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OFFICE OF MAYOR SAM ADAMS
CITY OF PORTLAND

October 26, 2012

To: City Council

From: Mayor Sam Adams

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,



Mayor Sam Adams
City of Portland

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Clay Neal	2. Telephone No. 503-823-4779	3. Bureau/Office/Dept. Mayor's Office
4a. To be filed (date): October 26, 2012	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>	5. Date Submitted to Commissioner's office and FPD Budget Analyst:
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed	6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title:

Authorize the Mayor to execute an Agreement with the United States Department of Justice Civil Rights Division and United States Attorney for the District of Oregon regarding changes to policies and procedures in and oversight of the Portland Police Bureau (Ordinance)

2) Purpose of the Proposed Legislation:

To allow for the Mayor to execute an agreement with the United States Government on behalf of the City of Portland which commits the City to addressing legal findings by the US Department of Justice Civil Rights Division regarding PPB Officers' use of force with individuals who have or are perceived to have mental illness. Although the City does not agree with the US DOJ's legal finding, it does agree that PPB can continue to improve as an organization. The Agreement guides the parties toward resolution of these issues. Some provisions of the Agreement require all of our community – our citizens, our police force, our City leadership, and our mental health partners – to work together and engage in meaningful dialog and decision-making. Some issues will require the expenditure of funds and others will require labor negotiations with our employee labor organizations.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |
| <input type="checkbox"/> Internal City Government Services | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

This legislation does not impact City revenues.

5) Expense: What are the costs to the City related to this legislation? What is the source of funding for the expense? *(Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the level of confidence.)*

While this legislation contains provisions that will require the expenditure of City funds, it does not commit the city to any specific expenditure at this time. Any approval of expenditure of funds will be given council consideration through future legislation. See EXHIBIT B for a draft budgetary analysis of the provisions of this agreement. Voting on this legislation does not commit the City to this exact budget.

6) Staffing Requirements:

- Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

While this legislation contains provisions that will require the creation, elimination, and/or re-classification of positions in the current fiscal year, it does not commit the city to any specific changes in this regard at this time. City Council will have the opportunity to consider the individual staffing changes required in this agreement through future legislation.

- Will positions be created or eliminated in future years as a result of this legislation?
See above.

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

- YES: Please proceed to Question #9.
 NO: Please, explain why below; and proceed to Question #10.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

This legislation will commit the City to ensuring that the Portland Police Bureau continues to improve its policies and practices, particularly as they relate to PPB officers' interactions with individuals who have or are perceived to have mental illness. It requires that the PPB conduct more public outreach and engagement in the development of these policies and practices and provide more citizen engagement in the processes related to officer accountability.

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

Public involvement on this item was conducted by the United States Department of Justice, who reached out, in particular, to groups representing racial and ethnic minorities and individuals with lived experience with mental illness. The United States also held multiple public meetings and call-in town halls, which any Portlander could attend.

c) How did public involvement shape the outcome of this Council item?

Negotiations about this agreement are confidential, but the City can say that public involvement did contribute to the development of this agreement.

d) Who designed and implemented the public involvement related to this Council item?

The United States Department of Justice Civil Rights Division and the United States Attorney for the District of Oregon.

e) Primary contact for more information on this public involvement process (name, title, phone, email):

For more information and contact information at the US DOJ, contact:
 Clay Neal, Mayor's Public Safety and Peacekeeping Director
 503-823-4779
 Clay.neal@portlandoregon.gov

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

Yes. This legislation, if passed, requires the City to engage in further public involvement about the provision contained within the Agreement. Additionally, City Council wishes for the public to be integrally involved in the continuous improvement of the Portland Police Bureau. Opportunities for public involvement in the Agreement will be widely publicized.

Sam Adams



BUREAU DIRECTOR (Typed name and signature)