotmail.com>
Sent: Monday, July 31, 2017 2:50 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Department of Justice Settlement Agreement

188570

Dear Mayor Wheeler:

I urge you and the other City Council members to oppose replacing the established Community Oversight Advisory Board with a new entity. I know that our well-respected Social Justice Minister at First Unitarian Church was on the board for several years in the recent past and I consider the Advisory Board's work important to the community.

I also hope you will not eliminate the City Council's role in the Justice Department Agreement. You are a necessary window for the public into police matters .

Please let me know your position on this important matter.

Thank you

Judith Perry
2021 NE Clackamas St. #7
Portland, OR 97232

Moore-Love, Karla

From: Judith Perry <judy1of4perry@hotmail.com>
Sent: Monday, July 31, 2017 2:50 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Department of Justice Settlement Agreement

Dear Mayor Wheeler:

I urge you and the other City Council members to oppose replacing the established Community Oversight Advisory Board with a new entity. I know that our well-respected Social Justice Minister at First Unitarian Church was on the board for several years in the recent past and I consider the Advisory Board's work important to the community.

I also hope you will not eliminate the City Council's role in the Justice Department Agreement. You are a necessary window for the public into police matters .

Please let me know your position on this important matter.

Thank you

Judith Perry
2021 NE Clackamas St. #7
Portland, OR 97232

Moore-Love, Karla

From: Diana Richardson <licketysplit777@gmail.com>
Sent: Monday, July 31, 2017 11:22 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Lack of Transparency and Inclusion of Citizen Input in PPB "reforms"

This proposal as it stands is wholly inappropriate to represent the Community..ie, the various communities in Portland-- in changing the way the Portland Police Bureau has been conducting its business. As a person who has seen first hand the protocol the police use in "monitoring" demonstrations, I object to what can only be more of the same under this new proposal. To wit:

Nearly half a year has passed since the city dissolved the struggling Community Oversight Advisory Board, which the council created to monitor Police Bureau reforms required under the settlement agreement.

- The city hasn't replaced the board or held public meetings on the ongoing bureau reforms since and instead has met behind closed doors with federal Justice Department and Portland Police Association without community involvement.
- The proposed new group, "Portland Commission on Community-Engaged Policing" (PCCEP) would be comprised of five to nine members appointed by the mayor of Portland and the meetings **would not be open to the public.**
- The proposed amendments would **remove community oversight** from the settlement agreement.
- The proposed amendments would remove the city council from the settlement agreement—leaving **the mayor as the appointing body of the PCCEP and the only person receiving reports.**
- The proposed amendments do not include a proposal for a fairness hearing.

I urge you as elected officials to involve the public in this very important process of police oversight and community protection. Transparency must be established and maintained.

Diana Richardson

Moore-Love, Karla

From: Kelly Jensvold <kellyjensvold@gmail.com>
Sent: Monday, July 31, 2017 11:10 AM
To: Moore-Love, Karla
Subject: Concerning the Amendments to the Department of Justice Settlement Agreement

Good morning Karla Moore-Love,

I commend Portland's city council on the historic triumph of passing the Renewable Energy Resolution Act.

On the 100th anniversary of the Silent March, I am urging city council to stand for the greater good again.

I am emailing you to register my objections concerning proposed amendments to The DOJ Settlement Agreements.

These new amendments must be stopped. By replacing the COAB with the PCCEP, the resulting lack of oversight will exacerbate problems, not solve them. Trust between the police and civilians is vital. However, I'm afraid that these amendments will create greater division. Whereas the public demands transparency, there is secrecy. Instead of addressing areas of concerns and redressing grievances, these amendments will enable more abuses.

Again, I urge city council to defend oversight, transparency and accountability in the justice system. Let's make Portland safe for democracy.

--



Kelly Jensvold

Animator, Digital Artist

Cell: [\(503\)442-4037](tel:5034424037)

Email: kellyjensvold@gmail.com

Website: www.kellyjensvold.com

Moore-Love, Karla

From: alexandra wiley Pengelly <alexa.pacificnw@gmail.com>
Sent: Monday, July 31, 2017 11:00 AM
To: Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Subject: Amendments to the Department of Justice Settlement Agreement are no good

Dear City Commissioners,

I am writing to express my deep concern for the proposed amendments to the Department of Justice Settlement Agreement.

For starters these amendments, which eliminate the role of community voice and oversight of the Portland Police, were developed in secret between the City, the Department of Justice, and the Portland Police Union. The writing of these amendments happened completely behind closed doors, without community input. The lack of transparency or community involvement from the City, DOJ and Police Union is absolutely the wrong way forward in a divided community that already lacks trust of the justice system in this city. It is bound to cause more problems.

These amendments are trying to skirt around the necessary public processes that we need to make all community members feel safe. Community oversight must not be removed and outside review of policing improvements must be in place. We must find ways to build trust in our city, even as tensions flare, and these amendments that cut out community oversight and processes will not do the job we need done. The secretive process related to the development of these amendments sets any good intention up for failure in our communities.

thank you for your consideration,
Alexa Pengelly, MPA

--

Alexa Wiley Pengelly
alexa.pacificnw@gmail.com

"I say beware of all the enterprises that require new clothes, and not rather a new wearer of clothes" -Thoreau

Moore-Love, Karla

From: DeEtte Beghtol Waleed <deettebw@gmail.com>
Sent: Monday, July 31, 2017 10:27 AM
To: Commissioner Eudaly; Wheeler, Mayor; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Opposition to amendments fo DOJ settlement

I oppose the proposed amendments to the DOJ settlement regarding police misconduct.

I have been involved in the COAB process and believe it is essential that the wider community monitor the progress of police reform. The amendments completely ignore community input and do not set up any community forum for information on police conduct. I agree that the COAB process broke down but it needs to be recreated, not destroyed.

Further, representatives of the community, yourselves as city council members, are further removed from monitoring the settlement agreement leaving one person, the mayor, as the sole monitor. THIS IS NOT A DEMOCRATIC PROCESS.

Please reject the proposed amendments and create a community based process to create an effective monitoring structure for police activities.

Peace,
DeEtte

"We who believe in justice will not rest until it comes." (paraphrase of Ella's Song)



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Moore-Love, Karla

From: Erin O'Leary <erinparksoleary@gmail.com>
Sent: Monday, July 31, 2017 7:18 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Subject: Concerns about amendments to DOJ settlement

Dear Mr. Mayor, City Council Member and Commissioners,

As a Portland resident and the owner of a small mental health business, I'm writing to express my concern, in solidarity with the NAACP, about the proposed amendments to the Portland Police Department settlement agreement with the DOJ. Those concerns are that the amendments:

- Remove community oversight from the settlement agreement.
- Remove the city council from the settlement agreement—leaving the mayor as the appointing body of the PCCEP and the only person receiving reports.
- Do not include a proposal for a fairness hearing.
- Imply community advocates were involved in criminal behavior.
- Eliminate all outside review of improvements, and instead puts the PCCEP in charge of PR for the police department.

Given that the amendments collectively threaten the role of community voice and oversight of the Portland Police, I urge you, as our elected city representatives, not to adopt them. I support our city police officers and the important work they do in the community. However, we have no hope of addressing the issues that the DOJ identified if we go about it in this manner. In fact, I see this only inflaming the serious tensions that exist. Not helpful for the community, and not ultimately helpful for the police force.

Sincerely,

Erin O'Leary

Moore-Love, Karla

From: Chelsea Hetelson <chelouison@gmail.com>
Sent: Sunday, July 30, 2017 11:13 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Subject: Objection to Proposed Amendments to Police Oversight

Hello,

I am a Portland resident, tax payer and voter living in 97210. I am also a person who is very concerned about what's happening to this city concerning the police and the city's response to the actions of the police.

I have attended multiple protests in this city in order to exercise my constitutional right to make my voice heard as well as to be a witness to how the city chooses to interact with its most civically-engaged citizens. What I've seen is disgusting and disturbing and has brought me to tears. Tears of my own volition and tears caused by painful tear gas sprayed directly at me on June 4 in a public park when I dared show up to a public space to exercise my freedom of assembly, freedom of association, and freedom of speech.

In short, the police in this town are not doing a good job, they are not upstanding unbiased individuals and they are not free of corruption, racism or violent and unlawful outbursts. No matter who the new police chief is, and especially if it's Mike Marshman, a man who has shown us who he truly is, the police desperately need outside, transparent review by the public and by our city commissioners.

I want to know where each of you as elected officials stand on these developments. Do you approve of mayor Ted Wheeler not disclosing his top choices for police chief? Do you approve of the secret decision made between the City, Department of Justice, and the Portland Police Union to completely eradicate the community voice and oversight of the Portland Police without any public comment or hearings? Do you believe the Portland Police have demonstrated an ability to police and review themselves without community and public oversight and input? Do you believe the public has a right to know how the police are overseen and regulated? Do you believe the mayor should be the only, THE ONLY, person who receives reports from the Portland Commission on Community-Engaged Policing, the "oversight body" that is meant to replace the Community Oversight Advisory Board, an actual community-led oversight body?

Who do you stand with? The police union, Ted Wheeler and his alliance with the Department of Justice of Jeff Sessions, or the people of Portland, who, on all matters concerning the police, including the hiring of the new police chief and police oversight, deserve transparency and a chance to have their voices heard? Remember you are elected to serve in the interest of the residents of Portland. Who do you serve?

Chelsea Hetelson

Moore-Love, Karla

From: Sarah Daegling <sdaegling@gmail.com>
Sent: Sunday, July 30, 2017 7:17 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Amendments - Department of Justice Settlement Agreement

I am writing to express my deep concern connected with the upcoming amendments, which will be discussed at the City Council meeting on August 3.

We need to maintain community oversight and input in relation to all police activities, especially in light of the tumultuous political climate and the need for public actions to demonstrate free speech.

We need to hold police accountable, to ensure our communities are indeed safe and protected, rather than fearful in the face of local police.

It very much concerns me that these amendments were crafted behind closed doors. I want to voice my concerns and determine where you stand.

Please keep the citizens of Portland, their daily safety and relationship with police in mind. I plan to encourage friends and loved ones to show up at the meeting August 3, though I cannot attend myself.

Thank you,
Sarah Daegling

--
yep.
(209)663-8347

Moore-Love, Karla

From: Elsa Linnea Johnson <elsalinnea@gmail.com>
Sent: Sunday, July 30, 2017 7:14 PM
To: Commissioner Saltzman; Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Moore-Love, Karla; Commissioner Fritz
Subject: DOJ settlement agreement

I apologize for the autocorrect error in the subject line of the original version of this email.

On Jul 30, 2017 7:11 PM, "Elsa Linnea Johnson" <elsalinnea@gmail.com> wrote:

Dear Mayor Wheeler and Councilors,

I am writing to register my strong objection to the proposed amendments to the settlement agreement being discussed this week. Based on ongoing lack of accountability, treatment of communities of color, and treatment of protesters, it is clear our police department needs more oversight, not less. Any attempts to weaken oversight and accountability would be a betrayal of Portland's values and of Mayor Wheeler's campaign promises. I will be paying close attention to this issue and noting each of your positions.

Thank you for your time and attention,

Elsa Linnea Johnson

Downtown Portland resident

Moore-Love, Karla

From: Elsa Linnea Johnson <elsalinnea@gmail.com>
Sent: Sunday, July 30, 2017 7:11 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Saltzman; Commissioner Fish; Commissioner Fritz; Moore-Love, Karla
Subject: DOH settlement agreement

Dear Mayor Wheeler and Councilors,

I am writing to register my strong objection to the proposed amendments to the settlement agreement being discussed this week. Based on ongoing lack of accountability, treatment of communities of color, and treatment of protesters, it is clear our police department needs more oversight, not less. Any attempts to weaken oversight and accountability would be a betrayal of Portland's values and of Mayor Wheeler's campaign promises. I will be paying close attention to this issue and noting each of your positions.

Thank you for your time and attention,

Elsa Linnea Johnson
Downtown Portland resident

Moore-Love, Karla

From: Tom O'Leary <toleary3@gmail.com>
Sent: Sunday, July 30, 2017 5:41 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fritz; Commissioner Saltzman; Commissioner Fish
Cc: Moore-Love, Karla
Subject: concern about amendments to the Department of Justice Settlement Agreement

Dear Mr. Mayor, City Council Member and Commissioners,

As a Portland resident and small business owner, I'm writing to express my concern, in solidarity with the NAACP, about the proposed amendments to the Portland Police Department settlement agreement with the DOJ. Those concerns are that the amendments:

- Remove community oversight from the settlement agreement.
- Remove the city council from the settlement agreement—leaving the mayor as the appointing body of the PCCEP and the only person receiving reports.
- Do not include a proposal for a fairness hearing.
- Imply community advocates were involved in criminal behavior.
- Eliminate all outside review of improvements, and instead puts the PCCEP in charge of PR for the police department.

Given that the amendments collectively threaten the role of community voice and oversight of the Portland Police, I urge you, as our elected city representatives, not to adopt them.

Sincerely,

Tom O'Leary

Moore-Love, Karla

From: Kannon McAfee <kannonmcafee@gmail.com>
Sent: Sunday, July 30, 2017 5:29 PM
To: Moore-Love, Karla; Commissioner Saltzman; Commissioner Fritz; Commissioner Fish; Commissioner Eudaly; Wheeler, Mayor
Subject: Police reform, DOJ agreement

The NAACP of Portland has reason to believe that USDOJ settlement agreement is being rewritten so that there will be less citizen oversight and less reform of PPB with more decision power being concentrated in the hands of Mayor Wheeler.

How can this be?
What do you commissioners have to say about it and do you support it?

I am opposed to any changing of the goal posts.
Just comply!

Kannon McAfee
503.206.4922
St. Johns, Portland, OR - USA

Moore-Love, Karla

From: Annette Gerlecki <aegerlecki@gmail.com>
Sent: Sunday, July 30, 2017 9:04 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz;
Commissioner Saltzman; Moore-Love, Karla
Subject: Justice Settlement Agreement

Dear Mayor and City Council,

I am writing in concern for the amendments to the Justice Settlement Agreement scheduled on Thursday August 3 @ 3:10. I am in opposition of taking away community voice and oversight of the Portland Police and hope you will support my point of view.

Thank you,
Annette Gerlecki
97209

From: Gloria Little <gloria.little1@gmail.com>
Sent: Saturday, July 29, 2017 10:46 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Amendments to eliminate Community voice and oversight of Police

Hello Mayor Wheeler,

I am very concerned about the amendments that were developed in secret to eliminate community voice when it comes to the Portland Police. It is critical that the community has a voice in the community concerns. The community has the eyes and ears of the streets and can be of great help to the Police when needed. I hope that you reconsider letting these amendments pass.

Concerned citizen,
Gloria Little

Moore-Love, Karla

From: Howard Shapiro <howeird3@gmail.com>
Sent: Saturday, July 29, 2017 5:48 PM
To: Moore-Love, Karla
Subject: DOJ proposed settlement with PPB

I oppose the the proposed Federal DOJ settlement agreement with the PPB. Supposedly the members of the PPB are sworn to “protect and serve” the people of Portland. It follows that the constituents that they serve and who pay for their services, should have a definitive say in how they are served by the PPB. It should not be up to a single elected official (or the federal government) to decide on these issues. These issues are too important for one person to be responsible for and could be a matter of life or death for some of our citizens here in Portland.

The federal DOJ 2000 is miles away in Washington DC and cannot possibly know what the citizens of Portland Oregon need from their law enforcement officials. Portland's law enforcement officials with input from their constituency can better decide the needs of Portland. I suggest that we here in Portland make our own decisions in this manner and not attempt to meet the federal DOJ “guidelines”.

Being a staunch union supporter, I can understand that the PPB and their union wants to follow the federal guidelines because if they don't they will not be getting all of the surplus military equipment that the federal government will withhold if their policies aren't followed. The truth is that this equipment has no business on the streets of Portland and in the hands of local law enforcement to protect and serve our citizenry. We are a beautiful city in the United States of America and not a battlefield and our citizenry are not the enemy of the police.

The proposal moves in the opposite direction of what the people of Portland want. We should be concerning ourselves with meeting the needs of the people of Portland and not the federal government. They seem to be in a state of chaos and their laws and presidential edicts could change tomorrow. We could also have a new federal Attorney General before this new police is adopted by our city council, which I sincerely hope doesn't happen.

--

Howard Shapiro

7426 SE 21st Ave.

Portland, 97202

503-676-3525

Moore-Love, Karla

From: A Shapiro <alice.shapiro2@gmail.com>
Sent: Saturday, July 29, 2017 5:06 PM
To: Moore-Love, Karla
Subject: Police oversight

Here is a copy of the email I sent to Mayor Wheeler and all of the City Commissioners.

I attended the “Zero Tolerance” event on Monday, July 24 at the Muslim Educational Trust. I was quite impressed with the keynote speaker and the panel members and discussion. I learned a great deal and was happy to hear of the work towards tolerance that is supported by the Oregon Department of Justice. I also attended the City Club of Portland last week for a discussion/panel presented by Mr. Kevin Jones of the “Hands Up” Project and Captain Day, trainer of new Portland police officers. I found both of these events very enlightening and encouraging as movement towards a more enlightened police attitude towards immigrants and people of color. Both of these events advocated for more understanding of cultural differences and further training of Portland police officers. Also, the event at the Muslim Educational Trust purported to continue to support Oregon as a sanctuary state.

I am now very concerned about the upcoming hearing scheduled for August 3rd at Portland City Council regarding amendments to the settlement agreement that stemmed from the 2012 federal investigation that found Portland police had engaged in a pattern of excessive force against people with mental illness. The current plan in response to this settlement agreement would create a new commission to draw public input on Portland police policies and performance. This sounds benevolent on the surface. However, I have several concerns:

- Nearly half a year has passed since the city dissolved the struggling Community Oversight Advisory Board, which the council created to monitor Police Bureau reforms required under the settlement agreement.
- The city hasn't replaced the board or held public meetings on the ongoing bureau reforms since and instead has met behind closed doors with federal Justice Department and Portland Police Association without community involvement.
- The proposed new group, “Portland Commission on Community-Engaged Policing” (PCCEP) would be comprised of five to nine members appointed by the mayor of Portland and the meetings would not be open to the public.
- The proposed amendments would remove community oversight from the settlement agreement.
- The proposed amendments would remove the city council from the settlement agreement—leaving the mayor as the appointing body of the PCCEP and the only person receiving reports.
- The proposed amendments do not include a proposal for a fairness hearing.

· These amendments seem to comply with the rules desired by the Federal Department of Justice and seem counter to the practices of the Oregon DOJ.

I urge you as elected officials to involve the public in this very important process of police oversight and community protection. Transparency must be established and maintained.

Regards.

Alice Shapiro

7426 SE 21st Ave

Portland, OR 97202

541) 999-7278

Moore-Love, Karla

From: Jack Bradley <jgbradleyjr@gmail.com>
Sent: Saturday, July 29, 2017 4:18 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz;
Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Amendments to the Department of Justice Settlement Agreement

To Mayor Wheeler and members of the City Council,

As homeowner and as a vested concerned citizen of the City of Portland and all who make up our City, I look to you NOT TO VOTE for the Amendments to the DOJ Settlement Agreement!

Also please drop me a note, providing me with your position on these amendments. These amendments continue to foster continued and deepened vulnerability of all citizens and does the opposite of "protect and serve." Do not let your constituents' voices go unheard, once again.

John G Bradley Jr.
2951 NE Edgehill Place
Portland, Oregon 97212

Moore-Love, Karla

From: JMcCarl <jmccarl09@gmail.com>
Sent: Saturday, July 29, 2017 2:16 PM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: Community oversight - Portland Police

Dear Mayor Wheeler,

I'm writing today to let you know I am adamantly opposed to amendments to the Department of Justice Agreement which would reduce or eliminate community voice and oversight of the Portland Police. As a city we should be striving daily to improve our policing and protect our citizens from mistreatment, abuse and profiling. Removing community oversight will not help move us forward.

We are living in a world where the president of the United States is encouraging police to casually visit violence upon people the arrest. Oregon has an ugly history of racism, something which all too easily can flourish in police departments. The last thing we need is to reduce community oversight of our police.

Do not reduce community voice and oversight of the Portland Police.

Regards,
Jennifer McCarl
537 N Hayden Bay Dr
Portland 97217

Moore-Love, Karla

From: Tracy Burkholder <tracyb.pdx@gmail.com>
Sent: Friday, July 28, 2017 3:06 PM
To: Moore-Love, Karla
Subject: Don't replace COAB with PCCEP

Dear Ms. Moore

I am writing as a concerned citizen to voice my passion and persistence to keep the Community Oversight Advisory Board and fight the proposed amendments to the Department of Justice Settlement Agreement. I am strongly in favor of community participation and transparency from the City, the DOJ, and the Police Union. I urge you to listen to the voices of the citizens of Portland who want to improve police training and relations. This is imperative. I urge you to work together with the NAACP. Do not replace the COAB with the PCCEP.

Sincerely,
Tracy Burkholder
1416 SE 49th Ave Portland, OR 97215

From: Liz Asch Greenhill <lizgreenhill@gmail.com>
Sent: Friday, July 28, 2017 2:08 PM
To: Moore-Love, Karla
Subject: Police + Community

Dear Council Clerk Moore-Love,

I am writing as a concerned citizen to voice my passion and persistence to keep the Community Oversight Advisory Board and fight the proposed amendments to the Department of Justice Settlement Agreement. I am strongly in favor of community participation and transparency from the City, the DOJ, and the Police Union. Please do whatever you can do to advocate for the citizens of Portland to improve police training and relations. This is imperative. I urge you to work together with the NAACP. Do not replace the COAB with the PCCEP.

Signed,

Liz Greenhill, Portland, OR, 97214

Moore-Love, Karla

From: Elisa Dale <edenhermit@gmail.com>
Sent: Friday, July 28, 2017 12:03 PM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Amendments to the DOJ Settlement Agreement

Dear Mayor Wheeler, Commissioners and Council Members,

I am a member of the NAACP who is deeply concerned about the propped amendments to the DOJ Settlement Agreement as they:

remove community oversight from the settlement agreement; remove the city council from the settlement agreement—leaving the mayor as the appointing body of the PCCEP and the only person receiving reports; not include a proposal for a fairness hearing; imply community advocates were involved in criminal behavior; and eliminate all outside review of improvements, and instead puts the PCCEP in charge of PR for the police department.

Portland should and could be a bastion of transparency, integrity and fairness in a country where these qualities seem to have fallen into disfavor. Why not provide the best community policing in the United States? What is the downside to including key stakeholders in the process of police reform?

Elisa Dale
15040 NE Siskiyou
Portland, OR
541-590-0081

Moore-Love, Karla

From: Tiffany N. <tiffanynaemura@gmail.com>
Sent: Friday, July 28, 2017 11:44 AM
To: Wheeler, Mayor
Cc: Moore-Love, Karla
Subject: RE: Department of Justice Settlement Agreement Hearing, August 3rd

Mayor Wheeler,

I am writing as a constituent (97230 zipcode) and a member of the Portland branch of the NAACP, 1120B. I would like to A) find out where you stand regarding the amendments to the Department of Justice Settlement Agreement, and B) register my objections to the same.

My understanding is that the various amendments remove community oversight from the settlement agreement, and furthermore, remove the city council from the agreement, leaving you as the appointing body of the Portland Commission on Community-Engaged Policing and the only person receiving reports from them. Given Portland Police Bureau's dubious legacy of action behind closed-doors (not to mention the Bureau's retention of officers who have openly voiced admiration for Nazis), this is extremely concerning.

I am also troubled that the amendments do not include a proposal for a fairness hearing, a hearing which seems reasonable and desirable in today's tense climate and given our city's history of not listening to minority community members.

I have trouble understanding why, at a time when tensions are high and after running your campaign on promises of police reform and de-escalation, you would not want to do all you can to demonstrate openness and transparency, and why we don't hear you actively denouncing the PPB and instead, find you participating with the police union and DOJ in secretive amendment-making, effectively cutting out the voices of your constituents and certainly not garnering any confidence in communities of color who statistically suffer the greatest at the hands of law-enforcement. I understand the need for efficiency, but surely there comes a time when transparency outweighs efficiency? When justice outweighs pressure from the police union? I certainly hope so.

I ask that you please clarify your exact position on the proposed amendments and let the community know explicitly how you plan to vote. Your community is paying attention.

Sincerely,

Tiffany Naemura

Moore-Love, Karla

From: Laura Lawrence <lalawren@gmail.com>
Sent: Friday, July 28, 2017 10:42 AM
To: Commissioner Saltzman
Cc: Moore-Love, Karla
Subject: Amendments to the Department of Justice Settlement Agreement

It sounds like the new amendments to the Department of Justice Settlement Agreement will strip away all community involvement in police oversight - which is terrible! especially in a time when we need it more than ever.

Please vote no on these secret agreements on Thursday August 3!

The new amendments:

Remove community oversight from the settlement agreement.

Remove the city council from the settlement agreement—leaving the mayor as the appointing body of the PCCEP and the only person receiving reports.

Do not include a proposal for a fairness hearing.

Imply community advocates were involved in criminal behavior.

Eliminate all outside review of improvements, and instead puts the PCCEP in charge of PR for the police department.

We need more community involvement, not less!

--

Laura Lawrence
(503) 697-0564

Moore-Love, Karla

From: Tricia Knoll <triciaknoll@gmail.com>
Sent: Friday, July 28, 2017 10:28 AM
To: Commissioner Fritz; Commissioner Fish; Commissioner Saltzman; Moore-Love, Karla; Wheeler, Mayor; Commissioner Eudaly
Subject: Amendments to Department of Justice agreement

As a white member of the NAACP, I support the work of the NAACP and our position on the upcoming police agreement with the Department of Justice. I oppose the efforts to boil down the agreements with the Department of Justice. I served some years ago on the Human Rights Commission and listened deeply to the concerns of those members working on police and community relations. I support transparency and openness, access by members of the community most harmed by behind-closed-doors decision making. I think all Council members should be engaged in this work. We need to honor the work of community advocates and make provisions for fairness hearings.

Jeff Sessions should have no credible standing in a City battling decades of systemic racism. The high bar should be those actions with the most public input from the community that is impacted by them, We will never begin to crack open the problems of community trust of policing in Portland without letting the sunlight of open process held to guide us.

Out of compliance? Let them know why -- that Portland wants to work more deeply, more openly to the racism that divides us in regards to community policing.

Tricia Knoll
8933 SW Lancelot Lane
Portland, OR 97219

Poetry collections -

- Available July 2017, **Broadfork Farm**, poems about a small organic farm in Trout Lake, Washington.
- Ocean's Laughter, a book of lyric and eco-poetry about Manzanita, Oregon. Look at **Amazon.com** or **for .Reviews.**
- *Urban Wild*, a poetry chapbook now available from **Finishing Line Press** and Amazon.

Website: triciaknoll.com
twitter: @triciaknollwind
Amazon author page

Moore-Love, Karla

From: Tom Hastings <pcwtom@gmail.com>
Sent: Friday, July 28, 2017 10:24 AM
To: Wheeler, Mayor; Commissioner Eudaly; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Moore-Love, Karla
Subject: DOJ amendments

Dear Mayor, Council members, and Clerk:

This is to urge you to reject the proposed amendments to the DOJ agreement and to reassert strong local council, mayor, and community oversight of our police bureau. While strong unions are a good thing--I've been a union member most of my adult life--the contamination of community policing by the bureau's union cannot be allowed to perpetuate poor policing and impunity for the rogue officers who harm both the community and the reputation of the many fine Portland police.

We have a federal government which is fighting our town now and please know that the vast majority of Portlanders will stand with you in your good efforts to reform the process by which we get the policing we want with strong local community oversight. The process can be annoying and messy, but the alternatives are unacceptable.

Thank you.

--
 Yours for a nonviolent future,
 Tom H. Hastings, Ed.D.
 Director, PeaceVoice Program,
 Oregon Peace Institute
<http://www.peacevoice.info/>

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 author, latest book, **A New Era of Nonviolence**  
<http://www.mcfarlandpub.com/book-2.php?id=978-0-7864-9431-6>

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