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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, ) Case No. 3:12-cv-02265-SI  
v. )  
THE CITY OF PORTLAND, ) August 24, 2021  
Defendant. ) Portland, Oregon

STATUS CONFERENCE  
TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE MICHAEL H. SIMON  
UNITED STATES DISTRICT COURT JUDGE

## APPEARANCES

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APPEARANCES (Continued)

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Status conference held August 24, 2021

5

1 (August 24, 2021)

2 P R O C E E D I N G S

3 (Open court:)

4 THE COURT: Good morning, everyone. For those who  
5 are in the courtroom, for those who are in our overflow  
6 courtroom, for those listening by telephone, and for those  
7 watching by video conference, this is the periodic status  
8 conference in the case of United of America versus the City of  
9 Portland.

10 This is Judge Simon. The case number is  
11 3:12-cv-2265. I have some preliminary comments to make, but  
12 first let me invite counsel to enter their appearances,  
13 beginning with counsel for the plaintiff.

14 MR. GEISLER: Good morning, Your Honor. Jonas  
15 Geissler for the United States from the Civil Rights Division  
16 of DOJ.

17 THE COURT: Good morning.

18 By the way, before we continue with this, let me make  
19 one of my preliminary comments now. Since we have a number of  
20 people listening by telephone or video, please don't rise when  
21 speaking with me. I appreciate the gesture. Just remain  
22 seated, but speak into the microphone so that everyone in the  
23 overflow courtroom as well as by telephone and video conference  
24 can hear you.

25 Thank you.

1 Mr. Hager.

2 MR. HAGER: Good morning, Your Honor. Jared Hager  
3 for the United States. I am with the United States Attorney's  
4 Office for the District of Oregon.

5 THE COURT: I'll now invite counsel for Defendant  
6 City of Portland to enter an appearance.

7 MR. TAYLOR: Good morning, Your Honor.  
8 Robert Taylor, Portland City Attorney.

9 MS. BROWN: Good morning, Your Honor. Heidi Brown,  
10 also an attorney with the City of Portland.

11 THE COURT: Good morning.

12 MR. VANNIER: Good morning, Your Honor.  
13 Denis Vannier with the City of Portland.

14 THE COURT: Good morning.

15 Now I'll invite the representative for the  
16 intervenor, Portland Police Association, to enter your  
17 appearance.

18 MR. KARIA: Good morning, Your Honor. Anil Karia for  
19 the Portland Police Association.

20 THE COURT: Good morning.

21 Now I'll invite the Enhanced Amicus Curiae Albina  
22 Ministerial Alliance Coalition for Justice and Police Reform to  
23 enter your appearance, including anyone who is with you.

24 MS. CHAMBERS: Good morning, Your Honor.  
25 Kristen Chambers representing AMA Coalition. With me, here to

1 my right, is Dr. Haynes, who is my client and part of the  
2 steering committee. Right behind us is Dr. Mark Knutson, who  
3 is also on the steering committee and will be speaking today.  
4 Then on video, we have co-counsel Ashlee Albies. We have got  
5 Joyce Harris and Dan Handelman, who are also on the AMA  
6 steering committee.

7 THE COURT: Good morning and welcome to you all.

8 By way of preliminary comments as well, let me also  
9 remind everyone that there is no audio or video recording  
10 allowed of these proceedings. We do have an official court  
11 reporter. An official transcript will be prepared. If anyone  
12 wants a copy of the official transcript, just speak with our  
13 court reporter during a recess or after the hearing. These are  
14 not rules I can amend or modify. They are set nationally.

15 There are a few district around the country that are  
16 engaged in a pilot program that would allow audio or even video  
17 recording of court proceedings. I would say unfortunately, but  
18 I don't want to editorialize, so I will just say that the  
19 District of Oregon is not one of them. So there's nothing I  
20 can do about it. But please observe that requirement and that  
21 rule.

22 I also want to begin by offering remembrances of two  
23 people who have provided such wonderful contributions to these  
24 hearings over the years and who we who last saw on our hearing  
25 on February 25, 2020, but have since passed away.

1           The first person I would like to recognize is the  
2 Reverend Dr. T. Allen Bethel, who passed away on December 20th,  
3 2020, at the young age of 67. He was a co-chair, as many of  
4 you know, of the Albina Ministerial Alliance Coalition for  
5 Justice and Police Reform. He was the senior pastor at the  
6 Maranatha Church in Portland, Oregon, and a beloved community  
7 leader and public advocate.

8           As his friend and colleague, Dr. LeRoy Haynes, who is  
9 with us today, said about Dr. Bethel, Dr. Bethel was a  
10 comprehensive pastor. He pastored both to his church and to  
11 our community.

12           The second person I would like to recognize, who is  
13 not with us, is Joe Walsh. He passed away in October 2020 at  
14 age 78. He attended every hearing in this case. He offered  
15 his testimony, his insights, and his wisdom. He served in the  
16 United States Navy, including in the Vietnam War, and then he  
17 later protested that war. To many people who knew him in this  
18 community, he was referred to as "the lone vet," and he  
19 believed that it was not only a citizen's right but a citizen's  
20 duty to put pressure on those in power to do the right thing.

21           The voices and wisdom and insights of both Dr. Bethel  
22 and Mr. Walsh continue to be heard in this courtroom and  
23 throughout our community.

24           Let me also let you all know that I have received and  
25 read the following written reports: Earlier this year, on



1 February 10th, I received Plaintiff United States' notice of  
2 fifth periodic compliance assessment report. That's  
3 Docket 236.

4 Then in March, I received the Defendant City of  
5 Portland's notice of periodic compliance report, Docket 238.

6 Then more recently, in August, on August 19th, I  
7 received the City of Portland's memorandum for this fifth  
8 status conference, Docket 243. With that, I received the  
9 Defendant City of Portland's notice of periodic compliance  
10 report, which contained the August 23rd, 2021, Compliance  
11 Officer and Community Liaison's quarterly report. That's  
12 Docket 244.

13 I have also received the August 2021 status report  
14 from the Albina Ministerial Alliance Coalition for Justice and  
15 Police Reform. That's Docket 245.

16 And I received the August 2021 status report from the  
17 Mental Health Alliance, along with the declaration of  
18 Juan Chavez. That's Dockets 247 and 248. With the declaration  
19 of Mr. Chavez, there were a number of other written  
20 submissions, and I'll just identify those in a few moments.

21 I have received written correspondence with comments  
22 from the following people:

23 The League of Women Voters of Portland, from  
24 Debbie Kaye and Debbie Aiona; from Portland Copwatch, including  
25 Mr. Dan Handelman, from Pamela Fitzsimmons, and from Ann

1 Brayfield.

2 As I mentioned, with the declaration of Mr. Chavez,  
3 there was written correspondence from the following people:

4 Jason Renaud, Dr. Jeffrey Eisen, Melissa Eckstein,  
5 Rochelle Silver, and Jan Friedman.

6 If any of the parties don't have copies of that  
7 correspondence, just see my courtroom deputy or communicate  
8 with my courtroom deputy after this hearing, and we will make  
9 sure that you have copies. Some have already been entered into  
10 the official court record here, but some have not. If anyone  
11 wants something entered into the record, just let my courtroom  
12 deputy know, and, of course, we will do that.

13 One of the other reasons that I identified all of  
14 these items is if there is something that I have not read that  
15 has been submitted, then I'm not aware of it. So please call  
16 it to my attention, let my courtroom deputy know, and I'll be  
17 sure to review that.

18 With the orders that I entered last week setting the  
19 agenda for this matter, you all know the agenda that we will  
20 follow. In a few moments I'll hear a presentation from the  
21 United States of America, followed by a presentation from the  
22 compliance officer, followed by a presentation from the City of  
23 Portland, followed by a presentation from intervenor Portland  
24 Police Association.

25 Depending on the timing, we will either take a break

1 after that or before that.

2 We will then hear a presentation from the Enhanced  
3 Amicus Albina Ministerial Alliance Coalition for Justice and  
4 Police Reform, followed by the Amicus Mental Health Alliance,  
5 followed by a presentation from the Portland Committee on  
6 Community-Engaged Policing, the PCCEP,

7 At some appropriate middle time in the middle of the  
8 day, we will take a lunch break. Then after that lunch break,  
9 I will invite comments from the public. I believe a sign-in  
10 sheet has been circulated. According to what I have seen, in  
11 addition to the presentations I've just described, I understand  
12 that the following people will be providing public comment:  
13 Dan Handelman, Barbara Bochinski, Ann Brayfield, Jan Friedman,  
14 Meredith Mathis, Amanda Marshall, Michael Hopcroft,  
15 Patrick Nolen, Debbie Aiona, and Barbara Rainish.

16 If you would like to provide public comment and I  
17 have not read your name during a break or recess, please let my  
18 courtroom deputy know.

19 We will continue in this session until everyone who  
20 wishes to provide public comment has had an opportunity to do  
21 so.

22 I do see some people standing in this courtroom. Let  
23 me remind you all that we have set up an overflow courtroom  
24 that has live closed-circuit video and audio feed. That is on  
25 the 12th floor. I believe it is Courtroom 12A.

1           Is that right, Mary?

2           THE CLERK:   Yes.

3           THE COURT:   That's in 12A.   That's on the north side  
4 of the building.   We are in 15B right here on the south side.  
5 So if you prefer to have a seat and to be appropriately  
6 distanced from other folks, please feel free to go to 12A.

7           All right.   That takes care of my preliminary  
8 comments, unless a party would like me to address anything else  
9 preliminarily right now.   Otherwise, I will invite counsel for  
10 the United States to begin with their comments.

11           Are there any other preliminary matters I should  
12 address?

13           MR. CHAVEZ:   Juan Chavez for MHA.   My co-counsel is  
14 also present.   Also, we have Jason Renaud present and KC Lewis,  
15 and Meredith Mathis, who will be presenting via Zoom.

16           THE COURT:   Thank you, Mr. Chavez, and I appreciate  
17 your presence.

18           All right.   At this time I will invite comments from  
19 the United States, the plaintiff in this case.

20           MR. HAGER:   Thank you, Your Honor.   It is good to be  
21 here.   Mr. Geissler and I are joined by the Acting  
22 United States Attorney Scott Asphaug, the civil division chief,  
23 Renata Gowie, and the deputy chief for the special litigation  
24 section, Laura Cowall, who are sitting behind us.

25           We are here today to present our fifth periodic

1 compliance assessment report. Mr. Geissler is going to speak  
2 to Sections 3 and 4 -- that's use of force and training -- as  
3 well as Sections 7 and 8, employee intervention and  
4 accountability. I will speak to Sections 5, 6, and 9. That's  
5 community-based mental health services, crisis intervention,  
6 and community engagement.

7 Our assessment report was filed on February 10th, as  
8 Your Honor noted, and it addresses the City's compliance last  
9 year. We concluded that the City had failed to comply with  
10 four separate sections of the amended settlement agreement  
11 relating to force, training, accountability, and community  
12 engagement.

13 Based on those conclusions, we served a notice of  
14 noncompliance on the City, on April 2nd, pursuant to  
15 paragraph 178 of the agreement. The City responded, pursuant  
16 to paragraph 180, on May 7th. The parties met, pursuant to  
17 paragraph 181, in July and August to explore whether we could  
18 reach agreement on the corrective action necessary to bring the  
19 City into compliance. We also met with the intervenor, the  
20 amici, and the public through the Portland Committee on  
21 Community-Engaged Policing, PCCEP.

22 We've made clear to the City that they can resolve  
23 our compliance concerns by agreeing to nine additional remedies  
24 to be entered as an order of the Court, whether by stipulation  
25 or following mediation, pursuant to paragraph 182. These

1 remedies have been reported on publicly, but for the benefit of  
2 the Court, I'll lay them out briefly here.

3           With respect to force, implement body-worn cameras  
4 for all officers. This remedy also addresses our  
5 accountability concerns.

6           2. Revised force data collection reports and  
7 after-action reviews to better capture information to show  
8 required timeliness and completion and review.

9           3. Contract with a qualified outside entity to  
10 critically assess the City's response to crowd-control events  
11 in 2020 in a public-facing report that includes recommendations  
12 to which the City will publicly respond.

13           4. Create a needs assessment for crowd-control  
14 training that adequately addresses issues with PPB's response  
15 to the 2020 protests. The second training remedy is to ensure  
16 that PPB's budget covers officers' annual required training  
17 without relying on overtime.

18           No. 6, the third training remedy: Appoint a  
19 qualified civilian head over PPB's training division to ensure  
20 consistent and appropriate training based on problem-based  
21 learning and other generally accepted adult learning  
22 techniques.

23           For accountability: In addition to body-worn camera.

24           No. 7. Identify and hold accountable RRT lieutenants  
25 and above who approve force without adequate justification

1 during the 2020 protests.

2           8. The City's proposal for addressing timeliness and  
3 quality of investigations and effective discipline is the  
4 implementation of the new voter-approved Community Police  
5 Oversight Board, and so we ask that they propose amendments to  
6 the settlement within 90 days and formulate a plan for an  
7 orderly transition to the full implement of that board.

8           Finally, with respect to community engagement, issue  
9 the 2020 PPB annual report and hold the required meetings  
10 before the end of summer of 2021 and do the same in 2022 and  
11 any other future years during which the settlement is still in  
12 effect.

13           We will approach the Court if there is agreement on  
14 the terms of an order or when mediation concludes, consistent  
15 with the settlement. Our mediation sessions with Judge  
16 Beckerman, who has been agreed upon, will begin next month.  
17 One way or another, we expect to be back before the court soon.

18           Today we will summarize our compliance assessment  
19 report. But as a reminder, this report covers up to  
20 January 2021. A lot has happened since then that we continue  
21 to monitor. The compliance officer will present a little bit  
22 more about the City's recent efforts this year, including new  
23 areas of compliance challenges.

24           But first, I'll turn it over to Mr. Geissler to  
25 address Sections 3 and 4.

1 THE COURT: Thank you, Mr. Hager.

2 Good morning, Mr. Geissler.

3 MR. GEISSLER: Good morning, Your Honor.

4 The settlement agreement is based on a need to comply  
5 with Fourth Amendment requirements on police use of force by  
6 implementation of force policies and training in a manner that  
7 ensures that PPB may only use force when it is lawful to do so.  
8 And if the force is not reasonable, then that remedy means  
9 holding accountable those involved.

10 In this respect, the settlement agreement, Section 3,  
11 force, and 4, training, and Section 8, accountability, which we  
12 will discuss a little bit later today, go to the heart of  
13 protecting the constitutional right. Constitutional policing  
14 is not achieved, Your Honor, by having policies on the shelf  
15 that may meet constitutional muster. Rather, the settlement  
16 agreement requires full implementation of the remedies and  
17 adherence to constitutional policing to reach and sustain  
18 substantial compliance.

19 When PPB polices constitutionally, it earns the  
20 support of the community, and it can preserve order. But as  
21 Your Honor will note, and as we observed in 2020, it was not an  
22 orderly year.

23 As we said in our periodic compliance assessment  
24 report, PPB perceived, and we agreed, that in 2020 protests  
25 included both people who were engaged in speech protected by



1 the First Amendment and those engaged in violence. The central  
2 issue is this: Did PPB respond in a way that complied with the  
3 settlement agreement? No, it did not.

4           Beginning in early June 2020, we regularly asked the  
5 City for data about PPB's crowd-control response. We wanted to  
6 know the daily information that PPB executives were receiving  
7 and how they were using it to manage use of force, such as the  
8 type of force being used each day.

9           We also sought the after-action reviews, the AARs,  
10 required by the settlement agreement and by PPB policy.

11           Finally, in late August 2020, the City produced a set  
12 of incomplete force data collection reports, FDCRs. And in  
13 early September 2020, the City produced a set of informal daily  
14 summaries of crowd-control events with limited content.

15           PPB did not produce and apparently did not track an  
16 inventory of the munitions or the daily count of the type and  
17 amount of force used.

18           In December of 2020, PPB produced a sample of FDCRs  
19 and AARs that covered day-long periods during the crowd-control  
20 event, in which PPB used force in response to the protests.

21           When PPB ultimately did produce the requested  
22 records, there were certain items that we found: One, reports.  
23 The FDCRs and AARs revealed frequent lack of policy-required  
24 investigation and analysis by first-line supervisors. Many did  
25 not include supporting data and did not have any interviews and

1 were unsigned by supervisors.

2           AARs frequently were blanket affirmations with no  
3 investigation or analyses. This included repeatedly validating  
4 uses of force with little or no discussion of deescalation.  
5 And even though PPB admitted its compliance with force  
6 reporting and after-action policies was deficient, PPB  
7 nonetheless still found that its uses of force were within  
8 policy. This cannot be the case, when the City did not  
9 document and review its use of force policy, as required by the  
10 settlement and policy.

11           The second item we found in these reports:  
12 Conflation. The reports revealed a troubling theme. In many  
13 cases PPB equated the mere presence of a person at a protest  
14 with "active aggression," a term of art. Under the policy to  
15 justify using force, in other situations PPB conflated passive  
16 resistance, like slow walking with active aggression, again, to  
17 justify use of force. The theme of conflating mere passive  
18 responses with active aggression repeatedly bore out  
19 accountability investigations, as we will discuss later as  
20 well.

21           Third, warnings. The FDCRs and AARs relied on broad  
22 warnings from PPB's sound truck that force may be used. While  
23 a sound truck may have provided sufficient warning in some  
24 cases, in other cases it may not have. The video that we saw  
25 suggests that direct warnings to individuals immediately prior

1 to an officer's use of force could have been feasible in many  
2 situations. PPB's reliance on a blanket announcement that  
3 force may be used and may or may not have been heard is  
4 inconsistent with policy requirements for feasible warnings  
5 before resorting to uses of force.

6 Fourth, timeliness. The City admitted noncompliance  
7 with timely completion with FDCRs and AARs with  
8 crowd-control-related use of force. AARs were months late.  
9 This affected the integrity of the reports and their usefulness  
10 to inform PPB's decision-making.

11 And as we said in our compliance assessment report,  
12 the lack of prompt supervisory force investigations of  
13 crowd-control events is likely to deprive the upcoming force  
14 inspector's audit of necessary data. Even at this late date --  
15 today -- PPB has not completed its force inspector assessment  
16 for the 2020 crowd-control events.

17 Fifth, CS gas. On September 20, 2020, the police  
18 commissioner restricted the use of CS gas. As the monitors of  
19 the settlement agreement, we determined that this was a  
20 material change to force policies and reached out to the City  
21 to request that the City follow settlement agreement procedures  
22 for changes in policy.

23 We were particularly concerned that officers be  
24 provided specific direction on how to implement that change.  
25 We continue to emphasize with the City the need for a clear,

1 written direction to officers when they are and when they are  
2 not permitted to use force.

3           There is much more that could be said about force,  
4 Your Honor. As a last note, though, it is worth mentioning  
5 that we requested the City produce a long-promised master  
6 after-action report for the 2020 crowd control. PPB did not  
7 provide that report before our compliance assessment report  
8 filed February 10th. It was not until March 29th, 2021, that  
9 PPB provided its master after-action reports.

10           We provided our detailed comments on these master  
11 after-action reports in a letter dated May 5th. There has not  
12 yet been an adequate sufficiently critical master after-action  
13 report of the 2020 crowd control response, which is why we have  
14 included it as one of the requested remedies to our notice of  
15 noncompliance. That completes Section 3, Your Honor.

16           Section 4 concerns training, if I may. Prior to the  
17 pandemic, COCL and DOJ reviewed and approved the planned 2020  
18 in-service training. We observed an early iteration, and the  
19 delivery of that training substantially complied with  
20 paragraph 84, including the use of scenarios. But owing in  
21 part to the pandemic and the City's cut to PPB's budget, PPB  
22 canceled in-service, the training for over half of its members.  
23 PPB collected data only after receiving the training it did  
24 deliver prior to that and tracked and reported employees'  
25 training and screened for qualified trainers.

1           Since our compliance assessment report in 2021, PPB  
2 went back and reinitiated the same in-service training that it  
3 had canceled in 2020, but there's an opportunity cost to doing  
4 this. In repeating the prior year's training, PPB lost the  
5 opportunity to cover new topics identified in its prior needs  
6 assessment, and PPB has not completed a new needs assessment to  
7 address the many issues identified in crowd-control responses  
8 in 2020. We have included that as one of our requested  
9 remedies as well.

10           Lastly, Your Honor, here, with respect to training,  
11 it is worth mentioning that the May 5 letter to PPB concerning  
12 the master after-action reports. As we noted in that letter,  
13 PPB had planned a Rapid Response Team training for April 10th  
14 through 11th, 2021, without any planning or needs assessment.  
15 RRT, which is PPB's specialized crowd-control response group,  
16 on March 15, PPB presented to us a series of "lesson plans,"  
17 some of which had only been created after we requested copies.  
18 The lesson plans were inadequate. Rather than fix them, PPB  
19 decided to postpone RRT training indefinitely. RRT members  
20 subsequently resigned from the RRT positions, and PPB has  
21 failed to direct the assignment employees to a new RRT.

22           In any event, training must comport with policy, and  
23 so PPB should always have an adequate needs assessment and  
24 lesson plan on which to base all training.

25           MR. HAGER: Section 5 is community-based mental

1 health services, paragraphs 88 to 90. We continue to find  
2 substantial compliance with these paragraphs. The City,  
3 through PPB and the Bureau of Emergency Communications --  
4 that's BOEC -- has adequately engaged system partners to bridge  
5 the gap in mental health services to reduce police interactions  
6 and the probability of negative outcomes.

7           Two additional points bear mention, notwithstanding  
8 our substantial compliance assessment: First, paragraph 89.  
9 In December of 2019, the PCCEP, with support from members of  
10 the Mental Health Alliance, recommended a reevaluation of the  
11 City's compliance with paragraph 89 for two primary reasons:  
12 First, the Unity Center's record of performance deficiencies;  
13 and second, the PCCEP's view that the Unity Center "is not a  
14 walk-in center as defined by field experts."

15           We regularly reevaluate our assessment of the City's  
16 compliance in each periodic report that we file, but the  
17 settlement legally binds only the City to take action. We've  
18 noted our expectation that local area community care  
19 organizations would take action to set up a service with a  
20 purpose to avoid taking those in crisis via police cruiser to  
21 jail, and instead to divert those folks to professional mental  
22 health service providers with transport by ambulance to a  
23 hospital.

24           PPB directives provide for such transfers and  
25 transport. That's Directive 630.45, titled "Emergency Medical

1 Custody Transports" and Directive 850.20. That's "Police  
2 Response to Mental Health Crisis."

3 We are aware of reports identifying deficiencies at  
4 the Unity Center, but the Unity Center remains subject to  
5 supervision by appropriate state and federal health  
6 authorities, including the Oregon Health Authority and the  
7 Department of Health and Human Services, Centers for Medicare  
8 and Medicaid Services. In December of 2020, Unity was deemed  
9 to have successfully eliminated the deficiencies. There has  
10 been no loss of funding as a result of the prior deficiencies,  
11 and our compliance assessment of the City's action remains the  
12 same.

13 2. Paragraph 90D. That addresses the conduct of  
14 community care organizations as well, and it requires various  
15 city entities to pursue improvements in the behavioral health  
16 care system, including by "expanding the options and the  
17 available capacity for BOEC operators to appropriately divert  
18 calls to qualified civilian mental health providers as first  
19 responders."

20 To the City's credit, its rollout of the Portland  
21 Street Response pilot program squarely satisfies the text and  
22 purpose of paragraph 90. The PSR program expands the City's  
23 approach to crisis triage to better assist people in crisis and  
24 reduce unnecessary interaction with law enforcement. We have  
25 made clear that the City is free to expand the PSR program as

1 it sees fit.

2 Section 6 concerns crisis intervention, paragraphs 91  
3 to 115. We found the City substantially complied with these 25  
4 provisions first in with 2019 and have maintained compliance in  
5 2020, as spelled out in our recent compliance assessment  
6 report.

7 I'll touch on three topics nonetheless: Force, the  
8 Behavioral Health Unit Advisory Committee, and the role of 911,  
9 BOEC, and crisis triage.

10 Force. Use of force where an officer perceives a  
11 mental health component continues to be very low as a percent  
12 of overall encounters, and when used, force most often is the  
13 lowest level of force. Over the 30-month period prior to late  
14 2020, PPB officers responded to more than 54,000 calls  
15 involving a mental health component. Force was used in less  
16 than 1 percent of those calls. Most of that force was  
17 category 4, defined as "not reasonably likely to result in  
18 physical injury." Category 2 and 3, force, which includes ECW,  
19 or Tasers, was used in just one-fourth of 1 percent of  
20 encounters; 144 cases over a 30-month period.

21 In assessing compliance with this section, we  
22 assessed the totality of the City's crisis intervention  
23 approach, including policy, training, aggregate data about  
24 outcomes and community partnership. We continue to find  
25 substantial compliance, but our determination is not meant to



1 minimize the serious trauma associated with even a single  
2 deadly-force event, but instead it acknowledges that the City  
3 has implemented a crisis intervention approach, as required by  
4 Section 6.

5           Second, the BHU Advisory Committee. There is  
6 lingering committee concern about how the BHU Advisory  
7 Committee has decided to conduct its business. Diverse  
8 representation on the committee is consistent with paragraph  
9 94, however, and it includes community representatives. The  
10 committee has appropriately considered competing interests,  
11 taking public comment, and deliberating on the issue of open  
12 public meetings. It has offered meaningful alternatives,  
13 including meeting with concerned individuals or groups, a new  
14 community engagement plan that was rolled out in 2020, frequent  
15 participation in the PCCEP subcommittee on mental health, and  
16 holding public safety meetings in 2021.

17           The third issue I want to discuss is BOEC's  
18 implementation of crisis triage. Paragraphs 113 to 115  
19 underscore the important role that city bureaus play in  
20 relation to police encounters other than PPB. For Section 6,  
21 911 or BOEC is the crucial gatekeeper for crisis intervention,  
22 and we found substantial compliance in 2020. BOEC, triage's  
23 calls for service that involved a mental health component,  
24 pursuant to approved policies and training to effectively  
25 implement the City's crisis triage approach, they do this by

1 redirecting calls to nonemergency information lines, by  
2 diverting calls to the Multnomah County Crisis Line, which can  
3 dispatch Project Respond, by dispatching ECIT, or Enhanced  
4 Crisis Intervention Training, officers directly to calls that  
5 involve a mental health component, plus one of seven additional  
6 plus factors, and now BOEC can dispatch Portland Street  
7 Response directly. That includes an EMT from the Portland Fire  
8 Bureau, a licensed mental health crisis therapist, and they  
9 have community health workers on staff as well.

10 As I mentioned, the City has expanded crisis triage  
11 appropriately with Portland Street Response, but we expect BOEC  
12 to implement the City's new approach to crisis triage with  
13 fidelity to the settlement agreement. We will continue to  
14 monitor the City's multifaceted crisis triage approach and  
15 report back to the Court.

16 MR. GEISLER: Section 7, Your Honor, concerns the  
17 early intervention system, or the employee information system,  
18 as we refer to it in the settlement. For now, as we reported  
19 in our compliance assessment report, PPB maintains substantial  
20 compliance for the EIS provisions as of February 10th, 2021.

21 For Section 8, Your Honor, if I may address this  
22 last, and paragraph 169, those concern accountability. In our  
23 compliance assessment report, we reached a partial compliance  
24 determination, based mainly on the Independent Police  
25 Review's -- IPR's -- untimely allegation of investigations and

1 the lack of supervisory investigation of force during  
2 crowd-control events, which deprives the accountability system  
3 of data needed for allegations of misconduct if they arise.  
4 IPR has not yet resolved that timeliness concern.

5           Since our report, we also issued a March 23rd letter  
6 to the City critiquing police review board -- PRBs. We  
7 incorporated that letter into our April 2nd notice of  
8 noncompliance. As discussed in the PRB letter, PPB's record of  
9 implementation for the accountability system shows multiple  
10 failures to hold officers accountable, as required by the  
11 settlement.

12           The issues with these: PPB justified the use of a  
13 less-lethal round against an individual half-a-mile away from a  
14 protest based on "furtive conversations" and conjecture that  
15 the person would run to the Justice Center where "others" were  
16 being violent. This incident clearly failed to meet the active  
17 aggression standard, yet the PPB commander in that PRB provided  
18 a fundamentally flawed misrepresentation of the force and  
19 crowd-control policies that swayed the majority of PRB members.

20           Next, PPB misapplied the discipline matrix,  
21 conflating mitigation and the category of discipline.

22           PPB permitted a PPA representative to interfere with  
23 an investigative interview.

24           Counter to policy and law, PPB refused to hold an  
25 officer accountable under PPBs force policy for striking

1 unintended targets.

2           PPB failed to charge a member with a violation of the  
3 Bureau's "satisfactory performance" directive, which requires  
4 sound tactics and decision-making during the confrontation.  
5 This was contrary to the settlement's requirement to  
6 effectively enforce all policies, but this was also a repeated  
7 failure from a prior PRB that we discussed with PPB. In our  
8 compliance assessment report, we discussed it at page 51. I'll  
9 note that at page 51 we reference Directive 315, which should  
10 have been a reference to paragraph 2 rather than paragraph 3.

11           Next, PPB's administrative investigations suffered  
12 from a lack of any supervisory force investigation of an errant  
13 shot. That brought to fruition our expressed concern that the  
14 lack of supervisory investigations during use of force during  
15 crowd control events would deprive the accountability system of  
16 needed data.

17           PPB failed to correct a fundamentally flawed  
18 application of a constitutional and policy standard use of  
19 force.

20           PPB failed to identify collateral misconduct shown on  
21 video.

22           PPB misapplied the findings required by policy,  
23 conflating the exonerated finding with the not sustained  
24 finding.

25           The accountability system is currently in flux,

1 Your Honor. The City's upcoming change to a police oversight  
2 board approved by voters will necessarily affect the City's  
3 compliance with Section 8 and paragraph 169.

4 As we move forward from this point, it will be  
5 crucial, both that PPB remedy the deficiencies and holding  
6 officers accountable, as we have identified in the PRB letter  
7 and the City's planned transition to the board.

8 IPR, the Citizen Review Committee, and PRB are each  
9 written into the settlement. The City cannot let  
10 accountability drop through the cracks during the transitions  
11 report. And as we set forth in our proposed remedies, the City  
12 needs to propose amendments to the settlement agreement to  
13 ensure that the board meets the requirements of settlement,  
14 paragraph 4; that is, that the board is consistent with and  
15 incorporates the terms of the settlement agreement.

16 Thank you, Your Honor.

17 THE COURT: Thank you, Mr. Geissler.

18 Thank you, Mr. Hager.

19 MR. GEISSLER: Excuse me. Mr. Hager has more.

20 THE COURT: I'm sorry.

21 MR. HAGER: One more section, Your Honor.

22 Section 9 concerns community engagement, paragraphs  
23 141 to 152. We found the City substantially complied with  
24 these 12 paragraphs in 2019, but as spelled out in the report,  
25 the City was unable to sustain substantial compliance with

1 Section 9 in 2020.

2           We found that the City failed to meet various aspects  
3 of paragraph 150, which requires the Police Bureau to issue an  
4 annual report, present it to City Council, and hold at least  
5 one community meeting in each of PPBs three precincts to  
6 educate the public about its community policing efforts, its  
7 use of force, bias-free policing policies, and the rights and  
8 responsibilities of citizens in a police encounter. This  
9 happened in 2018. In 2020, PPB didn't release its annual  
10 report until late in the year, which resulted in some or all of  
11 the precinct meetings and required content being missed. These  
12 are meaningful lost opportunities to engage with the community  
13 in difficult but important conversations.

14           There are just two other items I would like to  
15 discuss relating to the Portland Committee on Community-Engaged  
16 Policing, or PCCEP.

17           First, we do renew our joint motion to amend the  
18 settlement agreement by substituting the PCCEP for the  
19 Community Oversight Advisory Board, COAB. The Court  
20 conditionally approved the PCCEP amendment, pending further  
21 assessment of the adequacy. We believe that final approval for  
22 the amendment is justified for two reasons: The amendment is  
23 fair, adequate, and reasonable on its face, and also the PCCEP  
24 has demonstrated its adequacy in practice.

25           As we previously stressed, the PCCEP amendment is a

1 facially adequate substitute for the original COAB requirement.  
2 The terms regarding PCCEP retain the defining characteristics  
3 of the COAB, including its authority, independence, and city  
4 support. The amendments improve on the COAB by separating the  
5 entity's existence from the settlement agreement's limited  
6 lifespan and the compliance officer's extenuated control.

7           The PCCEP does create the greater chance of a lasting  
8 framework of community-involved policing. The Court's  
9 conditional approval, and its direction to implement the PCCEP  
10 as if it had final approval, demonstrates to us the facial  
11 adequacy of the stipulated amendment.

12           At this stage, with the City fully invested in the  
13 PCCEP's success and with volunteers having devoted substantial  
14 time and energy to fulfill the PCCEP's the mission, granting  
15 final approval of the amendment is warranted.

16           In addition, the PCCEP has demonstrated its adequacy  
17 in practice. As detailed in our report, the City gives the  
18 PCCEP the authority, independence, and material support to  
19 engage relevant groups, including the amici and intervenors, to  
20 be a conduit for community concerns as it relates to compliance  
21 with the settlement, policing more generally, and to develop  
22 recommendations for policing more generally.

23           The PCCEP's annual report lays out its many successes  
24 in 2020. They rose to the challenge of racial justice protests  
25 and the pandemic to hold regular listening sessions that drew

1 hundreds of people, including a particularly powerful session  
2 called "Say Her Name," co-hosted by Ms. Harris of the AMAC.

3           The PCCEP made timely recommendations, including in  
4 relation to the mayor's request for assistance in reimagining  
5 core patrol services and exploring a truth and reconciliation  
6 model for Portland.

7           We acknowledge concerns raised by community members.  
8 We view those concerns as affecting the City's compliance with  
9 Section 9, not the adequacy of the conditionally approved terms  
10 and conditions.

11           The PCCEP is not perfect, and there is certainly room  
12 for improvement. In particular, the process for recruiting and  
13 selecting applicants to replace members is potential cause for  
14 concerns. That's paragraphs 142 and 143.

15           In 2021, there have been several vacancies that have  
16 stayed open longer than appropriate. The City's obligation to  
17 appoint PCCEP members is crucial, and we will continue to  
18 monitor their efforts. We also acknowledge concerns raised by  
19 the compliance officer in relation to the City's support in  
20 ensuring that basic routine tasks get done, like posting video  
21 links, required by paragraph 144.

22           Adequate supervision of PCCEP staff is essential for  
23 providing effective administrative support. That supervision  
24 comes from both the Office of Equity and Human Rights and the  
25 Mayor's Office. We are monitoring both of these issues closely



1 and will report back to the Court as appropriate.

2 That concludes our presentation, Your Honor, and we  
3 welcome any questions from the Court.

4 THE COURT: Thank you, Mr. Hager.

5 Thank you, Mr. Geissler.

6 I do have some follow-up questions. First, let me  
7 make one more preliminary comment that I neglected to make  
8 earlier. Then I want to give some notice to the other parties,  
9 and then I'll have follow-up questions for you in a moment.

10 As you all hopefully know, by court order from last  
11 week, I did order that the only people who may be present in  
12 this courtroom or in our overflow courtroom, 12A, are people  
13 who have been fully vaccinated for COVID-19. That is not only  
14 to protect all of your safety, but it is also a formal court  
15 order.

16 So if anyone was unaware of that and not in  
17 compliance, I invite you to leave the courtroom or the overflow  
18 courtroom at this time. If you remain, I'll take that as your  
19 representation to the Court that you are fully vaccinated  
20 against COVID-19.

21 I'll remind anyone who may have come in late that we  
22 do have an overflow courtroom available in 12A so that anyone  
23 who wants to be further socially distanced or physically  
24 distanced from one another may do so there.

25 Let me also say, in response to the last point made

1 by Mr. Hager, we have the Government's motion to amend the  
2 settlement agreement by substituting the PCCEP for the COAB,  
3 although I think I know the City's position, I would appreciate  
4 the City's oral comments today letting me know whether the City  
5 concurs or opposes that motion.

6 I'm also very interested in hearing from the  
7 intervenor, the Portland Police Association; the Enhanced  
8 Amicus Albina Ministerial Alliance Coalition for Justice and  
9 Police Reform and Amicus Mental Health Alliance on whether you  
10 and your organizations support or oppose that amendment.

11 I'll just say preliminarily, it seems to make sense  
12 to me at this time to approve that amendment, especially in  
13 light of the fact that there appears to be fairly serious  
14 evidence that there is not full compliance by the City.  
15 Substituting the PCCEP for the COAB will not necessarily put us  
16 on an immediate path for final approval of the termination of  
17 this litigation. There are many other things that need to be  
18 done. But it does seem that it's probably appropriate at this  
19 time to substitute the PCCEP for the COAB, but I look forward  
20 to the comments from the City, from the Police Association,  
21 from the Albina Ministerial Alliance Coalition, and from the  
22 Mental Health Alliance.

23 Then let me go back and ask some follow-up questions  
24 to Mr. Hager and Mr. Geissler based upon what you just said.  
25 I'll begin by complimenting you by telling you that that was a

1 very thorough and helpful presentation. I appreciate the  
2 precision, the detail, and, frankly, the depth of analysis  
3 provided by the United States on these issues. So thank you  
4 very much.

5 Let me go back and just make sure we are on the same  
6 page with the following questions: As I understand it, on  
7 April 2nd, there was the notice of noncompliance given to the  
8 City. The City responded. There were the discussions between  
9 the parties that included the intervenor and the amici, all as  
10 set forth in the settlement agreement. That still has not  
11 resolved the dispute, as I understand it, or the issue of  
12 noncompliance, and so the parties have scheduled a mediation  
13 session next month, in September, with United States Magistrate  
14 Judge Stacie Beckerman, with everyone's agreement.

15 So I would like to give you a little bit more detail,  
16 maybe at a high level, maybe at the 10,000-foot level, of a  
17 decision tree that happens, or really what might happen.  
18 Assuming that the mediation session or sessions do result in  
19 agreements between all of the parties, what happens next? It's  
20 my understanding, but feel free to correct me and give me any  
21 further detail, that that probably would result in a proposal  
22 to further amend the settlement agreement. That would then  
23 probably require a public hearing on whether or not the  
24 proposed amendments, even if agreed to by the parties, are  
25 fair, reasonable, and adequate under the law, and then I'll

1 make a decision on those amendments.

2           If I'm right on that, I think all I need is just a  
3 confirmation. If I'm wrong, spell out the details.

4           MR. HAGER: You are correct, Your Honor.

5           THE COURT: What happens if there is no agreement?  
6 Maybe there is an agreement on some things but not on  
7 everything that the plaintiff, the United States, believes  
8 lacks compliance. What happens next under our settlement  
9 agreement? And to what extent does it matter whether or not  
10 there is agreement by the City that there is noncompliance but  
11 disagreement over what the right remedy should be? Or what do  
12 we do if the City doesn't even agree that certain issues are  
13 not in compliance? What happens then under the settlement  
14 agreement? Can you help me with that at this time?

15           MR. HAGER: I'll try, Your Honor. I will address the  
16 first questions. If there is partial agreement and partial  
17 disagreement on the remedies, we expect that we would come to  
18 the Court with an order to amend the settlement agreement on  
19 what is agreed, and we would consider our options under  
20 paragraph 182 and 183 to obtain additional remedies that were  
21 not agreed through the enforcement process.

22           I think that also speaks to your second question. If  
23 there is no agreement or if the City disputes the remedy, I  
24 think they have reserved their right to dispute noncompliance.  
25 I don't want to speak for the City. But if that's the case, I

1 understand, under the settlement agreement, that there would be  
2 a hearing on whether or not there is a breach or noncompliance  
3 under paragraph 183 of the agreement, and Your Honor would  
4 resolve that dispute.

5 THE COURT: So if I'm hearing correctly what you're  
6 saying, after the mediation, we all look at or you all look at  
7 and present to me the conclusions, No. 1, is there complete  
8 agreement between the plaintiff, the United States, and the  
9 defendant, the City of Portland, considering the opinions of  
10 the intervenor, the police association, and our two amici, is  
11 there agreement that the settlement agreement should be  
12 amended? If so, it is presented to me. I'll hold a hearing,  
13 and I'll make an appropriate decision.

14 If there is not complete agreement on that question,  
15 then the next question is: Does the City agree that there is  
16 noncompliance? Because noncompliance is a prerequisite for any  
17 enforcement action by the Court.

18 If the City does not agree that there is  
19 noncompliance, then we talk about holding a hearing -- whether  
20 evidence is required, whether there will be an evidentiary  
21 hearing or some other question on legal interpretation, but we  
22 figure out a process to resolve the dispute on whether or not  
23 there is noncompliance.

24 If the City agrees that there is noncompliance, or if  
25 the Court finds that there is noncompliance, then the third

1 step is what is an appropriate remedy, consistent with the  
2 objectives of the settlement agreement. And there, if the  
3 parties disagree, then we hold another hearing. It may or may  
4 not require evidence as opposed to just simply legal argument.  
5 And there, the Court has a fairly wide panoply of equitable  
6 enforcement authority to remedy the violation of the agreement  
7 consistent with the principles before the agreement.

8 Have I articulated that correctly from the  
9 perspective of the United States?

10 MR. HAGER: You have, Your Honor.

11 THE COURT: All right.

12 Again, I appreciate the comments and participation,  
13 and, frankly, the important and diligent work performed by the  
14 United States Department of Justice in this case.

15 So thank you very much, Mr. Hager.

16 Thank you, Mr. Geissler.

17 At this time I will invite presentation from the  
18 compliance officer.

19 Mr. Rosenbaum, welcome.

20 MR. ROSENBAUM: Thank you, Your Honor.

21 I assume this microphone is working? Great.

22 May it please the Court. As the compliance officer,  
23 I would like to briefly summarize our main findings since we  
24 last presented to the Court, with particular attention to 2021.

25 My colleague Tom Christoff is available virtually, if

1 there are any questions for him, as well as I have  
2 Captain Ashley Heiberger here.

3 By the end of 2020, the City had fallen out of  
4 compliance with use of force, officer accountability, and  
5 community engagement. Unfortunately, many of these issues have  
6 yet to be resolved, as pointed out by DOJ.

7 The City fell out of substantial compliance for the  
8 employee information system, as the data needed to identify  
9 officers at risk was compromised by poor documentation and  
10 review of force incidents during the 2020 protests.

11 The City has remained in substantial compliance for  
12 community-based mental health services, although we acknowledge  
13 and continue the continued public concern about the adequacy of  
14 the Unity Center and walk-ins for persons needing help,  
15 although it does provide walk-ins for emergencies.

16 The City has also remained in substantial compliance  
17 for crisis intervention, although we have some concerns that we  
18 will monitor in the future. For instance, the Behavioral  
19 Health Unit Advisory Committee has not reviewed the BOEC record  
20 or the 911 center's policy training since 2018.

21 Certainly there are also questions about Portland  
22 Street Response, as we move forward, including the types of  
23 calls that it will be allowed to handle, but it is an important  
24 time for transformative thinking about public safety here in  
25 Portland, and we're pleased to see that Portland is seeking to

1 rethink responses to mental health and nonemergency calls.

2           The City remains in substantial compliance with  
3 training, Section 4, during our first quarter, but the rating  
4 will be lowered in our next report because specific remedial  
5 actions were not taken during the first six months of 2021, as  
6 I'll mention in a moment.

7           Today I want to give most of my attention to the  
8 areas where substantial compliance has been lost and then  
9 discuss some of the remedies proposed by COCL and DOJ. I will  
10 refer to the Portland Police Bureau as "the Bureau."

11           Use of force, Section 3. In reviewing a sample of  
12 use of force cases by the Bureau during the 2020 protests, we  
13 found a consistent trend in reports that did not correspond  
14 with the Bureau's standards, as reflected in policy or the  
15 settlement agreement.

16           The management, the reporting, and investigation of  
17 force incidents by the Bureau was problematic, and these issues  
18 were not carefully documented in a comprehensive master  
19 after-action report that could be used to identify and correct  
20 deficiencies.

21           We found that the Bureau failed to conduct an open,  
22 self-critical, and detailed analysis of the 6,000-plus force  
23 applications during the 2020 protests, despite many requests by  
24 COCL and DOJ to do so.

25           As a result, COCL prepared a critical report of this



1 failure on March 14th, 2021, which we attached to our first  
2 quarterly report. In our critique, we identified several areas  
3 where the Bureau's after-action review fell short and provided  
4 a concept map for conducting an improved assessment. I quote  
5 from the report: "We recommend that the Bureau take our  
6 comments and revise these assessments to create a single  
7 assessment, which covers all issues relevant to the settlement  
8 agreement, including uses of force and accountability, in order  
9 to identify articulable and plausible solutions, propose a  
10 timetable to implement these solutions with fidelity, and offer  
11 a plan to measure their effectiveness."

12 We then followed up our critique with a technical  
13 assistance report to the City where we identified 19 other  
14 cities that have conducted protest assessments, and we provided  
15 them with links to 25 after-action reports produced in these  
16 cities.

17 Our critique of the Bureau's self-assessment was also  
18 echoed in DOJ's recent remedy letter, where they suggested the  
19 City hire an outside entity to conduct a review, a remedy with  
20 which we agree.

21 As you know, Your Honor, for years the COCL has been  
22 suggesting that the Bureau adopt body-worn cameras as a way to  
23 effectively investigate and manage use of force, increase  
24 respectful dialogue with the public, increase transparency, and  
25 increase officer accountability.

1           THE COURT: I have a vague recollection of that  
2 issue, yeah.

3           MR. ROSENBAUM: Yes. Thank you. Yeah, we brought  
4 this up, and I know you have as well.

5           We have provided the City and the Bureau with  
6 technical assistance on this matter. We've included in our  
7 latest report several links to evaluations that document the  
8 benefits of wearing body-worn cameras. For instance, most  
9 scientifically valid studies -- as a researcher, I underlined  
10 that -- that have shown that the introduction of body-worn  
11 cameras has resulted in significant decline in the number of  
12 complaints against the police, and many studies have shown  
13 reductions in use of force.

14           We have also provided the City with websites that  
15 provide technical assistance regarding body-worn camera  
16 technology, legal analysis, legal issues, policy development,  
17 training, funding, and other information. The call for the  
18 Bureau to adopt body-worn cameras has also been memorialized in  
19 DOJ's recent remedy letter, as noted.

20           Given that Portland is the only city among the  
21 largest 70 without a body-worn camera program, we agree with  
22 the DOJ letter, although we note some issues that should be  
23 taken into consideration: For instance, if adopted, the Bureau  
24 will need a good policy that specifies when the cameras must be  
25 activated and deactivated; when the footage can be reviewed by

1 the officer, the role of supervisors in monitoring these  
2 recordings, and other guidelines.

3           Community input is also critical in the development  
4 of this policy. Beyond the increased civility on all sides  
5 that is created by the presence of body-worn cameras, I want to  
6 stress that these cameras provide the hard evidence needed to  
7 distinguish fact from fiction, when responding to complaints,  
8 supervising and coaching officers, enhancing officer training,  
9 and holding officers accountable for their actions.

10           One of the biggest problems in Portland is the lack  
11 of reliable evidence about what actually transpires during  
12 police encounters with the public. Relying entirely on human  
13 memory, which can be easily distorted, especially if delay in  
14 reporting, as many studies have shown is problematic when  
15 seeking the truth.

16           In terms of training, Your Honor, Section 4, we  
17 continue to evaluate training using consistent standards,  
18 specifically whether the Bureau has training systems in place  
19 that identify areas where officers require training and a needs  
20 assessment; that develop and deliver appropriate high-quality  
21 training; that develop and implement a system of training and  
22 evaluation; that document and report training delivered and  
23 received and audit the overall system.

24           Now, many of these training systems are functioning  
25 effectively in Portland, such as documenting and evaluating

1 training, but the biggest problems are linked to the needs  
2 assessment and delivery of training. As I noted earlier, the  
3 Bureau has failed to complete a thorough assessment of their  
4 protest response to identify areas where additional training  
5 would be needed. Since no additional needs assessment was  
6 performed during the first half of 2021, we anticipate that our  
7 second quarter report will show a reduced compliance rating.

8 In terms of training actually delivered, starting in  
9 January of this year, the Bureau used a mixture of online and  
10 in-person classes to restore the in-service training that was  
11 missed in 2020 by more than half of the police force due to the  
12 protests, pandemic, and budget cuts.

13 The Bureau was able to complete much of that original  
14 training, although we have some concerns about the ability to  
15 transition to online virtual training without losing the  
16 ability to teach specific skills and fully engage officers in  
17 that training. It's a major effort to do this transition.

18 In terms of the in-person training, we also have some  
19 concerns about their ability to integrate procedural justice  
20 and deescalation into their training scenario. They have had  
21 good success in the past, but this is a constant challenge, and  
22 we will keep an eye on these issues in the future.

23 Given the local and national attention to police  
24 racial equity, we are pleased that the Bureau's Equity and  
25 Inclusion Office, with input from their Equity Advisory Council

1 and their Training Advisory Council, has been working on a  
2 series of equity trainings. We will continue to monitor these  
3 and make sure they are being properly implemented and  
4 evaluated.

5           The biggest issue in the Bureau's training, given the  
6 response to the protests of 2020, is the absence of good  
7 crowd-control training, something stressed repeatedly by COCL  
8 and DOJ. In a nutshell, the Bureau was unable to implement  
9 remedial crowd training for officers during the first six  
10 months of 2021; and therefore, will be found out of substantial  
11 compliance in our second quarterly report.

12           The Bureau is moving forward with some preliminary  
13 crowd-control training that is scheduled to begin in September,  
14 although some refinements will be needed. Also, the Bureau has  
15 made a commitment to start peer intervention training this fall  
16 called ABLE that we have recommended in the past, which seeks a  
17 police culture where officers speak up and intervene when their  
18 peers are engaged in or about to engage in harmful actions. We  
19 think this is a very good idea.

20           As one remedy to the current training problem, DOJ  
21 has recommended that the City hire a qualified civilian to run  
22 the training division. We agree with this recommendation in  
23 principle and have observed some success in other cities where  
24 joint leadership by civilian and sworn personnel is in place.

25           More broadly, we are looking at the process and

1 procedures used by the Bureau's staff of the training division  
2 and provide instructor development. Instructors are not  
3 qualified to teach simply because they are sworn officers with  
4 police experience. Good teachers also have specific instructor  
5 training, knowledge about evidence-based police practices  
6 nationwide, and pedagogical skills relevant to adult education.

7           We were pleased yesterday to meet with the Bureau and  
8 find that some of these practices are in place, so we look  
9 forward to learning more about that process and ensuring that  
10 all of the instructors are qualified to be at the training  
11 division.

12           Officer accountability, Section 8. We continue to  
13 measure officer accountability using five criteria that define  
14 functional accountability systems: Access, timeliness,  
15 consistency, transparency, and a system of checks and balances.

16           Today, I want to underscore our concern about the  
17 City's ability to make a smooth and successful transition from  
18 the current Independent Police Review to the voter-approved  
19 community police oversight board.

20           During the past nine months, frankly, we have not  
21 observed any significant progress in the conceptualization or  
22 operationalization of this new board. At the same time, as the  
23 Independent Police Review's current staff begins to seek out  
24 other employment opportunities, we are very concerned about a  
25 gap in services, where investigative backlogs already exist.

1 For the City to return to substantial compliance with officer  
2 accountability, we will need to verify that the new community  
3 oversight board is fully functioning and incorporates the  
4 requirements of the settlement agreement for timely and  
5 high-quality investigations that result in appropriate  
6 outcomes.

7 Our most recent report also discusses a number of  
8 concerns that we have with the City's current accountability  
9 system. For instance, many investigations continue to exceed  
10 the 180-day timeline as well as individual stages exceeding  
11 their respective timelines, although improvements are beginning  
12 to appear more recently since that report covered the first  
13 period.

14 Also, issues pertaining to the operation of the  
15 police review board have been discussed in our prior reports  
16 and more recently are detailed in a letter from the DOJ to the  
17 City in which we broadly concur, and, of course, DOJ has  
18 spelled out some detail already on those issues, so I won't  
19 repeat them.

20 Community engagement, Section 9. Portland's  
21 Committee on Community-Engaged Policing, or PCCEP, continues to  
22 function, we feel strongly, as an independent, legitimate body  
23 for community engagement in policing and has shown it is a very  
24 good substitute for the COAB, and we certainly support the  
25 amendment, Your Honor.

1           It continues to provide important multiple  
2 subcommittees and solicit input from a wide range of  
3 stakeholders using a virtual platform. The PCCEP continues to  
4 hold and host presentations, including our quarterly town hall  
5 with the COCL. They write reports and make recommendations to  
6 the City to improve public safety.

7           The PCCEP has taken on several special projects, as  
8 the DOJ has mentioned, from core patrol services to a truth and  
9 reconciliation commission. I will leave it to them to describe  
10 this in more detail, and they are working on various new  
11 strategies for community engagement

12           PCCEP's analyses and reports have sought to help the  
13 City reimagine public safety and expand nonpolice first  
14 responders to those who are houseless, those with mental health  
15 issues, and people with alcohol and drug addiction.

16           The City continues to support the PCCEP by ensuring  
17 adequate membership, providing training to members, and  
18 providing technical assistance. However, during the first  
19 quarter, the City's staff was unable to upload documents, such  
20 as minutes or videos of PCCEP meetings, in a timely manner,  
21 which affects the public's ability, of course, to keep up on  
22 what's going on.

23           Also, the City was slow in responding to certain  
24 PCCEP recommendations, although some improvement was noted  
25 here. We expect the City will remedy these issues. In



1 Section 10, the community engagement goes much beyond PCCEP and  
2 creates clear expectations that the Portland Police Bureau will  
3 introduce and expand the system of community engagement as well  
4 as data collection efforts. There is no question that the  
5 Bureau has dramatically expanded the number of community  
6 advisory councils and has even created a coalition of advisory  
7 groups called CAG.

8           However, they have experienced some conflict among  
9 different advisory groups and members, both inside and outside  
10 the CAG, as you might expect, when there are that many  
11 different perspectives on policing coming together in different  
12 communities. We hope that the leadership within the Bureau and  
13 the Mayor's Office can help to resolve some of these conflicts  
14 and create an infrastructure for community engagement that  
15 establishes some guidelines for the operation of all advisory  
16 groups. Some are more organized with bylaws and missions than  
17 others.

18           We also encourage the Bureau leadership to reach out  
19 to advocates and activists in the black African-American  
20 community who have grave concerns about policing in Portland.  
21 And I know that they are here today and represented, but the  
22 ongoing relationship through advisory work, I think, is  
23 critical.

24           The Bureau continues to meet the requirements to  
25 collect, analyze, and post information about its performance on

1 a variety of dimensions. I've compared this with other  
2 departments, and I think that it is good. However, the first  
3 quarter, they did not meet the requirement to share and  
4 properly discuss their annual report with community members in  
5 each precinct, thus remaining in partial compliance, and the  
6 DOJ has alluded to that.

7           Recently the Bureau moved in the right direction.  
8 The 2020-21 annual report was produced in a much timelier  
9 manner. The three precinct meetings associated with this  
10 report were held last week and included the requirements of the  
11 settlement agreement; specifically a discussion about the  
12 Bureau's data on disparities and consensual searches,  
13 et cetera.

14           However, in the future we would encourage the City  
15 Council to accept comments from the community on the Bureau's  
16 annual report and for the Bureau to wait until after the  
17 precinct meetings to present their annual report to the City  
18 Council so they have community input.

19           The Bureau has met the requirements for data  
20 collection on police community contacts, but as a result we  
21 continue to see large racial disparities in stops and searches  
22 throughout the City. We presented some of that data in our  
23 report. Specifically black African-American drivers are  
24 stopped at rates much higher than the representation in the  
25 population, and consent searches are higher for black

1 African-American drivers. This is not a compliance issue, as  
2 given in the terms of the settlement agreement, but previously  
3 we expressed our hope that the Bureau new stops data collection  
4 app. and its related protocol, such as passing out cards that  
5 tells subjects their rights, would help address the racial  
6 disparity problem in 2021. But unfortunately, that work has  
7 been stalled. I'll leave that to the City to discuss that.

8           In closing, Your Honor, the settlement agreement  
9 requires that the Portland Police Bureau strengthen its  
10 capacity as a learning organization and establish durable  
11 remedies to emergent problems. The City and the Bureau are  
12 required to create sustainable systems that can be used to  
13 identify problems or trends and intervene to correct and  
14 sometimes prevent them. Most of these systems are in place,  
15 although some broke down during the protests and have yet to be  
16 fully restored. We remain very concerned about the  
17 accountability systems, as I mentioned. But we are pleased to  
18 see that the City and DOJ are making real progress toward an  
19 agreement on durable remedies.

20           Thank you, Your Honor.

21           THE COURT: Thank you, Dr. Rosenbaum. I appreciate  
22 the work of you and your team and the information that you  
23 provided in writing and just now, sir.

24           At this time I will invite the presentation by the  
25 City of Portland.

1 MS. BROWN: Thank you, Your Honor. Good morning,  
2 your Honor, Counsel, and all here participating today. My name  
3 is Heidi Brown. I am a chief deputy city attorney with the  
4 City of Portland.

5 Your Honor, before I start, I first want to take a  
6 moment to honor Dr. Bethel and his contributions to the  
7 community. The City will miss him and his commitment to making  
8 Portland a better place for us all.

9 Your Honor, the City agrees with the Government  
10 motion to amend the settlement agreement and adopt those  
11 amendments fully. I also wanted to say that we also agree with  
12 Your Honor's recitation of the procedural posture regarding  
13 noncompliance and the remedies. I wanted to address that.

14 THE COURT: Thank you.

15 MS. BROWN: Your Honor, as you know, seven years ago,  
16 the City and the United States entered into this settlement  
17 agreement to address the policing of people in or perceived  
18 being in a mental health crisis. We are here today to report  
19 on the City's progress.

20 The City and the Department of Justice do have a  
21 professional and legal disagreement on some of the issues  
22 relating to substantial compliance, but we are highly committed  
23 to our dispute resolution process and highly committed to  
24 getting back into substantial compliance, and I do want to  
25 focus on that today.

1           However, before I present this information, I would  
2 ask the Court to hear from the president of our Council,  
3 Commissioner Dan Ryan. He is here to provide a few brief  
4 words.

5           THE COURT: Wonderful. Commissioner Ryan, welcome.

6           COMMISSIONER RYAN: Good morning. My name is  
7 Dan Ryan, and I am the current president of the Portland City  
8 Council. The mayor asked me to share his apologies for his  
9 absence today. As such, I'm here representing the entire City  
10 Council.

11           I first want to express the City of Portland's  
12 commitment to police reform. We are dedicated to find new,  
13 positive ways for police to engage in the community. And here  
14 is the big understatement: Last year was challenging in many  
15 ways. Our legal counsel will address this. I want to assure  
16 you that Portland City Council takes very seriously the  
17 settlement agreement between the City and the United States.  
18 We have had several thoughtful discussions about the DOJ's  
19 findings and concerns with last year, and we are actively  
20 engaged in addressing these issues. We are aligned as a  
21 council in concert with the DOJ and our stakeholders.

22           Your Honor, if I may add, as someone who was born in  
23 Portland in 1962 and have observed my hometown ride the  
24 inevitable ups and downs, that what we currently are  
25 experiencing is more complex and challenging. In turn, we all

1 witnessed January 6th, 2021, at our nation's Capitol, and many  
2 of us are still numb, angry, and nervous. Our point is we must  
3 turn a corner and work together to dismantle domestic terrorism  
4 and stop the rise in gun violence. We must have a police  
5 bureau that has the trust and confidence of the public to meet  
6 these challenges. I see today as a turning point so we can  
7 move forward together towards justice and policing.

8           In closing, let me repeat: You have the full  
9 commitment of the entire City Council.

10           Thank you.

11           THE COURT: Thank you, Commissioner Ryan. I  
12 appreciate those comments and the important work of the City  
13 Council and the mayor.

14           Ms. Brown.

15           MS. BROWN: Thank you, Commissioner Ryan.

16           Your Honor, I would like to introduce to you Portland  
17 Police Chief Chuck Lovell. I don't think you have had an  
18 opportunity to meet with him yet, and he has some brief words.

19           THE COURT: I have not. Welcome.

20           MR. LOVELL: Good morning, Your Honor.

21           My name is Chuck Lovell. I am the chief of police of  
22 the Portland Police Bureau.

23           Thank you for this opportunity to briefly address the  
24 Court. I recently presented at three community meetings on the  
25 Police Bureau's annual report from 2020. I want to give you

1 the highlights from that presentation.

2 In 2020, we had several accomplishments and also  
3 faced many challenges. I'm very proud of the members of PPB  
4 and the way they handled those challenges. I want to support  
5 them and thank them for the amazing work they did last year.

6 Some of the noteworthy positive accomplishments are:  
7 I'm very proud of the work of our equity team. They  
8 implemented monthly equity training for officers and created  
9 the equity specialist position that brings an equity lens to  
10 our training and established the equity advisory council, who  
11 advises us on how to better incorporate equity into our work  
12 and our daily lives.

13 We continue to expand our open data portal. We added  
14 more data and information to it, including an overtime  
15 dashboard and shootings dashboard. We initiated our  
16 participation in ABLE, the Active Bystandership for Law  
17 Enforcement intervention training. We are providing this  
18 training for members this fall.

19 We focused on the wellness of our employees, working  
20 to support their mental, emotional, and physical health.

21 We created new advisory councils last year, which  
22 allowed us to better hear from our community.

23 While we had many accomplishments for which I'm very  
24 proud of the employees of the Bureau, we also face many  
25 challenges. Some of them we've handled well; others we did

1 not. We need to change those that we didn't handle well. As  
2 you know, crowd-control events played a major role in what we  
3 responded to last year. Portland was on the national stage for  
4 many reasons.

5           There were mistakes made during our response to crowd  
6 events. Our actions in some of the crowd events undermined the  
7 trust the community had in our organization. We needed to  
8 frequently adjust our decision-making around deployment of  
9 personnel, crowd-control munitions, and other force in crowd  
10 environments. Sometimes there was confusion, miscommunication,  
11 or not enough communication.

12           At times, force was used in responding to crowd  
13 control events in 2020, when it was not appropriate under our  
14 policies, and the after-action review process did not always  
15 identify and correct the issues.

16           Last year's events also impacted our officers. Many  
17 were injured, threatened, and doxed. The nightly crowd  
18 management events faced unforeseen and unexpected challenges on  
19 many systems in PPB, to include the documentation, review, and  
20 analysis of force events. Our overloaded system did not rise  
21 to this challenge.

22           My hope is, in sharing this with the Portland  
23 community, the things that we did well, it will help us build  
24 community trust; and sharing with the community the things that  
25 we did not do well will also build community trust.



1 Thank you again for allowing me to present.

2 THE COURT: Thank you, Chief Lovell. Thank you for  
3 being here, for your comments, and I appreciate the work you  
4 do, and all work that is done by the officers and their  
5 dedication and the Portland Police Bureau.

6 Thank you, sir.

7 Ms. Brown.

8 MS. BROWN: Thank you, Chief.

9 Your Honor, in January of 2020, for the first time  
10 ever, the United States found the City in substantial  
11 compliance with all areas of the settlement agreement. Then  
12 COVID exploded around the world. The city and the state of  
13 Oregon closed down. Many people lost their employment, and we  
14 had a severe recession impact both this country and our  
15 community.

16 In May, after the murder of George Floyd, as you  
17 know, demonstrations erupted. In Portland, these demonstrated  
18 started with numbers in the thousands. The numbers decreased  
19 to the hundreds, and in July they spiked back up in response to  
20 the federal deployment of agents. Eventually the numbers  
21 decreased back down again, but these crowd events continued for  
22 170 nights and resulted in numerous use of forces. The City's  
23 systems were, frankly, overwhelmed. The use of force for those  
24 crowd events resulted in the City coming out of substantial  
25 compliance, as you have heard here today.

1           Your Honor, I do want to start briefly with my own  
2 history, as I have been thinking about it in relationship to  
3 this case. At the start of my practice as a lawyer, it was as  
4 a public defender. As a public defender, I represented a  
5 number of clients, often many of whom had made significant  
6 errors, and we came to the court and talked to the judge and  
7 jury about those errors they had made. Part of what I felt was  
8 important in that representation to the Court and to the jury  
9 was also discussing the human being behind the person standing  
10 there; that the complexities of all of us -- those areas where  
11 we make progress and never achieve perfection.

12           So today I do want to focus not only on the places  
13 where the City did not meet substantial compliance and fell out  
14 but also the areas and accomplishments we were able to achieve  
15 despite all of the overwhelming odds against us last year.

16           On the area of force -- that's one area I do want to  
17 talk about. As noted in the compliance report, the City --  
18 there are a number of after-action reviews and uses of force  
19 that were not properly analyzed and not timely analyzed, and  
20 there was confusion, as the chief just talked about, and  
21 misapplication of the policies. The City and PPB are working  
22 toward a sustainable and workable process for crowd events and  
23 how to move those forward.

24           One of the remedies proposed by the Government that I  
25 know you support and have supported in the past is body-worn

1 cameras. This is something that I know the City Council is  
2 giving very serious consideration. It is something they will  
3 have to vote on ultimately, and the parties intend to discuss  
4 this further in mediation, but we are very optimistic that we  
5 will come to an agreement between all parties on this.

6 We also hope that in working with the Department of  
7 Justice that we will find processes for crowd events that will  
8 help ensure that the First Amendment rights of all persons are  
9 respected and honored, and to ensure that when there are uses  
10 of force, that they are within policy; that they are  
11 constitutional; and that they are reviewed timely so we can  
12 address troubling issues when they arise rather than learning  
13 of them later.

14 So while we are working on remedying those with the  
15 Department of Justice and the other parties in this case, I do  
16 want to note that in 2020 the City remained in substantial  
17 compliance on the use of force events that occurred outside of  
18 the crowd events. I note this, because I think it is important  
19 to remember that the steps forward that the City has made, that  
20 we have been able to achieve and maintain substantial  
21 compliance on those force events.

22 What that tells us is that we are able to learn and  
23 find ways to address force that meets the settlement agreement;  
24 that meets the law; that meets the policies of the City.

25 One success of note that I think the Government

1 referenced, and maybe the COCL, is force instances against  
2 persons in mental health crisis continue to show a downward  
3 trend and a low rate. And we are very happy to see that.  
4 That's critical under the settlement agreement, and that's  
5 something that we continue to make sure that we progress on.

6 THE COURT: How do you attribute that? Is that  
7 because of Portland Street Response? Is it other things? What  
8 do you attribute that positive development to?

9 MS. BROWN: Your Honor, I do think it is the years  
10 under the settlement agreement and the challenges that the  
11 Police Bureau has proactively made themselves. Portland Street  
12 Response just started up in February of this year, and we are  
13 very excited about that. That work, I think, will be integral  
14 in us moving this forward.

15 We also have the public support safety specialist.  
16 We call them PS3s. They have taken on some of the work and  
17 support of the Bureau, and the union has taken on as well. So  
18 I think that Portland Street Response will be something going  
19 forward that will assist the City, and we are excited about  
20 that.

21 I do hope that the Portland Street Response will  
22 remain something that the City Council can move forward in ways  
23 that they best feel is appropriate. I will note that in the  
24 compliance report that the United States had noted that  
25 Portland Street Response actually exceeds the settlement

1 agreement's requirements, and I do hope to maintain that as  
2 something that City Council, who developed it, can find ways to  
3 implement it in the best way. But we are very excited about  
4 it. It is an amazing program.

5 Thank you.

6 Next, on training, as you heard, we were unable to  
7 meet all of the requirements under the settlement agreement  
8 related to this section. We were able to maintain last year  
9 the classroom training. We moved from an in-person to a  
10 virtual format, and that allowed us to maintain the  
11 lecture-based training going forward throughout the year. As  
12 COCL said in their report, we continue to build that virtual  
13 program to include tests and ways to ensure that people are  
14 engaged and learning from that process. So that's important.

15 Unfortunately, there were 400 officers, out of the  
16 900, who were not able to attend the scenario-based training in  
17 2020, because once COVID hit, we went away from the in-person  
18 training. We do recognize that it is a critical part of  
19 training requirements. That's in the area of role playing. So  
20 we have ensured that at the beginning of this year, that was  
21 the first thing we started with right away. We went back to  
22 the in-service training in person and completed that  
23 scenario-based training as of May of this year.

24 The Department of Justice has requested that the City  
25 hire a civilian to direct training, and we are very interested

1 in this proposal. They are calling them "the Dean," so that's  
2 what I might informally refer to this person as. We are very  
3 interested in that proposal and engaging with the Department of  
4 Justice and others to see how best to remedy this.

5           The next area that I want to address where the City  
6 was no longer in substantial compliance is officer  
7 accountability. I'm going to focus on the areas that were  
8 before the Court on the compliance report. I will also  
9 acknowledge that we are continuing in discussions to find ways  
10 to address the continued progress that the Department of  
11 Justice and COCL has raised concerns with.

12           So the first area was the investigative timelines.  
13 While the internal affairs group was able to maintain  
14 substantial compliance in their timelines, unfortunately the  
15 Independent Police Review was simply overwhelmed with the  
16 complaints they received.

17           As you know, many of our community-led complaints go  
18 to the Independent Police Review, the IPR. Not only did they  
19 receive just numerous complaints on a number of issues,  
20 including uses of force, but they were also sent videos where  
21 the person that was subjected to force was not the actual  
22 complainant. So a lot of times it was sent to the IPR, then  
23 trying to track down people -- sometimes successfully;  
24 sometimes not. But all of these things unfortunately caused  
25 the IPR to go beyond the 180-day timeline, with COVID also

1 impacting the ability to maintain that.

2           What I do want to note, Your Honor, is that IPR has  
3 mostly dealt with a backlog of cases and is not only picking up  
4 with the new cases. We so we are hopeful that we will have  
5 addressed the backlog moving forward and support them going  
6 forward.

7           The other area that the United States raised concerns  
8 regarding to IPR was regarding around the voters-approved  
9 community police oversight board. I will say that council, in  
10 our budget for fiscal year 21-22, which started July 1 of this  
11 year, there was a budget note that committed the City council  
12 to funding the positions within the Independent Police Review  
13 at the level they currently exist, as of July 1, and going  
14 forward through the full transition to the oversight board.

15           Additionally, due to concerns raised about, as you  
16 heard today, IPR employees' concerns about job stability going  
17 forward, the council also committed to finding equivalent  
18 positions for those employees within the City once the  
19 oversight board is fully functioning. We are continuing to  
20 engage, as a city, internally on this issue to try to address  
21 the remaining concerns with IPR employees and to support them  
22 in the best way we can, moving forward to ensure that the  
23 accountability system that's in place now remains and remains  
24 viable.

25           The United States also raised concerns regarding

1 officer accountability in a letter to the City that was  
2 discussed today both by the United States and by the compliance  
3 officer. All of those concerns are ones that we are dealing  
4 with in our mediation process, and I feel that we are going to  
5 be able to resolve those, Your Honor.

6 I do want to turn to the last area where we were  
7 found to be no longer in substantial compliance or out of  
8 substantial compliance, and that's community engagement,  
9 Portland's Committee on Community-Engaged Policing.

10 Focusing, first of all, on the PCCEP, I was very  
11 happy to see that PCCEP's work was found to remain in  
12 substantial compliance. They are going to tell you about their  
13 work personally later.

14 I do want to note for the Court that there are five  
15 subcommittees. There is a steering subcommittee, behavioral  
16 health subcommittee, a racial equity subcommittee, settlement  
17 agreement and policy subcommittee. We are, as I noted in the  
18 beginning, we formally recognize the PCCEP, and particularly  
19 its hard work over the last year-and-a-half. They readily  
20 moved over to a virtual format. They had a number of amazing  
21 listening sessions with wonderful attendance, and they  
22 continued to report back to the Bureau and the City on ways  
23 that we can improve the relationships between the community and  
24 police.

25 The area where the United States found the City did



1 not meet substantial compliance was around community  
2 engagement, and that had to do with presentation of the annual  
3 report that the chief discussed earlier. While it did occur at  
4 two of the three precincts, it did occur late in the year, in  
5 December, and also only occurred at two precincts. On the  
6 third precinct, due to COVID and then nightly protests, they  
7 did not have that precinct meeting occur, and that's where we  
8 found we failed -- in that area.

9 I do want to note, though, as was stated, last week  
10 the Bureau gave those presentations at East Precinct, and I was  
11 very happy to see that we received positive feedback not only  
12 from the United States, but more importantly, from the  
13 community. I will have to say that I and the Police Bureau  
14 were very satisfied to see the positive feedback from Debbie  
15 Aiona of the League of Women Voters. She has definitely been  
16 critical when she views the City has not risen to the  
17 challenges we face, and so I was glad to see that we have risen  
18 to her standards and hope that we also met other community  
19 members' standards as well.

20 As you know, as a remedy for the lack of substantial  
21 compliance on that area, the Department of Justice has asked  
22 that we, in going forward, ensure that the presentations occur  
23 annually, by September 20th, the last day of summer, and PPB is  
24 very open to that, as a requested remedy. We are also  
25 considering the other remedies -- the suggested timing of

1 presentations at the precincts occurring before the  
2 presentation of the Council.

3 THE COURT: It is hard to see what the downside of  
4 doing that is.

5 MS. BROWN: Yes. Exactly.

6 So I do want to note, too, the areas where we  
7 maintained substantial compliance.

8 First, on community-based mental health services,  
9 there was some notations that the United States made that I do  
10 want to point out. PPB's ongoing engagement with community  
11 partners to help bridge those gaps in the statewide mental  
12 health services were of note to the United States. PPB's  
13 continued work with the Unity Center, including financial  
14 support. Then also, as you noted, Portland Street Response and  
15 the United States' comment that this exceeded the City's  
16 obligation under the agreement, and we appreciate that.

17 On the employee information system, for 2020, we were  
18 found in substantial compliance. I know the compliance officer  
19 discussed concerns about that last year. The parties are  
20 engaged in discussions, and we are very open as well to the  
21 idea of engaging in an outside entity to perform a critical  
22 assessment and a needs assessment for last year's crowd control  
23 events and to also provide a City response to that and make  
24 those public-facing reports. So we are working actively with  
25 the United States on those as well.

1           On crisis intervention, I thought there were some  
2 sections worthy of noting that I would like to point out.  
3 Regarding the Behavioral Health Unit, the United States said  
4 regarding BHU: "It exemplifies the City's efforts to  
5 coordinate law enforcement activities to monitor behavioral  
6 health systems to aid people in crisis resulting from known or  
7 suspected mental illness and/or addiction." So I wanted to  
8 appreciate the BHU and their hard work that are rendered in  
9 that comment.

10           Also of note is the continued high-quality crisis  
11 intervention training. This is required of all officers. It  
12 is a 40-hour crisis intervention training. There is additional  
13 enhanced crisis training that is another 40 hours, and we  
14 appreciate that notation of this being "high-quality training."  
15 Both the mobile crisis prevention team and the service  
16 coordination team continue to provide valuable services to the  
17 community, and in PSU's annual assessment of the service  
18 coordination team they noted that it reduces police contact  
19 with significant value to the community.

20           In addition, BOEC, our 911 bureau, continues to  
21 comply with paragraph 99 and others. Under 99, they send the  
22 enhanced team members to respond as primary officers to a list  
23 of pre-identified calls involving mental health, such as calls  
24 from persons who are suicidal. That's another area where we  
25 maintained substantial compliance

1           And along the lines of areas where a crisis  
2 intervention will proceed proactively, not through Portland  
3 Street Response, but the fire bureau's community healthcare  
4 assessment team, also following on the steps of this program,  
5 also decreased law enforcement contacts with persons with or  
6 perceived as having a mental illness or suffering from a mental  
7 health crisis.

8           While there were some accomplishments in 2020, as I  
9 noted, there were some places where we fell. I read something  
10 this morning that you try to view your failures not as a  
11 measure of our worth but as a chance for a new start. And  
12 along those lines, the parties are working very collaboratively  
13 to resolving these issues for remediation. While we need final  
14 and formal approval from the City Council, I can say we have  
15 agreement in principle on many of the suggested remedies, and  
16 we are hopeful we can discuss many of the outstanding remedies  
17 and issues in the mediation process.

18           As you heard, our Council is highly committed, as is  
19 the City, to establish the process established by the  
20 settlement agreement to meeting the terms and conditions of  
21 that agreement, and most importantly, to gaining the trust that  
22 may have been lost of the community.

23           So on behalf of the City, Your Honor, I want to thank  
24 everybody here today

25           THE COURT: Thank you, Ms. Brown.

1 I do have some follow-up for you.

2 The United States touched on it briefly.

3 Dr. Rosenbaum was more explicit. It is not necessarily part of  
4 the settlement agreement -- it is certainly not part of the  
5 settlement agreement. It may even be tangential. Can you talk  
6 to me about what is happening with the stop data and the stop  
7 protocols. I heard that there may be some backsliding or some  
8 issues on that. So what's going on? Also, is that going to be  
9 on agenda for the mediation?

10 MS. BROWN: Your Honor, I don't believe that that is  
11 on the agenda for the mediation. However, what I will tell you  
12 is that when Chief Lovell spoke with us during his  
13 presentation, he cut that part out from his presentation today.  
14 But I want to tell you that what we have seen from the stop  
15 data is that there a reflection that there is some disparities  
16 in stops, particularly stops of African-American people.

17 Also, when there is a request for a consent search,  
18 black people are more likely to consent to the search than are  
19 white people. So given that, the mayor's office and the police  
20 chief came up with a new process for consent searches, which is  
21 to advise someone -- similar to your *Miranda* rights -- to  
22 advise someone of their right to not consent to a search.

23 What the City is in the process of doing is creating  
24 little cards that we will give to people. What's taking a  
25 little bit longer is creating those cards in the five most

1 common languages within the City of Portland. That is the  
2 current main holdup of implementing that. But we do have a  
3 draft policy that we have been working on, and we hope to have  
4 that in place very soon. Then what we will do is keep  
5 monitoring the stop data to see: Has that had an impact on the  
6 data that we are seeing?

7           In addition, the police chief also issued a directive  
8 a few months ago to only pull people over for infractions when  
9 there is some other legal issue that is more critical for  
10 pulling somebody over. The hope is, again, in removing most  
11 stops from minor infractions, we will again see those  
12 disparities between particularly the black community and the  
13 white community come closer together.

14           THE COURT: Very good. That's very helpful. I  
15 appreciate the work that you and, frankly, the new leadership  
16 the City Attorney's Office is providing and the continued  
17 expertise of Mr. Vannier, who has been always been very helpful  
18 to the Court in understanding these issues.

19           So thank you all for what you are doing.

20           MS. BROWN: Thank you, Your Honor.

21           THE COURT: Now, Mr. Karia, let me invite you to make  
22 a presentation on behalf of the Portland Police Association.  
23 Then we will take a recess after that.

24           MR. KARIA: Thank you, Your Honor. I'll be brief. I  
25 know everyone is looking forward to that morning break.

1           There are a few items I would like to address.  
2 First, as an intervenor party in the remedial phase of this  
3 case, the PPA will be part of the upcoming mediation regarding  
4 the United States' proposed remedies to bring the City back  
5 into substantial compliance.

6           Some of those remedies, such as body-worn cameras,  
7 will implicate the PPA's state collective bargaining rights and  
8 its labor agreement, and I can tell you, Your Honor, that the  
9 PPA is committed to a positive outcome-driven approach to get  
10 to results through that mediation.

11           This Court aptly warned everybody that no intervenor  
12 party can block the consent decree or block the process before  
13 this Court, and my client is fully committed to ensuring that  
14 this tool comes online. It is so committed, in fact,  
15 Your Honor, my second point is even prior to the police union  
16 learning about body-worn cameras as a priority for the  
17 United States in terms of a new remedy, the PPA had at the  
18 collective bargaining table proposed the body-worn camera  
19 program for the City of Portland.

20           That was not something that came out of left field.  
21 That is an issue that the PPA had been working on independently  
22 and with the City and with the United States. Even going as  
23 far back to 2016, if not before, when our last collective  
24 bargaining agreement was approved, there was a nascent  
25 body-worn camera policy that was part of that so-called grand

1 bargain, as us counsel at the table used to like to call it  
2 that when life was simpler.

3           So we will continue with that outcome-driven  
4 approach. We will be meaningfully participating in mediation.  
5 I grant you that not all aspects of the United States  
6 Department of Justice's menu of proposed remedies will  
7 implicate the PPA's interest, such as ensuring that Chief  
8 Lovell has the ability to meet three times a year and present  
9 the Police Bureau's status report. That may not implicate the  
10 PPA's collective bargaining interest, but, nevertheless, the  
11 PPA will actively participate in discussion about all nine of  
12 those prior listed potential remedies.

13           A third point I wish to make, Your Honor, much  
14 attention has been paid today to those aspects of the  
15 settlement agreement with which the City is in noncompliance.  
16 I get it. We are here for a status conference. Everybody  
17 wants to figure out what's not working.

18           But it is important, Your Honor, that we do not lose  
19 sight of all those aspects of the settlement agreement with  
20 which the City is in compliance. I think if we take a look  
21 back over ten years together, although infrequent, we have  
22 spent a fair amount of time together, the Police Bureau and its  
23 officers have done an amazing job towards moving the needle  
24 toward the outcome and goals set not only by the community but  
25 by the United States and this Court. And if we are going to



1 get back to substantial compliance, as Ms. Brown alluded to,  
2 back in January of '20, we hit a pretty important mark of the  
3 United States granting substantial compliance. If we are going  
4 to get back there, we have to at least acknowledge with some  
5 positive forward-facing approach that it is possible. We were  
6 there once, and we will get there again.

7           Taking a step back to my fourth point, this  
8 settlement agreement does not exist in a vacuum. It does not  
9 exist on a bookshelf. It does not exist in the relative  
10 comfort of my law office, for example. It exists out there on  
11 the streets of Portland. That was its intent. Out there on  
12 the streets of Portland, there are humans. There are humans  
13 who are on the receiving end of policing services. And there  
14 are human beings who are rendering those police services.

15           It is probably trite at this point for me to say that  
16 2020 was an unprecedented year. But from the viewpoint of  
17 these officers, who are out there day after day with very  
18 little rest, very little reprieve, to protect our city, to do  
19 what they were told to do, to do what they were instructed, to  
20 do their best and do so honorably, to implement not only the  
21 terms of the settlement agreement, but their duty, to which  
22 they swore an oath to the City, it was a tough year.

23           Ms. Brown alluded to that human element. I think we  
24 have all to acknowledge that human element, and there is a very  
25 real issue going on that is perhaps outside the purview of this

1 Court, but nevertheless real and important to those human  
2 beings who are police officers, which is prior to these events  
3 of 2020, our Police Bureau's funding and staffing were  
4 strained. They were strained to a very high degree. It takes  
5 people to implement the terms of this settlement agreement --  
6 whether it's additional sergeants to conduct these after-action  
7 reviews or additional analysts to conduct the data analysis,  
8 whether it be with those with mental health or actual or  
9 perceived mental issues or stops data, which Your Honor just  
10 brought up, it takes human beings to conduct investigations.  
11 It takes human beings who want to be professional officers and  
12 put on that uniform and go out there and police the way that  
13 Portland wants its policing services rendered.

14 Our officers did their best under extreme  
15 circumstances in 2020. Chief Lovell alluded to it, and I think  
16 it is important that we acknowledge and appreciate the fact  
17 that if we are going to reach substantial compliance, we have  
18 to set these officers up for success, not failure. To that  
19 end, as part of that mediation process, we will be continuing,  
20 much as the PPA has done, to push for prioritization of things  
21 like officer wellness. Working an officer 16 hours a day ten  
22 days straight is not setting an officer up for success. It is  
23 not setting up any of us for success. It is not setting me up  
24 for success, as a lawyer who gets to work 16 hours a day in  
25 front of the computer, not out there in dynamic events, where

1 they are seeing the fabric of people's personal lives being  
2 torn apart.

3           The other priority PPA will be funding, as I view it,  
4 Your Honor, is the funding and the staffing of the  
5 Police Bureau. The United States gets this. The City of  
6 Portland gets this. I believe the amici get this; the COCL  
7 gets this. We all need to get this. And to be blunt, I think  
8 it is important for us to ensure our City Council hears this,  
9 which is the Police Bureau needs to be funded and staffed  
10 adequately to ensure that we can effectuate the goals of the  
11 settlement agreement -- not my concept. It is in paragraph 7  
12 of the settlement agreement in two very succinctly written  
13 sentences. Those are important sentences, and as we work back  
14 to the world of substantial compliance, we need to get there.

15           To be clear, Your Honor, much has been written about  
16 the police union's position on various rethinking Portland-type  
17 approaches to policing. The police union has been supportive  
18 of ensuring that there are additional options available to the  
19 public, such as Portland Street Response. The police union's  
20 position has been that we should not build additional services  
21 by taking away existing services. That is the point the police  
22 union has been trying to convey to the City, and it will  
23 continue to convey to the City and the United States. Our  
24 community deserves both robust, professional, constitutional  
25 policing, and it deserves alternatives, such as Portland Street

1 Response. The police union has been clear in that regard and  
2 will continue to work on that.

3 Finally, to your question, Your Honor, PPA has no  
4 objection to the entry of the amendment to the settlement  
5 agreement related to PCCEP and its continuation of the work.

6 Thank you.

7 THE COURT: Thank you, Mr. Karia. I appreciate your  
8 insight as contributions here as well.

9 Thank you, sir.

10 All right. In a moment we will take a 15-minute  
11 recess. When we come back, I look forward to hearing from the  
12 Albina Ministerial Alliance Coalition for Justice and Police  
13 Reform, followed by the Mental Health Alliance, followed by the  
14 PCCEP, the Portland Committee on Community-Engaged Policing.

15 After that, we will take a lunch break. I have  
16 already read the names of the people that I have on a public  
17 speaking sign-up sheet after our lunch break. If your name is  
18 not on that list, and you would like to provide comment, please  
19 see my courtroom deputy, Ms. Austad, either during our recess  
20 or at the beginning of the lunch break. We need to give her a  
21 lunch break as well.

22 So we will be back at 15 minutes. We will start up  
23 when that clock says 10 minutes after 11:00.

24 Thank you.

25 (Recess.)

1 (Open court; proceedings resumed:)

2 THE COURT: Welcome back, everyone. I now have an  
3 updated list of those wishing to provide public comments. The  
4 list that I have shows Dan Handelman, Barbara Bochinski,  
5 Ann Brayfield, Rochelle Silver, Mark Schorr, Michael Hopcroft,  
6 Patrick Nolen, Debbie Aiona, and Barb Rainish.

7 If you want to be heard on the public comment  
8 portion, and your name is not on that list, please see my  
9 courtroom deputy, Ms. Austad, at the beginning of our lunch  
10 break or send her an email.

11 Right now, I look forward to hearing from the  
12 Enhanced Amicus Albina Ministerial Alliance Coalition for  
13 Justice and Police Reform.

14 In court, we have Ms. Chambers. On video, we have  
15 Ms. Albies. Who will be speaking first?

16 MS. CHAMBERS: I will, Your Honor. Thank you for  
17 inviting us to engage on this, as you always do. We always  
18 appreciate it.

19 I want to highlight a couple of topics we have been  
20 hearing discussed a lot this morning. Then I'm going to hand  
21 the microphone over to Dr. Haynes and then Dr. Knutson to  
22 provide additional comments. Then Ms. Albies will be wrapping  
23 up with anything we missed and have additional comments as  
24 well.

25 THE COURT: You may proceed, Ms. Chambers.

1 MS. CHAMBERS: The first thing I want to highlight is  
2 despite our statement in our briefing, after hearing what the  
3 Court has had to say this morning as well as DOJ and the City,  
4 the AMAC is not going to oppose the approval of the amendment  
5 to the settlement agreement at this time. We do want to make  
6 clear that many of what we had looked at as qualitative and  
7 quantitative measures of the PCCEP that we were looking at, in  
8 terms of whether or not the amendment should be approved, as  
9 you know, we had a lot of debate last time about what does it  
10 mean to be fair, adequate, and reasonable versus compliance.  
11 So we want to make clear that we still believe it is very  
12 important that the Court stay involved in the monitoring and  
13 the compliance of it, because we still have some serious  
14 concerns about the structure and also about some of the  
15 outcomes that we have or haven't seen.

16 THE COURT: May I interrupt your presentation now --  
17 no time will be taken away from you.

18 Let me ask, is there any opposing view, Mr. Chavez,  
19 from the Mental Health Alliance regarding that question?

20 MR. CHAVEZ: We oppose the motion to adopt the  
21 amendment, Your Honor.

22 THE COURT: Then we will talk a little bit later  
23 after you speak.

24 Back to you, Ms. Chambers.

25 MS. CHAMBERS: Then the second issue I wanted to

1 highlight was with respect to body cameras, the proposed  
2 remedy. We did include some parameters in our briefing on  
3 page 13. These shouldn't be unfamiliar to anybody, as they  
4 have been circulating for a while.

5           So essentially the AMAC supports the use of body  
6 cameras but only if proper protocols and guidelines and  
7 policies are in place, because we are very aware of the ways in  
8 which body cameras can have the opposite effect of the intended  
9 one. In particular, the most important piece is the concern  
10 about officers being able to review footage before making their  
11 report.

12           One of the issues that the AMAC is concerned about is  
13 that if this does not get resolved at mediation, or even if it  
14 does, there is a real concern that the City and the police  
15 association might bargain for some other criteria or  
16 guidelines, whatnot, related to body cameras.

17           So the point here is the AMAC wants to make clear, if  
18 there are proper policies and guidelines in place, and if there  
19 isn't a requirement that the footage not be viewed before the  
20 reports are made, then the AMAC would withdraw its support of  
21 that.

22           THE COURT: Ms. Chambers, I appreciate that issue and  
23 that you want the organization to participate in mediation on  
24 that issue. I don't want to get into too many fine details  
25 now, but maybe if you could share with me relatively briefly

1 the following: I do know and understand that Portland is one  
2 of the only major cities that doesn't have body cameras on  
3 their police officers. So how is that issue of under what  
4 circumstances and when police officers are involved --  
5 especially involved in a shooting -- can review the footage  
6 before completing their report or after, how is that dealt with  
7 in the majority of major jurisdictions around the country?

8 MS. CHAMBERS: That is an excellent question. I know  
9 there has been a lot of information put out there on that. I'm  
10 going to have to defer to my other colleagues here that might  
11 have more information -- maybe Ms. Alibies or Mr. Chavez --  
12 because I don't have the answer to that off the top of my head,  
13 but I'm also happy to supplement with the Court some more  
14 information about that.

15 THE COURT: I don't think I need it right now. If  
16 the parties can reach an agreement in all of these important  
17 issues --

18 Yes. Dr. Haynes.

19 DR. HAYNES: Yes. We have found, as we have studied  
20 the protocols in the different major urban cities across the  
21 country, that an after-incident report status, when the  
22 interview is taking place of the officers, if they have seen  
23 the video, the body cam beforehand, there is automatically a  
24 change of a witness testimony in reference to what actually  
25 happened. Often it will be one thing, but once they see the



1 interview, they go back on what they originally said. So the  
2 Department of Justice also has, I believe, an issue on that --  
3 of letting officers see the feed of the video cam before they  
4 actually do the interview with the detectives.

5 THE COURT: That's a critically important issue, and  
6 I don't want to create burden or work unnecessarily. So I'm  
7 not asking for any update or further detail on that now. I  
8 know that's going to be part of what you all are going to take  
9 to Judge Beckerman as part of your mediation.

10 Frankly, if you reach agreement on that, I assume you  
11 are going to be sending me memorandum and exhibits that explain  
12 why the agreement is fair, reasonable, and adequate. I'll just  
13 let you know that with that memorandum, I would appreciate  
14 knowing: What's generally done? What are the general  
15 protocols on this question around the country? And if you  
16 can't reach agreement, and it requires court intervention,  
17 please understand that at that time that's one of the things  
18 that I'll be very interested in understanding: What's  
19 generally done around major urban areas and urban police forces  
20 around the nation and what have been the experiences and  
21 comments about that practice?

22 So we don't need to do that now, but it is something  
23 that I understand is a serious issue. I do understand there is  
24 a lot of experience in other jurisdictions that would be  
25 helpful for us to make sure that we are aware of.

1           Thank you, Ms. Chambers. Sorry, again, for the  
2 interruption, but it was helpful for me.

3           MS. CHAMBERS: No problem. And I am going to hand it  
4 over to Dr. Haynes now.

5           THE COURT: Thank you.

6           Good morning, Dr. Haynes.

7           DR. HAYNES: Good morning to you, sir.

8           To the honorable judge, to the distinguished parties,  
9 as well as the amicus curiae, represented in this settlement  
10 agreement between the City of Portland and the U.S. Department  
11 of Justice, I am the Reverend Dr. LeRoy Haynes, Junior,  
12 chairperson of the Albina Ministerial Alliance Coalition for  
13 Justice and Police Reform as well as president of the Albina  
14 Ministerial Alliance.

15           First, Honorable Judge Simon, I would like to honor  
16 my esteemed colleague and drum major for justice who started  
17 out with us from the beginning of this settlement agreement.  
18 He was a fearless advocate for freedom, justice, and equity  
19 throughout his life and ministry, the Reverend Dr. T. Allen  
20 Bethel left us to make his heavenly journey home, and he leaves  
21 this city with a great legacy, for he truly loved it.

22           Judge Simon, it has been a long journey since we  
23 formalized this settlement agreement in 2012 and adopted it in  
24 2013. Dr. Bethel would often say that it is a marathon and not  
25 a sprint. Since 2003, with the killing of an unarmed black

1 woman named Kendra James by a Portland police officer, and the  
2 attempt to cover up the evidence by the Portland Police Bureau,  
3 the Albina Ministerial Alliance Coalition for Justice and  
4 Police Reform was birthed, representing 25 community  
5 organizations as well as other departments in the City of  
6 Portland, to fight justice and for police reform in this city.

7           The AMA Coalition for Justice and Police Reform was  
8 the pivotal leader in bringing the United States Department of  
9 Justice into the City of Portland to investigate and do a  
10 federal audit to the patterns and practices of the Portland  
11 Police Bureau. This audit produced a fact-finding statement  
12 that the Portland Police Bureau was practicing excessive and  
13 deadly force against persons with mental illness or perceived  
14 mental illness such that a legal suit was filed against the  
15 City of Portland and the Portland Police Bureau. The AMA  
16 Coalition was given the legal status of enhanced amicus curiae.

17           It is critically important to have this historical  
18 context to further understand where we have been and where we  
19 are going. Our city has been hit by the COVID-19 pandemic,  
20 which has impacted all areas of our city government, like every  
21 major city throughout America. At the same time we have seen  
22 and experienced the social justice movement from the killing of  
23 George Floyd that has swept throughout the nation, calling for  
24 a transformation of policing in Portland and across America.  
25 Tens of thousands have marched and picketed in Portland and

1 throughout Oregon, demanding that policing, as practiced today,  
2 is not acceptable to the citizens. The killings of unarmed  
3 black, brown, white, and mentally ill persons as well as the  
4 unjustified use of excessive force.

5 Honorable Judge Simon, this is why it is so  
6 critically important that this settlement agreement and other  
7 reform efforts get it right.

8 Concerning the current status report, the AMA  
9 Coalition is concerned that in response to the unprecedented  
10 and massive protests from the George Floyd murder case by  
11 police officers in Minneapolis, taking into consideration the  
12 Portland Police Bureau being outnumbered and weary, as well as  
13 encountering small numbers of violent offenders, the  
14 overwhelming number of demonstrators were peaceful.

15 PPB, in fact, in some instances, threw away the  
16 Constitution in policing and negated the settlement agreement  
17 for holding officers accountable for excessive force and other  
18 areas, like reporting incidents after it happened, along with  
19 falling to comply with the agreement in different areas, like  
20 training.

21 There are critical questions, Judge Simon, whether  
22 the deescalation training that is theoretically good and  
23 whether it has been effective in the use of curbing down lethal  
24 force or deadly force, and secondly, building trust. The  
25 polarization and distrust of the Portland Police Bureau since

1 the George Floyd movement manifested to Black Lives Matter and  
2 other community organizations protesting has increased distrust  
3 rather than decrease it.

4           There is a general code in the community for the  
5 change and transformation and accountability on the Portland  
6 Police Bureau and for the City government to be visible in  
7 bringing the change needed. This was manifested when  
8 82 percent, the highest ballot measure that has ever passed in  
9 the City of Portland, creating an independent oversight citizen  
10 review board to review excessive force cases and deadly force  
11 cases by a police officer.

12           At the same time the Oregon State Legislature passed  
13 several bills in both the house and the senate to reform police  
14 departments across the state of Oregon. Citizens have come to  
15 believe that there is a double standard in the application of  
16 the law when it comes to police accountability. We want to get  
17 the bad guys off the street and imprison them, but when it  
18 comes to police accountability, the standards change.

19           Community trust is essential for effective public  
20 safety and policing the community. 21st century data on  
21 policing is very clear -- that a police department by itself  
22 cannot arrest every person for a crime situation. You can't  
23 arrest yourself of a crime without the trust of the citizens  
24 and the communities throughout this city.

25           PCCEP. The AMAC Coalition remains supportive of the

1 Portland Committee on Community Engagement. We commend them  
2 for their forums following the George Floyd murder and their  
3 listening session. PCCEP has made substantial progress since  
4 the last hearing.

5 The AMAC Coalition is committed to continue working  
6 in collaboration with PCCEP. In 2019, with the qualitative and  
7 quantitative measures to help with the development of PCCEP, it  
8 was not adopted by the board. We still feel today that there  
9 is still work and growth and supervision that is needed in  
10 PCCEP.

11 Finally, we believe that the reform effort of the  
12 Portland Police Bureau has taken several steps backward. We  
13 believe in police reform, not in abolishing the police. We  
14 need the police, but we need a certain kind of police. We  
15 believe that having the right kind of police officer who  
16 respects its citizens, whatever race or gender or faith that  
17 they are policing, who are not racially biased, who are just  
18 and fair, who believe in 21st century community policing.

19 Today, Judge Simon, we are at another major  
20 crossroad. And the question is, that Dr. King often said: Do  
21 we go backwards, or do we go forward? The AMA Coalition  
22 believes that our choice is clear. We must go forward building  
23 a new kind of police force, a 21st century community police  
24 force. We must, as a city, reimagine what policing looks like  
25 in the 21st century, not only through the eyes of the public

1 safety officers but through the eyes of the citizens in this  
2 city of Portland.

3 Thank you so much

4 THE COURT: Thank you, Dr. Haynes. And thank you, as  
5 always, for your insightful comments and for your life-long  
6 commitment to justice in our community.

7 Thank you.

8 Reverend Knutson, are you next, sir?

9 Perhaps, Ms. Chambers, you want to change places with  
10 Reverend Knutson for his commentary so he can speak into the  
11 microphone.

12 Good morning, Reverend Knutson.

13 REVEREND KNUTSON: Good morning, Honorable  
14 Judge Simon. We certainly appreciate all have you been about  
15 this last decade with us on this journey. We have said prayers  
16 of thanks to the federal courts in the times with which we  
17 live. Thank you for your invitation to be here in our role as  
18 the AMAC. I have just a few comments to share. Dr. Haynes has  
19 covered so much, as did Kristen. But I'll share a few other  
20 pieces.

21 First and foremost, I want to honor Reverend  
22 Dr. T. Allen Bethel, who, remember, in February of 2020, came  
23 from the hospital to this chair to make his testimony that day,  
24 because he understood the importance of that issue. And if you  
25 recall, in 2020, in February, there is almost an agreement to

1 move forward on the settlement agreement, and PCCEP was the  
2 piece that held it in check. It was the AMAC and the MHA that  
3 really spoke to that and said, "We cannot move forward at this  
4 point." You made that decision to not make the agreement but  
5 to go forward.

6 Dr. Bethel has always said it's a marathon, not a  
7 sprint. I appreciate that analogy. It takes training. It  
8 takes endurance. It takes patience. But it takes an immediacy  
9 to get to where we need to go.

10 I would pray that we would shift our focus from  
11 policing to public health and public safety. And what is it in  
12 this city and the City of Portland leadership that we need to  
13 weave to make that beloved community that Dr. King spoke of?

14 Dr. Haynes said the role of police is important to  
15 certain degrees, but there are other degrees and ways of  
16 approaching things that could be done. The outreach teams that  
17 have been formed. Those are small. They aren't, by any means,  
18 up to speed to take things on. We need to be moving that  
19 direction as we go forward.

20 History shows us in a time of crisis -- and we have a  
21 pandemic with COVID-19 that has affected us and a pandemic of  
22 white supremacy and racism, as we have seen affect all of our  
23 institutions, including policing in our country. The  
24 George Floyd incident magnified that.

25 We have had a pandemic of gun violence in this



1 country. We have been at war for 20 years, and that trickles  
2 down to society on how policing happens and other things and  
3 how people are harmed, whether it is police or others. These  
4 are all a part of a broader pandemic, and it is something we  
5 must address together.

6 History shows us that, in a time of crisis, some of  
7 the most creative work can be done. You can make change in  
8 crisis, or you can go back to the old way. So more budgets for  
9 the police department and more staff, that's not going to be  
10 the answer. We have sat down with so many young men and women  
11 of color in the last 20 months talking about what needs to be,  
12 from their perspective, and certainly they're going back to  
13 what they experienced last summer and, in fact, before that.

14 We believe the City of Portland is certainly out of  
15 compliance, and we want to get there. Again, to the City  
16 lawyers and leaders, being in compliance is not about just  
17 crossing T's and dotting I's. It is re-envisioning what can  
18 be; what should be.

19 When we talk about accountability of police, in our  
20 professions, you're accountable. We don't want pastors who are  
21 not doing things properly. Every profession should have that  
22 accountability.

23 Training. How can any officer go into northeast  
24 Portland without knowing the history of Jefferson High School  
25 or Harriet Tubman or the freeway or Vanport? This is all part

1 of understanding the culture of who we are in this city.

2           Community engagement. We have been pushing for a  
3 long time for PCCEP to hire a grassroots community organizer,  
4 and that's essential. People turned out last summer because of  
5 what was going on in going forward. You have to have that  
6 organizing voice out in the community beyond what we do  
7 together, and community trust, which Dr. Haynes spoke to. We  
8 have got to rebuild that. If we go back to what was, we will  
9 not rebuild that. It is an institution that needs to be  
10 reformed.

11           The oversight board was passed with 82 percent. We  
12 saw how much people want that. The response to PCCEP work  
13 shows that people want that. The response to the Portland  
14 Street Response group, as small as it is, it was affirmed by so  
15 many. We would rather call that than bring in someone heavily  
16 armed to help us deal with difficult situations. We are  
17 talking transportation, public safety, and public health.

18           Let me just say, too: I grew up in Portland. I did  
19 national work in Chicago. I've lived in the Bay Area. I did  
20 doctoral studies in Washington, D.C. But Portland, Oregon, I  
21 love this city, as I know all of my colleagues do as well from  
22 the different organizations -- Chief Lovell, the City of  
23 Portland, the police union, the Mental Health Association, the  
24 Department of Justice. You've come to love this city; you have  
25 been here enough.

1           I love this city. And I have 26 nieces and nephews  
2 and great-nieces and nephews. 16 out of the 26 are  
3 African-American background. And I look at my own son. He  
4 came home. He's a graduate from Wharton School of Business.  
5 Now he is in New York City. But at 29, he came home for the  
6 summer, after graduation, and I still had to talk to him to  
7 make sure the taillights in the car were working properly. He  
8 is a six-foot-three African-American male, and in this city  
9 that's how you are pulled over, no matter how hard you work and  
10 the time you put in.

11           So we have to talk about transformation going  
12 forward. When I talk adaptive change -- you all know that --  
13 the Harvard studies that have been done on adaptive change?  
14 You just don't tweak things. When you tweak certain things  
15 here and here, you don't get to where you want to get.  
16 Adaptive change is when you go up into the balcony and look  
17 down at the city and say, "What are we doing right? What are  
18 we doing wrong? How do we get to a new model of public health  
19 and community policing?"

20           For us, as clergy, it is not the balcony. We go to  
21 the mountaintop. Dr. Bethel could do it as well as anybody.  
22 You went in the prophetic tradition: "But let justice roll  
23 down as waters, and righteousness as a mighty stream,"  
24 according to Amos. That's going to the mountaintop and looking  
25 at the city and saying, "What's right? What's wrong? What

1 needs to be changed and reformed?"

2           We will stay at the table for another 20 years, if we  
3 have to. We will live maybe that long. But we are going to  
4 stay at it, because this is a long-term peace. But please,  
5 parties at the table, let's do this in good faith and let's  
6 say, "How do we reform what is and what needs to be? What  
7 needs to be that will serve this city not just today but for  
8 the population of the city 20 years from now?"

9           How are we staffing for policing? Are we looking at  
10 the most diverse police force possible? No. We are still  
11 stuck where we were 20 years ago, in terms of diversity of that  
12 police force. We have work to do. We pray for everybody at  
13 this table today and in this city and this community in  
14 particular. We must stand together and stand up and say we  
15 need to do it differently.

16           Thank you, Judge

17           THE COURT: Thank you, Reverend Knutson.

18           Reverend Knutson, you said -- well, Dr. Haynes talked  
19 about the fact we have been together almost ten years. You  
20 mentioned that as well. You say that we may have to be  
21 together another 20 years. It brings to my mind the fact that  
22 we're all wandering in the desert together. On occasion, we've  
23 gotten lost or taken some wrong path. But if we have to stay  
24 together for another 20 years to get to the right location, to  
25 get to the right place, we will do that. At least there is

1 precedent for that, right? Others have taken 40 years.

2 All right. Thank you, Reverend Knutson.

3 Ms. Chambers, is now the time for me to invite  
4 Ms. Albies to speak?

5 MS. CHAMBERS: I believe so.

6 THE COURT: Ms. Albies.

7 MS. ALBIES: Thank you, Your Honor.

8 I don't want to go over things that have already been  
9 discussed by my client and Ms. Chambers. But reflecting and  
10 preparing for this hearing today, I have to say I felt very  
11 challenged. I was reflecting on many of these status  
12 conferences that we've had over the years. Some of them, like  
13 today, have come on the heels of significant events --  
14 sometimes use of force events; sometimes protests; sometimes  
15 shootings.

16 Mr. Karia had mentioned the nascent attempt to pass a  
17 body-worn camera policy in 2016. What that reminded me of and  
18 what I was thinking of as we prepared for today was the 2016  
19 status conference, which came on the heels of the City Council  
20 passing or approving the collective bargaining agreement with  
21 the Portland Police Association, over significant public  
22 objection, where they excluded the public from City Hall,  
23 surrounded City Hall with police, used force on demonstrators,  
24 and approved the collective bargaining agreement behind closed  
25 doors while City Hall was surrounded by police.

1           So we were talking about a body camera policy then,  
2 and we're still talking about it now, in significant part  
3 because community concerns about how a body camera policy will  
4 be implemented have not been implemented and taken seriously in  
5 these conversations. And that's one of the reasons we have not  
6 had a comprehensive body camera policy approved by City Council  
7 and approved by the PPA. There is a difference of opinion on  
8 some of the specifics of it. These are significant  
9 considerations. That's one of the reasons why there were  
10 protests outside the City Hall during the 2016 collective  
11 bargaining agreement approval process.

12           Leading up to today, just two days ago, on Sunday,  
13 white nationalist groups and white supremacist organizations  
14 invaded our community. They were armed. They were  
15 threatening. They landed in the Parkrose neighborhood, a  
16 particularly diverse neighborhood in our community. They held  
17 a rally and called for the release of those who invaded the  
18 Capitol on January 6th, describing them as political prisoners  
19 and recast the January 6th insurrection as something that it  
20 was not. It was an insurrection. It was an attack on  
21 democracy. To see it as anything else is really concerning and  
22 deeply disturbing.

23           So when these groups come to places like Portland and  
24 hold rallies and events, it is seen for a training ground for a  
25 future insurrection, and that's terrifying to many of us that

1 believe in democracy, that believe in justice, that believe in  
2 equity and equality.

3           The PPB and the City took a hands-off approach and  
4 left the community to fend for itself. The result was a  
5 shooting downtown, and, thankfully, nobody was injured. But  
6 the Parkrose community was left terrorized and the Portland  
7 community was traumatized by this event.

8           As we show up for these hearings, they seem to  
9 continue to come on the heels of these events, and, of course,  
10 those events are also on the heels of the violence of last  
11 summer and the protests last summer that started, as Ms. Brown  
12 mentioned, with thousands of people. There was an escalation  
13 by the Portland Police for attacking largely peaceful  
14 protesters, who were protesting against police violence.

15           That messaging is at the crux of why we are here  
16 today. This problem still continues. There still continues to  
17 be distrust by the community. There still continues to be  
18 action and activating by members of the community who were  
19 impacted by police violence. And we are again in the position  
20 of asking ourselves whose safety is prioritized by the Portland  
21 police, by this public safety organization? Now, it is  
22 encouraging that we hear that the use of force in mental health  
23 cases is quite low, but I haven't heard anybody mention today  
24 the three significant use of deadly force cases this year  
25 resulting in the death of Michael Townsend, Robert Delgado, and

1 the recent shooting of the Joshua Lyle Merritt, who was also  
2 reported to be in crisis.

3           So while there may be gains in interactions and  
4 reductions in use of force when we have significant deadly  
5 force cases involving people in mental health crisis, that has  
6 a tremendous impact on community engagement and the community  
7 across Portland Police Bureau.

8           So it is a little alarming that we haven't heard that  
9 addressed today at all. The AMAC supports the Portland Street  
10 Response. It is an important step forward, and it needs to be  
11 prioritized and funded and elevated to be a situation where  
12 Portland Street Response is responding to situations, not  
13 Police Bureau members that are armed in these events.

14           In the years since the settlement agreement was  
15 signed, we heard today about the data on the disproportionate  
16 stops of black people remains high. It remains  
17 disproportionate. While we appreciate the program described by  
18 Ms. Brown with regard to stops and consent searches, this is  
19 the first step, but perhaps one that should have been taken  
20 years ago. We welcome it now. The Albina Ministerial Alliance  
21 Coalition will continue to monitor this. But these are the  
22 sorts of reimagining and ideas that should be in the forefront  
23 of the activity that we are taking on these issues.

24           Even though the City and the DOJ point to progress,  
25 and they have specific measurements for these systems, we feel



1 that this past summer, specifically 2020, it was a test of  
2 these modified systems set up by this settlement agreement. As  
3 the COCL and the DOJ have noted, the City failed that test.  
4 The fact that these protests were in and of themselves around  
5 and about police violence, protesting police violence and  
6 escalation of community outrage that led to this cycle of  
7 continuing protests.

8           These systems were designed under the DOJ. They were  
9 supposed to weather any and all challenges, and they did not.  
10 As the AMA Coalition has said many times over the years, the  
11 policy and the training need to be consistent, clear, and  
12 officers must be held accountable. The past year-and-a-half  
13 have showed us multiple failures to hold officers accountable  
14 for their use of force. Instead of holding the officers  
15 accountable, and themselves accountable, the City appears to  
16 have dug in and fostered this "us versus them" mentality, and  
17 that's deeply concerning. It should be deeply concerning for  
18 those in the Bureau and deeply concerning for people in the  
19 community.

20           Body-worn camera policies, equity training, efforts  
21 to reduce to racial disparities, deescalation training, all  
22 these things are important, but they are only as good as the  
23 paper they're written on, unless the officers are actually held  
24 accountable to those policies.

25           I'll note that many of these -- with body-worn

1 cameras in particular, the COCL described why they are  
2 important and the measurable impacts in other jurisdictions,  
3 but I want to be clear that that's not the answer to police  
4 accountability and oversights. It can provide clear footage of  
5 events, but I have also have had cases where the conduct is  
6 very clear on the camera, on the video, but there is still no  
7 accountability for the officers involved. The supervisory  
8 staff don't see things the same way as community members do.  
9 So it still goes back to officers have to be held accountable  
10 for what happens in the video and for the policies of body wire  
11 and camera footage.

12           The COCL mentioned and described that we need to be  
13 thinking -- have transformative thinking about public safety.  
14 The community has been saying this for year. In the past  
15 year-and-a-half, those cries have gotten louder. Ms. Brown  
16 named the complexity of humans, but I also want to acknowledge  
17 the complexity of these systems and that these systems outlast  
18 the people in them. They provide a guidance and framework for  
19 police to wear uniforms as members of the PPB, and they greatly  
20 impact those who are subject to police power.

21           The concerns that we've heard here today around use  
22 of force, around accountability, around community engagement,  
23 they provide that framework, and there needs to be  
24 accountability to those standards. They have to outlast the  
25 agreement.

1           We heard that the COCL and the DOJ have asked  
2 repeatedly from the City for a more substantive response for  
3 the events of the past year, and they have not gotten that  
4 response. I think about the messaging that that sends to PPB  
5 officers and others in our community, that despite the many  
6 requests from the DOJ and the COCL for an open and  
7 self-critical analysis, the City hasn't done this.

8           I think there is an opportunity here to do that and  
9 do it right. The City hasn't responded substantively. They've  
10 discussed being prepared to discuss that in a mediation process  
11 in this case, but that's a confidential process. That's  
12 concerning as well. I mean, the MHA and the Albina Ministerial  
13 Alliance Coalition will participate in that, but that's not the  
14 same as having a transparent process that's accountable to the  
15 public.

16           Given the events of this past year, what has been  
17 described here today really makes me concerned about what will  
18 happen when DOJ is no longer here to watch and assess  
19 compliance.

20           I appreciate the commitment that Commissioner Ryan  
21 and the City have articulated, and that of Chief Lovell, but  
22 they also have to prove that, and they have to prove that in  
23 this court over the next few years.

24           I wanted to close by noting these are difficult  
25 moments for any institution that is subject to this level of

1 critique. If Dr. Bethel were here, he would remind everyone in  
2 this room that these critiques should not be taken personally  
3 but should be taken self-reflectively. We, as a community,  
4 including PPB, are now looking at the institution of policing  
5 as a whole, and we can and should use this as an opportunity to  
6 do better, to truly transform the current system into a  
7 community-oriented and a more just system grounded in respect  
8 and care. This is a marathon after all, not a race.

9 Thank you.

10 THE COURT: Thank you, Ms. Albies. I appreciate  
11 that.

12 Ms. Chambers, is there anything further at this time  
13 from the Albina Ministerial Alliance Coalition for Justice and  
14 Police Reform?

15 MS. CHAMBERS: No, Your Honor. Thank you.

16 THE COURT: All right. As always, I appreciate the  
17 efforts, the contributions, the wisdom, and the continued  
18 participation of that coalition.

19 Thank you.

20 At this time I will invite Mr. Chavez, on behalf of  
21 the Mental Health Alliance, to begin.

22 MR. CHAVEZ: Good morning, Your Honor. Good morning  
23 for another ten minutes.

24 Thank you again for inviting the amici, Mental Health  
25 Alliance, to testify before you. It is greatly appreciated by

1 the folks that we work with, with the folks who have lived  
2 experience with mental illness, and the people we advocate for.

3           Just as a quick note of the future process involved  
4 in this cause, it is our hope, as amici, we are allowed to  
5 participate in mediations, negotiations, and any kind of show  
6 cause hearing that may or may not happen and be allowed to  
7 present evidence.

8           We are grateful that the parties to date have been  
9 gracious in allowing us to participate in the mediation, and we  
10 look forward to speaking with Judge Beckerman when that time  
11 comes.

12           I'll lay a quick roadmap and then jump into my  
13 material.

14           I will be presenting first on officer accountability.

15           Next, we will have Mr. Renaud speak to paragraphs 89  
16 and 90 as well as speak to PCCEP.

17           Next, we will have Mr. Lewis speak about the shooting  
18 deaths of Mr. Delgado and Mr. Townsend as well as the lethal  
19 force used against Mr. Merritt.

20           And then next, we will have Ms. Mathis speak to  
21 remedies, the ones that have proposed by the Department of  
22 Justice.

23           Lastly, we will have Mr. Bruggemeier speak to  
24 body-worn cameras.

25           As I stated, I'll be speaking first on officer

1 accountability. I was grateful this morning to hear the Court  
2 eulogize Mr. Walsh. I miss him greatly at city meetings, and  
3 at City Council meetings. I miss his advocacy as well as the  
4 great Reverend Dr. Bethel.

5           Bringing up Mr. Walsh reminded me of something he  
6 said -- I forget which status conference, but it was a fairly  
7 recent one. He summarized, I think the central question in  
8 this case, as basically the same as the theme to Ghostbusters:  
9 Who are you going to call? That gets to the heart of this  
10 case, which is public trust. The public is not going to call  
11 somebody it does not trust to assist them, and that's where we  
12 are at right now.

13           Certainly within the last year what this community  
14 has seen since our last status conference has certainly shocked  
15 their conscience. It has shocked the conscience of all of the  
16 people in this courtroom. It should shock the Court.

17           PPB and the City has been remorseless in their  
18 defense of what we believe to be indefensible behavior. They  
19 have demonstrated that not just to this District Court in this  
20 case and in other cases before the courts but to the public as  
21 well.

22           This, in the face of historic movement, for black  
23 lives, a movement that brought out all sorts of people in  
24 support of, in defense of black lives, including people with  
25 mental illness, who do have First Amendment rights, who do have

1 the ability and right to be in the streets in solidarity with  
2 people and to express themselves.

3 Paragraph 169 of the proposed settlement agreement  
4 provides that "PPB shall apply policies uniformly and hold  
5 officers accountable for complying with PPB policy and  
6 procedure." In part with that, those policies include  
7 following the Constitution. It includes following deescalation  
8 tactics. It includes using a proper Fourth Amendment analysis  
9 to understand when it is that they can and can't use force and  
10 what kind of factors would allow for that.

11 Now, the plaintiff, the United States, has provided  
12 the Court with examples of noncompliance with this paragraph.  
13 AMAC has done that as well. Certainly in our briefing to the  
14 Court we have provided more examples.

15 But I would like to highlight one particular case,  
16 because it had a peculiar effect of cascading and escalating  
17 this defense of the indefensible, and I think it highlights  
18 this issue of public trust. That is the prosecution of  
19 Officer Corey Budworth. Officer Budworth, last September, was  
20 caught on videotape with a protester. He bashed her with his  
21 baton from behind right to the back of the neck. That knocked  
22 her to the ground, and she turned over and tried to crawl to  
23 lay on her back, while also reaching for a press pass to show  
24 the officer. The officer waited until she had looked up and  
25 then proceeded to hit her again in the face with his baton.

1           Now, for many Portlanders, that's not an uncommon  
2 experience. But what was seemingly uncommon was that the  
3 entire event was caught at a distance and an independent level  
4 of observation that allowed for the public to really see this  
5 interaction for what it was: Criminal behavior. That  
6 eventually led to the prosecution of this officer.

7           Now, I understand that police officers, by that  
8 point, with over 100 nights of protesting, might have some  
9 fatigue, as certainly did the public in that case. But to then  
10 defend this prosecution -- to attack this prosecution by  
11 accusing the district attorney of playing politics with this  
12 prosecution just shows, again, that there is little reason why  
13 the public should trust that the Bureau will police their  
14 own -- will appropriately investigate these kinds of uses of  
15 force. Officer Budworth did this in clear view of at least a  
16 dozen officers. No one intervened. No one pulled him over to  
17 the side. There was no arrest made of Officer Budworth at that  
18 time.

19           Now, the Portland Police Association also defended  
20 this officer by saying that every supervisor that looked at  
21 this, every trainer for batons cleared this as within policy,  
22 and maybe unintentionally demonstrated why these trainings --  
23 why further training by the Bureau might not be effective in  
24 holding officers accountable in the future. Following this  
25 prosecution, members of the Rapid Response Team, who were



1 responsible for the mass police violence of 2020, resigned in  
2 solidarity with Officer Budworth.

3           So again, what this demonstrates to the public -- and  
4 certainly to the folks in a mental health crisis -- is that if  
5 they are to call the police and get hurt by them, and if they  
6 try to hold them accountable, the City and the Bureau will not  
7 act in the community's interest -- just their own.

8           Even more powerful people than the people on the  
9 streets have been attacked, slandered, or otherwise retaliated  
10 against for trying to hold the Bureau accountable -- I am  
11 thinking of the district attorney, for instance, who was  
12 allegedly doxed by members of the Bureau, after accusing him of  
13 being a member of Antifa and being George Soros backed, and, of  
14 course, Commissioner Joanne Hardesty, while that matter is  
15 still pending, it appears that she was collectively targeted  
16 unjustly for the purposes of performing a "perp walk" on her.

17           Now, if those folks in positions of power still face  
18 that kind of retaliation from the Bureau, it is hard to imagine  
19 that anybody in the public would also want to try to hold the  
20 Bureau accountable.

21           So with that, I thank you for your time and will pass  
22 the microphone to Mr. Renaud.

23           THE COURT: Thank you, Mr. Chavez. I appreciate your  
24 comments.

25           Welcome, Mr. Renault.

1           Mr. Chavez, do you want to give him your chair so  
2 that people on the telephone or video conference can hear?

3           MR. RENAUD: Good afternoon.

4           THE COURT: Good afternoon.

5           MR. RENAUD: I'm Jason Renaud, representing the  
6 consensus of 18 active members and four organizations of the  
7 Mental Health Alliance. Thank you for having us.

8           At the end of the February 2020 status conference,  
9 the Court took the late Reverend Bethel's suggestion and gave  
10 instruction to the parties and amici. The instruction, which  
11 is at the very end of the conference and at the end of the  
12 conference transcript, was for the parties and amici to confer  
13 and find a set of metrics by which the PCCEP could be  
14 determined to be functional or not functional.

15           To fulfill this instruction, the AMAC and the MHA  
16 sent a draft of measurable objective metrics to the parties in  
17 early April. The metrics asked for considerable additional  
18 effort on the part of PCCEP's staff to actively communicate  
19 with organizations that represent people of color and people  
20 with mental illness. It asked for additional community  
21 surveys; that meeting notices be posted in a timely way; that  
22 attendees reflect the community and not be dominated by City of  
23 Portland staff; that there be a training curriculum for new  
24 members, a retention plan for continuing members, and exit  
25 interviews for members who leave. There were other items as

1 well, all to be accomplished by staff and not by PCCEP members.

2           The parties, the amici, members of the PCCEP, and the  
3 PCCEP staff met in July to review the proposed metrics. The  
4 City attorney -- at that time -- seemed unfamiliar with the  
5 Court's instruction from February and with the document created  
6 by the amici and sent to them in April and declined to support  
7 the measurable objectives.

8           Seeking adoption by vote from the PCCEP, AMAC and MHA  
9 met with members of the PCCEP twice in August to review the  
10 metrics document. PCCEP co-chair, Elliott Young, who will  
11 speak a little later, worked individually with several PCCEP  
12 members to make modifications to this document, which was then  
13 presented at one of their general meetings.

14           The PCCEP members did not vote to accept or reject  
15 the metrics as represented by Mr. Young, but instead voted not  
16 to vote on whether to accept or reject the metrics. And so  
17 today, there are no objective measurements for the PCCEP and no  
18 plans to discuss objective metrics.

19           The AMAC and MHA have reached out to the PCCEP staff.  
20 Staff said they could not make PCCEP members read the  
21 settlement agreement or have objective metrics. We felt that  
22 the Court's instruction was unheard, so the MHA tried to meet  
23 with the mayor's liaison to the PCCEP. She declined to meet,  
24 saying she was unprepared to talk about the PCCEP and would  
25 need her attorney present to speak with us.

1           We were then told that Dr. Smith, who is the  
2 supervisor of the PCCEP -- we met with her this spring, and she  
3 listened to the problem but told us she planned to delegate the  
4 supervision of PCCEP to a deputy, who we could then not contact  
5 because he lives in Africa. He was stuck there during COVID.

6           On August 9th, MHA met with Sam Adams of the Mayor's  
7 Office, and it was identified that he was newly tasked with  
8 managing the PCCEP. He was not aware of the need for objective  
9 measurement and had not yet met with members of the PCCEP,  
10 attended a meeting, or met with the PCCEP staff. So we were  
11 unable to discover who supervises the PCCEP. Frankly, we think  
12 they have been without an engaged supervisor for at least a  
13 couple of years.

14           In short, after 16 months, after this Court asked for  
15 objective measurements from the parties -- from the City and  
16 the amici, no measures are in place, and so we cannot determine  
17 if the committee is functional or not.

18           The Mental Health Alliance suggests that amending the  
19 settlement agreement at this time to include the PCCEP is  
20 premature. Instead the City should send out a firm schedule to  
21 amend the PCCEP plan to include satisfactory outcome measures  
22 to both the parties and the Court and have engaged in capable  
23 supervision for the PCCEP staff prior to reconsidering an  
24 amendment to the agreement.

25           Now I'll speak for a moment about two additional

1 items to the settlement agreement. I'll talk about the  
2 characterization and the current developmental status and  
3 recommend a future course of action for the parties and for the  
4 Court.

5           Item 89 to the agreement calls for the immediate  
6 development in mid-2013 of walk-in and drop-off centers. These  
7 sorts of facilities are common all over the country, operated  
8 by nonprofit agencies but paid for by cities and counties,  
9 which have an accumulation of people in crisis and with  
10 foresight provide a nonmedical low-barrier sanctuary as  
11 somewhere for people to go or be taken as an alternative to  
12 arrest and jail or an emergency room.

13           There is urgency to item 89. The intention of the  
14 agreement was that these facilities would be open by the middle  
15 of 2013. This is one of the few -- perhaps the only item in  
16 the agreement which demanded immediate action. The parties  
17 first met about this agreement in this court in 2012. Those of  
18 us who were listening then understood the parties agreed to  
19 accomplish item 89 quickly, not slowly, and certainly not to do  
20 nothing.

21           After the agreement was introduced to the citizens of  
22 Portland as fair, reasonable, and adequate, the U.S. Attorney  
23 for Oregon began to refer to item 89 as aspirational, by which  
24 she meant she did not mean to enforce the item. Other  
25 attorneys attached the agreement such as the former City

1 Attorney, recognizing that USDOJ did not intend to enforce the  
2 item and also started to refer to the item as aspirational.  
3 The word "aspirational" does not appear in the settlement  
4 agreement. There are no other "aspirational items" in the  
5 settlement agreement. No alternative or amendment has been  
6 proposed by either party.

7           We disagree with the COCL on item 89. First, the  
8 Unity Center, is that a walk-in/drop-off center? It is not.  
9 It is a psychiatric emergency hospital.

10           The second is to imply that the Portland Police  
11 Bureau is the party to this agreement and not the City of  
12 Portland. All PPB can do is follow the direction of an agency,  
13 which is not a party to the agreement. That allows the City to  
14 evade its responsibility. The City maintains hundreds of  
15 negotiated contracts to meet legal and political obligations.  
16 Item 89 should simply be one of those contracts.

17           Our group had a chance to talk with one of the  
18 authors of the agreement recently. She told us that the  
19 document was signed -- when the document was signed, her  
20 impression and that of her colleagues, was that the City would  
21 negotiate a contract with the COCL to provide the service.

22           We did a public records search of all the  
23 correspondence either between the City and either Care Oregon  
24 or Health Share, and there is no record of any correspondence  
25 about the settlement agreement or a walk-in or a drop-off

1 center. I spoke last week with the behavioral health  
2 administrator of Care Oregon, and she affirmed no discussion on  
3 this or any other item in the settlement agreement has occurred  
4 between the City and the COCL organization.

5 Our recommendation is that if the parties insist  
6 black is white, then the Court should intervene and defend the  
7 original agreement to be implemented as intended by the authors  
8 and as presented to the Court. Item 89 should be implemented  
9 in full before this agreement is closed, or the parties should  
10 offer an equal alternative to take its place.

11 My colleague, KC Lewis, of Disability Rights Oregon,  
12 will discuss an example of a mutual alternative, such as the  
13 full implementation of Portland Street Response.

14 Now, very briefly. Item 90 is also complex and  
15 expensive. Like item 89, very little work has been done to  
16 achieve sub-items C, E, F, or G. The COCL, again, asserts that  
17 the Portland Police Bureau is the party to the agreement and  
18 not the City and fails to hold the City responsible for work on  
19 the several parts and pieces to this item. This item was  
20 presented as part of the compensation for the pattern and  
21 practices of harm against people with mental illness by the  
22 Portland Police Bureau. The Court has accepted that it has  
23 been complied with by the City. We disagree. There has been  
24 no substantial effort on the party to complete these items,  
25 subitems of item 90.

1           And again, we recommend that -- through the Court --  
2 that if it benefits the City, people with mental illness, and  
3 our sense of justice, and if the parties have somehow come to  
4 agree that black is white, that the Court give instruction to  
5 the parties to implement item 90 or provide an equal  
6 alternative as an amendment to the agreement.

7           Thank you.

8           THE COURT: Thank you, Mr. Renaud.

9           Before we can hear from Mr. Lewis, can I ask you one  
10 follow-up question. I'm hearing you say that you are hearing  
11 from the COCL that the Portland Police Bureau is a party to  
12 this settlement, not the City of Portland. Well, obviously  
13 that's not correct. We all know from the caption of the case  
14 and the text of the settlement agreement, the parties are the  
15 United States and the City of Portland.

16           So are you being loose in your language or  
17 metaphorical or penological, or has the COCL actually said to  
18 you that the City is not the party?

19           MR. RENAUD: The COCL has written that the Portland  
20 Police Bureau was unable to comply with item 89, and that might  
21 be true. The parties -- the City could have complied with item  
22 89.

23           THE COURT: Do you believe that there is a  
24 disagreement among the parties here as to who are the parties  
25 to this agreement?



1           MR. RENAUD: No. I think the confusion is in the  
2 language.

3           THE COURT: Fair enough. I appreciate that. I will  
4 at this time invite Mr. Lewis.

5           Welcome.

6           MR. LEWIS: Thank you very much, Your Honor.

7           My name is KC Lewis. I'm the managing attorney for  
8 the mental health rights project for Disability Rights Oregon.  
9 Disability Rights Oregon is a federally mandated protection  
10 advocacy agency for people with disabilities here in Oregon,  
11 and as such, we really wanted to make sure to highlight the  
12 stories of some people with disabilities that have been  
13 particularly impacted by the actions of the Portland Police  
14 recently. I am also a person who has lived with mental illness  
15 my entire life. So this is a subject that is particularly  
16 emotional for me in a lot of ways.

17           I want to thank Ms. Albies for mentioning the stories  
18 of Mr. Delgado, Mr. Townsend, and Mr. Merritt. Those are the  
19 stories that I am here to talk about today and how those  
20 stories relate to the work we are doing today and the  
21 discussions we have been having.

22           On April 16th, 2021, Robert Delgado was shot and  
23 killed by the Portland Police Bureau in Lents Park. I will  
24 say, Your Honor, that all of the information that I am  
25 presenting is information that has been publicly reported on.

1 That's my source of everything that I'm talking about. So  
2 Mr. Delgado, according to witnesses, according to video, was  
3 shot by a Portland police officer standing 90 feet away behind  
4 a tree. He was left lying on the ground for more than six  
5 minutes before anyone checked on him. In fact, there was a  
6 report that Mr. Delgado was shot with an impact round or a  
7 nonlethal round, four minutes after he had been shot, by the  
8 police, as he was lying on the ground either dead or dying.  
9 There were protestors who responded to the scene of that  
10 shooting, and the police responded with riot police to those  
11 protesters.

12           On June 24th of 2021, Michael Townsend was shot and  
13 killed by the Portland Police Bureau. This was in the  
14 Lloyd District. It was later reported that Mr. Townsend had  
15 actually called the police himself. This was for a well check.  
16 Mr. Townsend was having suicidal thoughts and called 911; he  
17 would get help. Again, protestors came to the scene and were  
18 responded with by riot police.

19           So one of the reasons that I really wanted to  
20 highlight these cases, these are both cases in which there was  
21 subsequent reporting that these men had been seeking out mental  
22 health services for quite some time; that they had been in  
23 active mental health crisis at the time of their shootings. I  
24 think it is important to note that of the shootings that have  
25 occurred so far by the Portland Police Bureau this year, 100

1 percent of them were of people with mental illness and people  
2 were in an active mental health crisis at the time they were  
3 shot.

4           Now, I know it can seem hard to get at these two  
5 issues at the same time: On the one hand, this issue of use of  
6 force during a protest; the issue of these discrete uses of  
7 force against people with mental illness. I do think there are  
8 a lot of interaction with these issues.

9           As you heard, the use of force against protesters  
10 continued to occur in these protests after these shootings.  
11 But also, when you look at the case of Mr. Merritt -- this was  
12 a case that occurred on July 20th. Joshua Merritt was shot,  
13 and fortunately was not killed in this case. He was reported  
14 to also have been in the midst of a mental health crisis.

15           The officer who shot him, Craig Lehman, actually at  
16 the time had been pulled off of the now defunct Rapid Response  
17 Team as part of an agreement around the alleged violation of a  
18 federal injunction around the use of force on that team. So I  
19 do think when you look at a police bureau that has so failed to  
20 monitor and regulate the use of force in response to protests,  
21 I think you also see that that carries over to these cases in  
22 which you have many of the same officers and the officers who  
23 have the same training responding to people who are in mental  
24 health crisis.

25           One of the things that we would really like to see in

1 this settlement -- and we have heard this from a lot of the  
2 parties -- is the expansion of the Portland Street Response  
3 program. We think at the end of the day the only way you're  
4 going to get these safer outcomes for people who are in a  
5 mental health crisis is if you get people specifically trained  
6 to respond -- people showing up not in uniform with a gun.

7           We heard a lot from the parties today about the  
8 Portland Street Response. It has been sort of the centerpiece  
9 of a lot of the City's response to the DOJ at time. But when  
10 there was an opportunity to extend the Portland Street Response  
11 in a more rapid manner citywide, which is what we believe needs  
12 to happen, unfortunately the Council voted against doing so.

13           So given some of the other times at which the City  
14 has sort of said one thing but done another, been willing to  
15 say what is easy but not take sort of the hard policy and  
16 budgetary steps to actually make those things a reality, we  
17 think it would potentially appropriate for the Court and the  
18 parties to consider looking at and insisting on a more solid  
19 time frame for the citywide implementation of Portland Street  
20 Response as part of the remedies in this case.

21           THE COURT: Thank you, Mr. Lewis.

22           Let me ask you a follow-up on that. I know to some  
23 extent the Portland Street Response is modeled a little bit on  
24 the CAHOOTS model in Eugene, Oregon, which has been around for  
25 several decades and has been very, very successful is my

1 understanding. It is my understanding that San Francisco has a  
2 similar program that they have recently adopted. What other  
3 metropolitan areas, to the best of your knowledge, have been  
4 using this type of model successfully?

5 Can you enlighten us on that?

6 MR. LEWIS: I do not have a lot of expertise on that,  
7 Your Honor. I don't want to speak to the Court on something  
8 that I don't feel qualified to do so. I have looked at the  
9 Eugene model considerably, and I think that is the primary  
10 basis for the Portland Street Response.

11 THE COURT: Thank you. If anything has to come  
12 before the Court down the road, either to approve an agreement  
13 at mediation, or if there is a dispute that's unresolved for  
14 mediation and I need to resolve it, to the extent it involves  
15 things like what should or shouldn't be done with things like  
16 Portland Street Response, I would be very interested in seeing  
17 how other metropolitan areas have been implementing things like  
18 that, the lessons learned from them and their models and so on  
19 so we can know what problems to avoid.

20 MR. LEWIS: Absolutely, Your Honor. I am happy to  
21 make sure that information is available to the Court.

22 THE COURT: Thank you, Mr. Lewis.

23 Mr. Chavez, who will be next for Mental Health  
24 Alliance?

25 MR. CHAVEZ: Next is Ms. Mathis, who will be

1 testifying via Zoom.

2 THE COURT: Are you there? Yes.

3 MS. MATHIS: My name is Meredith Mathis. I will be  
4 speaking as a member of the mental health alliance. As Juan  
5 said, I'll be talking about the DOJ's proposed remedies and  
6 then I will also be speaking to some additional considerations  
7 that go beyond the scope of those remedies.

8 THE COURT: Ms. Mathis, especially on Zoom, you will  
9 speak a bit more slowly so we can all hear you clearly and make  
10 sure we have an accurate record?

11 MS. MATHIS: Yes.

12 So MHA, as a group, does not oppose the remedies that  
13 the DOJ has presented that focused primarily on rectifying the  
14 problems, such as that of crowd-control responses in 2020. To  
15 the proposed remedies regarding accountability, accountability  
16 for using and approving force without adequate justification  
17 should not be limited to Rapid Response lieutenants and above  
18 who approve force, and so we agree with that remedy. We don't  
19 want to limit who can be accountable. Accountability here  
20 should include the possibility of criminal prosecution, where  
21 appropriate.

22 As to the remedy of the PPB's training division,  
23 regardless of what the parties decide, that a member of law  
24 enforcement or a civilian oversee training, it's important to  
25 ensure that officers are adequately tested for comprehension

1 throughout and after training and that there are established  
2 consequences for not following policy after being trained.  
3 Consequences can range from required retraining to criminal  
4 prosecution.

5           Without adequate screening and consequences, training  
6 will likely remain ineffective at improving officer conduct and  
7 reducing the likelihood that the public will be further harmed  
8 by police conduct.

9           Additionally, the Mental Health Alliance supports the  
10 DOJ's suggestion that the City not rely on overtime to pay for  
11 and require annual training. Funds to add any appropriate  
12 training should be required for annual training rather than an  
13 additional impact to citizens.

14           The DOJ proposed that the City contract with an  
15 outside entity to assess the City's response to crowd-control  
16 events in 2020; that this report include recommendations; and  
17 that the City create a needs assessment for crowd-control  
18 training to adequately address the problems identified in the  
19 report.

20           There is nothing necessarily wrong with an  
21 independent report, but there is a risk of redundancy, given  
22 that there is already an abundance of documentation as to what  
23 happened in the protests of 2020. Also, given that thousands  
24 of people are affected by Portland Police Bureau's aggressive  
25 crowd-control methods, there is a huge methodological challenge

1 here that would come out of this assessment and how it would  
2 serve the interests of those affected. So I would like the  
3 parties to consider that and develop definitions and metrics to  
4 use for assessing whether the City adequately addressed the  
5 problem in the report, if the report is still on the table as a  
6 remedy.

7           Generally, we support the proposal for developing the  
8 voters' community police oversight board.

9           Then further comments about body-worn cameras is  
10 going to be addressed by Franz Bruggemeier.

11           And then in addition to these remedies that focus on  
12 crowd-control training, body-worn cameras, the City should also  
13 assess strategies to reduce the use of force against people  
14 with mental illness. Both parties today express  
15 dissatisfaction with the police force in contacting people in  
16 mental health crisis, but as others have highlighted today, the  
17 most recent fatal shooting in Portland resulted from Michael  
18 Townsend calling 911 for help while he was experiencing  
19 suicidal ideation and any other police shootings similarly this  
20 year similarly involving people who are in crisis.

21           Even if there have been some improvements, the rate  
22 at which people in crisis are killed by police is not one of  
23 those. It has long been recognized by people who are  
24 frequently policed, by advocates and professionals and by city  
25 officials, that we need robust alternatives to policing to



1 prevent harm to people in mental health crisis and addiction.

2           So, first, the City must take greater measures to  
3 reduce contact between the police and people with mental  
4 illness. Just as the public should not be injured and made to  
5 fear to stand up against the history of ongoing racism and  
6 police violence in this country, people should also not be  
7 harmed because they need help in a mental health crisis.

8           The City should aggressively pursue reopening the  
9 sobering center, and the City needs to expand Portland Street  
10 Response, which people have just addressed.

11           It seems that the City feels positively about the  
12 potential efficacy of the PSR, and while I recognize that the  
13 parties still believe that this is not within the purview of  
14 the City's noncompliance and remedies, it seems that the City  
15 is confident with respect to the PSR, that it wouldn't be a  
16 problem for the City to agree to actually fund it in alignment  
17 with the settlement agreement and for the safety and well-being  
18 of people in crisis. And I want you to know that the  
19 City Council chose not to fully fund the program immediately  
20 following the shooting of Robert Delgado.

21           And again, we also recommend that the City fully fund  
22 one or more walk-in centers, such as the recently defunded  
23 sobering center or the Multnomah County Center, which is  
24 already underfunded. And I will end there.

25           Thank you.

1 THE COURT: Thank you, Ms. Mathis.

2 Mr. Chavez, Mr. Bruggemeier is the final presenter  
3 for Mental Health Alliance?

4 MR. CHAVEZ: Yes.

5 THE COURT: And how long would you anticipate his  
6 comments?

7 MR. BRUGGEMEIER: As quick as I can be, Your Honor.

8 THE COURT: Although don't speak quickly, but feel  
9 free to take up to five minutes.

10 MR. BRUGGEMEIER: My name is Franz Bruggemeier.

11 THE COURT: Mr. Bruggemeier, you may proceed whenever  
12 you wish, but proceed slowly, please.

13 MR. BRUGGEMEIER: Thank you, Your Honor.

14 As an initial point, I would like to point out that  
15 the body-worn camera program is being discussed as a remedy to  
16 reduce unconstitutional use of force and the failure of the  
17 City to hold officers accountable. It is not being discussed  
18 as a tool for the enforcement of criminal behavior. Because of  
19 that, all of the policies of a body-worn camera program must  
20 then be aimed at being a tool for cultural change within PPB to  
21 reduce force and increase accountability. Achieving both of  
22 those goals would also increase community safety and community  
23 trust in police, which hopefully would also increase community  
24 engagement.

25 Body-worn camera programs could not even hope to

1 remedy those problems unless the policies are directly aimed at  
2 them and unless the policies are fully and properly enforced.  
3 To accomplish those targeted goals, the Mental Health Alliance  
4 recommends the following -- not limited to the following, but  
5 these are the highlights:

6           Body-worn camera footage must be stored and  
7 controlled by a third-party outside of PPB. PPB must not  
8 control the footage. As part of that, the access to the  
9 footage must be limited to use for reviewing complaints and use  
10 of force.

11           Police use of force reports first must be written and  
12 submitted without the officer reviewing the footage, because  
13 the reports must be based on what the officer was thinking,  
14 feeling, and seeing when they acted to use force and what the  
15 Constitution requires. The officer could later view the  
16 footage and add information, but the original report must be  
17 part of what is reviewed by supervisory officers.

18           Access to that footage should be in line with the  
19 purposes of the body-worn camera program. All access must be  
20 tracked, and that access must be reviewed for compliance with  
21 the policies.

22           It has been reported that PPA has recently proposed a  
23 body-worn camera program that would have PPB control the  
24 footage; that the officers be able to review their footage and  
25 those of other officers before writing reports; and that the

1 officers who agree to wear cameras should receive a pay raise.  
2 Those proposals do not appear to be aimed at accountability and  
3 reducing force and in line with best practices.

4           There must also be clear policies about when  
5 body-worn cameras must be turned on. Those policies mean  
6 nothing if they are not consistently, strictly, and properly  
7 enforced, as we have seen by failures around the country and  
8 also here by the City's failure to hold officers accountable  
9 for violating PPB policies and using unconstitutional use of  
10 force.

11           When body-worn cameras are recording, they also  
12 implicate serious privacy concerns, particularly those privacy  
13 concerns of people experiencing or who appear to be  
14 experiencing mental illness or crisis. Restricting access to  
15 footage for reviewing use of force reports and complaints  
16 against officers and strong policies around the release for the  
17 benefit of the public would help to ease those privacy  
18 concerns, as would having the footage housed outside of PPB.

19           The policies around the release of the footage must  
20 also be aimed at reducing force and increasing accountability  
21 and not allow for the release of footage by PPB that shapes a  
22 narrative that suits the Bureau.

23           PPB and the City have not shown the ability to reduce  
24 force or hold officers accountable, and that's why body-worn  
25 cameras are being discussed as a remedy.

1 Any body-worn camera program must precisely and  
2 effectively be aimed at accomplishing those goals so that we do  
3 not simply end up with an expensive program that continues to  
4 allow and provide even further cover for unconstitutional  
5 policing.

6 That's all, Your Honor.

7 THE COURT: Thank you very much, Mr. Bruggemeier. I  
8 appreciate your comments.

9 Mr. Chavez, does that conclude the comments from the  
10 Mental Health Alliance?

11 MR. CHAVEZ: Yes, Your Honor.

12 The Court asked about other programs around in the  
13 country similar to CAHOOTS. I do recall one other in the Bronx  
14 called "Be Well." It has had some marked success in both  
15 having more people access their services and also fewer people  
16 sent to the ER, which is the traditional 911 response. So  
17 there are multiple upstream benefits to programs like PSR.

18 THE COURT: What was the program in the Bronx?

19 MR. CHAVEZ: I think it is Be Well.

20 THE COURT: Thank you. I appreciate that,  
21 Mr. Chavez.

22 Then our final presentation before our lunch break is  
23 coming from PCCEP, the Portland Committee on Community-Engaged  
24 Policing.

25 MR. ROSENBAUM: Your Honor, can I make a quick

1 statement?

2 THE COURT: You may.

3 MR. ROSENBAUM: The COCL does not agree with some of  
4 the statements that were made earlier by Mr. Renaud.  
5 Dr. Christoff, who is on the video, would like to clarify that,  
6 but we can do that later, if you'd like.

7 THE COURT: Thank you. We will do that as our first  
8 item right after we return from lunch.

9 Thank you, Dr. Rosenbaum.

10 DR. YOUNG: Good afternoon, Judge Simon. It is good  
11 to see so many friends and colleagues who I've seen on Zoom  
12 over this past year-and-a-half.

13 My name is Elliott Young. I am the co-chair of  
14 PCCEP. I am also a history professor at Lewis & Clark College.  
15 I wanted to alert the Court that PCCEP on July 27th voted on a  
16 response to the Court, which the staff were then instructed to  
17 send to the Court. It didn't sound like the Court has received  
18 it.

19 THE COURT: I didn't.

20 DR. YOUNG: It is Exhibit A. It is about some of the  
21 problems and gaps that Mr. Renaud and others have alluded to in  
22 terms of the functioning of PCCEP.

23 THE COURT: Mr. Young, if you have another copy of  
24 it, if you could give it to my courtroom deputy at the  
25 beginning of the lunch break, I will make sure it gets into the

1 record.

2 DR. YOUNG: I'll email a copy of it.

3 THE COURT: Thank you.

4 DR. YOUNG: What I'll start with is just an overview  
5 of the response that PCCEP, as a body voted on, and then give  
6 my own personal couplements. Then my colleague, who is the  
7 secretary of PCCEP, Ann Campbell, will produce additional  
8 commentary.

9 This is the response from PCCEP as a whole: Portland  
10 found itself facing a pandemic and unprecedented racial justice  
11 protests at the same time in the summer of 2020. In our view,  
12 the City failed to meet the moment and did not even comply with  
13 the minimum mandates of the Department of Justice's settlement  
14 agreement. The settlement agreement, in our view, is a floor,  
15 not a ceiling.

16 The City has been found by the compliance officer and  
17 the community liaison COCL and the DOJ to be in compliance with  
18 many paragraphs of the settlement agreement, but they each  
19 found the City out of compliance with issues related to force  
20 reporting, training, and community engagement.

21 We broadly agree with these assessments. PCCEP said,  
22 as a body, that we broadly agreed with the Department of  
23 Justice's remedies, as proposed, but we wanted to note that the  
24 City refer to the recommendations made by PCCEP about body-worn  
25 cameras that was made in 2019, if the City ultimately chooses

1 to pursue those, many of those recommendations are exactly the  
2 same as the ones that were just mentioned here before, and so I  
3 won't go through those.

4           Now moving on to my personal testimony. The COCL and  
5 DOJ have found the City out of substantial compliance in a  
6 number of areas, including downgrading the City support for  
7 PCCEP to partial compliance. While we understand that the  
8 settlement agreement is a legal document that requires specific  
9 actions by the City, we do not want to miss the forest through  
10 the trees.

11           One of the frustrating elements of the settlement  
12 agreement is that it focuses entirely on process, training,  
13 reporting, and community outreach and has absolutely no  
14 requirements for outcomes. The theory is that if all of the  
15 mechanisms of the agreement are in place, use of force and  
16 unconstitutional policing would be diminished or eliminated.  
17 Unfortunately, that is not what we have seen in the nine years  
18 that the agreement has been in place. Use of force by police  
19 reached an unprecedented level in 2020. Disproportionate  
20 targeting of black people, people in mental health crisis, and  
21 the houseless have continued at rates that far exceed their  
22 presence in the population.

23           And those in mental health crisis continue to be  
24 killed by the police. I have heard other people say that use  
25 of force by the police has actually diminished in Portland.



1 That is just factually untrue. The only way you could come to  
2 that conclusion is if you ignore the egregious use of force in  
3 crowd-control events. It would be the equivalent of saying we  
4 had a successful war in Afghanistan by ignoring the fact that  
5 the Taliban just took over the country in a few weeks. We  
6 cannot miss the fact that there is unprecedented levels of use  
7 of force in Portland very recently.

8 THE COURT: Mr. Young, by "very recently," we are now  
9 in August of 2021. Are you including anything that happened in  
10 2021 in that comment? I understand what we have been talking  
11 about is for 2020. But when you say "very recently," does that  
12 include the past eight months?

13 DR. YOUNG: I'm talking about principally 2020 with  
14 what we have the data for, at least, and many more than 6,000  
15 uses of force. The way that the Police Bureau and the City  
16 present their data on the public dashboard, they actually take  
17 out all the data about crowd-control use of force. But if you  
18 put that data in, what the bar chart looks like is that  
19 (indicating.)

20 So I think it would be a misguided misrepresentation  
21 to argue that use of force has diminished when we are in a  
22 moment -- and I consider we are still in the moment of these  
23 protests and crowd control with unprecedented use of force has  
24 been used.

25 Finally -- this is an allusion to something that

1 happened on Sunday. We regularly have white supremacists  
2 coming to town with the intention of inciting violence.

3           In the most recent occurrence, the police and the  
4 city commissioner and our police commissioner/mayor decided to  
5 stand back -- publicly stated this -- and not intervene while  
6 people armed with paintball guns roamed around our city  
7 taunting citizens, and in one instance even shot several live  
8 rounds at people on a downtown street.

9           THE COURT: By the way, it is my understanding that  
10 person was arrested. Am I wrong?

11           DR. YOUNG: You're correct.

12           The DOJ and COCL finding of noncompliance is due to  
13 lack of training and failure to complete reports in a timely  
14 and efficacious manner. I have full support and confidence in  
15 my colleague Jared Hager and Jonas, but I think what is missing  
16 from that your analysis is the view of the forest.

17           As you see it, policing in Portland is worse now than  
18 when the agreement was signed, and it was heading in this  
19 direction before 2020. I urge the Court to talk a step back  
20 from the legalistic minutia of this agreement and ask the  
21 simple question of whether our community safety has improved  
22 and police misconduct has been diminished since 2012. Our  
23 sense from scores of hours of hearing public testimony and the  
24 available data is that it is not.

25           Now, we have heard some conversations about the

1 funding of the police from the representative of the Portland  
2 Police Association. There are many things I disagree with the  
3 police union, but one thing I can agree with is that the police  
4 are overworked.

5 But there is another remedy for their overwork other  
6 than increasing the funding, and it is a remedy that PCCEP and  
7 others in the community have proposed, which is taking  
8 functions that the police should not be doing and giving them  
9 to other nonpolice bodies like the Portland Street Response.

10 (Audio background noise.)

11 THE COURT: One second.

12 Ms. Harris, we can hear at least your side of the  
13 conversation. Will you put us on mute, please.

14 MS. HARRIS: Okay.

15 DR. YOUNG: A Zoom moment.

16 So given that over half of the police arrests in  
17 recent history have been houseless people for very low level  
18 offenses -- failure to appear, et cetera -- we believe that  
19 there is ample room to redirect resources of the police towards  
20 functions for which they are trained, like addressing violent  
21 crimes.

22 THE COURT: That's the way it works in Eugene with  
23 CAHOOTS, isn't it?

24 DR. YOUNG: That is exactly the model in CAHOOTS.

25 Let me talk about that now. So there has been a lot of

1 conversation here today about Portland Street Response, and the  
2 City and everyone seems to love this idea. The issue is that  
3 Portland Street Response currently is taking two calls a day.  
4 You asked the question of whether Portland Street Response is  
5 responsible for this supposed diminishment of use of force. At  
6 two calls a day, the Portland Street Response cannot be  
7 responsible for anything.

8           The reason for that is because the police union has  
9 prevented Portland Street Response from expanding the kind of  
10 calls it takes, and the City Council has refused, as a body, to  
11 expand that program citywide. Portland Street Response,  
12 everyone can agree, is great, but under the current conditions  
13 it is being hamstrung and being blocked from being effective.  
14 So I think it requires a higher body -- maybe yourself -- to  
15 come in and cut through the red tape and do what everyone  
16 agrees is a common sense solution for alleviating the overwork  
17 of the Police Bureau and for improving public safety.

18           Let me turn to the PCCEP, and I'll start with the  
19 successes. PCCEP has been very active over this  
20 year-and-a-half, since the last status conference in February  
21 of 2020. When the George Floyd racial justice protests  
22 happened, PCCEP kicked into overdrive. We sponsored several  
23 town hall forums, which hundreds of Portlanders participated  
24 and passed recommendations that addressed urgent concerns of  
25 the community, including one to redirect resources from the

1 police to the community and another to ban the use of chemical  
2 weapons, aerial distraction devices, and noise devices against  
3 demonstrators in Portland.

4           Some police resources were redirected -- \$15 million  
5 in June of 2020 to the community -- and there has been a  
6 partial limitation of some of the chemical weapons that we  
7 mentioned and that were discussed earlier. But a more serious  
8 reinvestment in the community has not happened, and there have  
9 been repeated calls to increase the police budget, as you heard  
10 today, and the money that was allocated to the Portland Street  
11 Response, that \$5 million, has not even been approved to be  
12 used to expand the program beyond the one pilot program in one  
13 small neighborhood in Portland.

14           The other major set of recommendations that PCCEP  
15 developed at the request of Mayor Wheeler is related to core  
16 patrol services of the Bureau. These recommendations were  
17 developed with the input of hundreds of Portlanders and two  
18 surveys and multiple town halls and work sessions. PCCEP  
19 passed these recommendations at the end of May and then  
20 presented them to City Council in a work session on July 27th.  
21 There is a public dashboard tracking progress on these  
22 measures, but as you can see from this dashboard, so far none  
23 of them have been implemented. All of them are listed as "in  
24 progress." Of course, it is too early to say that the lack of  
25 urgency on following through on these recommendations leaves me

1 worried that they will remain as another report gathering dust  
2 on a hard drive.

3           PCCEP also launched an effort to investigate the  
4 possibility of a truth and reconciliation commission in  
5 Portland. Over the summer, a series of workshops were held to  
6 inform the community about how other cities and countries have  
7 handled similar commissions. As you can see from PCCEP's  
8 quarterly reports and the 2020 annual report, the committee has  
9 been going well beyond expectations in terms of holding  
10 meetings, soliciting community feedback, and proposing  
11 recommendations to the City.

12           However, with all of that effort, we find PCCEP to  
13 not be as effective as it could be, due to lack of support from  
14 the City and ineffective staff support for our mission. I  
15 would just echo what the Albina Ministerial Alliance testimony  
16 said about that.

17           So let me now turn to some of the challenges.

18           PCCEP is a relatively new body, and there are still  
19 some things that need to ironed out to make it work as  
20 effectively as possible. I concur with the COCL and DOJ's  
21 assessment that the City could be more effective in its support  
22 of PCCEP. Some of the critiques that Mr. Renaud from the  
23 Mental Health Alliance offered today, I fully agree with, as a  
24 member of PCCEP.

25           Far too often recommendations that we made fell

1 through the cracks. In other words, we would send them to the  
2 City, and we wouldn't hear back. Six months later, they would  
3 say, "Oh, we don't know where that is." Emails about urgent  
4 matters did not receive responses for weeks. Our liaison with  
5 the Mayor's Office was absent for long stretches. At times,  
6 most recently, we don't even know who our liaison is. We are  
7 told it is one person, and that person does not attend our  
8 meetings and does not communicate with us. And the internal  
9 day-to-day machinations of the PCCEP has faltered as a result.

10           The inability for the public, anyone for that matter,  
11 to easily track PCCEP's recommendations on our website has been  
12 a perpetual problem. At the urging of the community, PCCEP  
13 leadership pushed to create a chronological list of our  
14 recommendations. But that effort was started and then  
15 abandoned. The minutes of our meetings and video recordings  
16 are either absent or don't get posted in a timely manner.  
17 These obstacles ended up doubling or tripling the amount of  
18 work that I and my fellow members have to do. The volume of  
19 work to make sure things get done is simply unsustainable for a  
20 volunteer body.

21           After two years on the PCCEP, the overwhelming  
22 feeling I get is that we're pushing a boulder up a steep hill  
23 like Sisyphus. Too often the City seems to create obstacles  
24 for our work rather than helping us push the boulder forward.

25           I'll be resigning at the end of the month, the end of

1 my two-year term, and I wish PCCEP the best in its important  
2 work, but our work will only be effective if we have willing  
3 partners and those who actually hold the levers of power in the  
4 City.

5 Thank you.

6 THE COURT: Thank you, Dr. Young.

7 Before you leave, I have a follow-up. I appreciate  
8 all of the detail and the specifics that you've provided. I  
9 take those very seriously, as I know the parties will.

10 But I have a broader question, since I have the  
11 benefit of a professor of history here: About ten-something  
12 years ago -- almost ten years ago -- we saw the Department of  
13 Justice bring a number of these types lawsuits involving  
14 pattern-and-practice actions against various municipal police  
15 departments. There are almost a dozen lawsuits pending.

16 Is that right, Mr. Geissler? Eight or nine or ten?

17 MR. GEISSLER: I believe so, Your Honor.

18 THE COURT: So there are almost a dozen lawsuits  
19 pending around the country, where the objective is to try to  
20 totally reframe and assist in the policing of local communities  
21 in metropolitan areas. Are there any historical precedents of  
22 which you are aware of in this country's history that can help  
23 give us guidance as to how to find a solution or what to avoid?

24 DR. YOUNG: It is a really good question. This is  
25 one of these things that I actually study in the history of



1 policing and criminal justice. What we've seen over the course  
2 of the 20th century is the same history repeating itself. You  
3 can go back to the 1940s in New York, where there were urban  
4 riots related to police violence. They set up commissions.  
5 The Government comes in. There's money that's allocated and  
6 very little long-term transformation happens.

7           So, frankly, I love the fact that the federal  
8 government is overseeing the City. With PCCEP, I feel that the  
9 DOJ has been a force to try to push forward those efforts. But  
10 given the actual reading through the minutia of all of those  
11 paragraphs, all of those things can be checked off. The  
12 training can happen. The reporting can be done. And we would  
13 still have -- could still have outcomes that are as egregiously  
14 bad as they are today.

15           So I think one of the shortcomings of this settlement  
16 agreement -- and I can't speak to other consent decrees -- is  
17 that it does not speak to outcomes. If we are serious about  
18 changing the culture and producing better outcomes, why not  
19 have an agreement that actually mandates it? Many of you are  
20 lawyers. If you want something to happen, you actually put it  
21 in the agreement that that thing has to happen. What this  
22 agreement does is it actually steps back and says, "We are  
23 going to mandate that these other things happen in the hopes  
24 that those will produce better results."

25           As a student and a scholar of criminal justice, I

1 don't have much hope that even if there is substantial  
2 compliance, that that will result in better policing outcomes.  
3 I think there needs to be much more radical transformation, as  
4 folks from the Albina Ministerial Alliance talked about, and  
5 the community has actually made those recommendations. And  
6 PCCEP has brought those forth to the City. It is about not  
7 just relying on the police to solve all of our social problems  
8 and public health problems but creating these other  
9 alternatives as well as holding the police accountable. I  
10 don't see that this agreement is doing any of that. May I  
11 follow up on that a little bit, because I understand what you  
12 are saying, as opposed to putting out process changes and hope  
13 that they will result in better outcomes, the other option is  
14 to dictate outcomes. Well, if one were to dictate outcomes  
15 without imposing process changes, then the recipient of that  
16 demand -- in this case the City that just told you must achieve  
17 certain outcomes -- how would they go about doing that but for  
18 looking at what processes they would need to change, and isn't  
19 it better to have the participation of the Department of  
20 Justice, of the police association, the Albina Ministerial  
21 Alliance, and the Mental Health Association all at the table in  
22 trying to help shape those processes? Otherwise, you are  
23 simply dictating to one entity, "Achieve these results, and you  
24 figure out how to do it."

25 DR. YOUNG: Well, I'm not suggesting that. It is

1 both/and. Mandate the processes but also mandate the outcome.  
2 How do we have ten years of data about disproportionate  
3 policing of black Portlanders egregious and when you talk to --  
4 as I, PCCEP, have done, I have talked to the people -- the  
5 police officers who were on the Gun Violence Reduction Team and  
6 now one of those people is the head of the new FIT oversight  
7 group, which is the new iteration of that, saying that  
8 disproportionality is not a problem. If they don't imagine  
9 that's the problem, how could we hope that they are going to  
10 solve it?

11 I know Chief Lovell and other people have talked to  
12 that. But when you talk to the people who are actually doing  
13 the job, they saw disproportionality isn't a problem. If the  
14 Court mandated that in five years there should not be  
15 disproportionality, because it is racist and unconstitutional,  
16 and we will help you get there, but that includes tracking the  
17 officers who are doing these disproportionate stops, I'm sure  
18 that would be motivation to get the Bureau to change. And if  
19 not, we need new people as officers or we need new leadership,  
20 we need something new. But I think what we need to do is  
21 mandate the solutions that we want and not rely on process.

22 THE COURT: Thank you, Dr. Young. I appreciate your  
23 comments and perspective.

24 DR. YOUNG: Thank you.

25 MR. HAGER: Your Honor --

1 THE COURT: One second. Let me go to Ms. Brown and  
2 then Mr. Hager.

3 MS. BROWN: Your Honor, I just wanted to note that  
4 Docket 246 is the PCCEP report. It was filed. My apologies  
5 that it was filed yesterday, which is later than the PCCEP  
6 submitted it, but it was in fact filed.

7 THE COURT: Thank you very much. I usually do all my  
8 printing in the afternoon and take it home with me. Thank you  
9 much for that assistance.

10 Mr. Hager.

11 MR. HAGER: Your Honor, I want to correct one  
12 misimpression about the settlement agreement. While many of  
13 the terms are process-related, we would call the Court's and  
14 public's attention to paragraph 169, which does speak to the  
15 outcome of accountability for compliance with the policies.

16 In addition, the definition of the word  
17 "implementation," which is incorporated into each of the  
18 substantive sections, requires consistent verified performance  
19 of those processes over time.

20 So we believe there are outcome measures embedded  
21 within the settlement agreement.

22 THE COURT: My plan is at the end of the public  
23 comment period, to invite any further responses and comments by  
24 the parties and the amici. If you want to spell that out a  
25 little bit further at that point in time, I think that will be

1 a benefit to everyone, myself included.

2 MR. HAGER: Thank you, Your Honor.

3 THE COURT: Your name, please.

4 MS. CAMPBELL: Hi, I am Ann Campbell.

5 Thank you.

6 THE COURT: Thank you.

7 Ms. Campbell.

8 MR. CAMPBELL: I worked in education for 33 years and  
9 retired from public service three years ago. I was a workplace  
10 mediator for nearly 20 years, and I am currently a hospice  
11 volunteer and a volunteer member of PCCEP. I serve on the  
12 steering committee, the settlement and policy committee, and on  
13 the ad hoc truth and reconciliation committee.

14 I was appointed by Mayor Wheeler right before the  
15 murder of George Floyd. And as stated in PCCEP's mission.  
16 PCCEP is to act as an independent advisory committee to the  
17 mayor and chief of police with the specific focus on police  
18 services and relationships with people living with mental  
19 illness and people of color. The PCCEP is also charged with  
20 independently overseeing the implementation of the DOJ's  
21 settlement agreement.

22 In my year-and-a-half on PCCEP, I have listened to  
23 over 700 citizens of Portland share their experiences with  
24 Portland Police Bureau officers. I have listened to women  
25 telling us that they have endured name calling by officers as

1 they walked on a sidewalk with their children.

2 I've heard numerous accounts of people of color being  
3 pulled over, thrown on the ground or against their car, because  
4 "you look like someone we are looking for," and much, much  
5 more.

6 I've heard from many people, peaceful protesters, who  
7 have shared their experience with Portland Police Bureau  
8 officers who have deployed CS gas canisters because someone --  
9 not them -- threw a plastic water bottle.

10 I'm outraged by the continual lack of accountability  
11 of the Portland Police Department. As the data from both the  
12 Department of Justice and the COCL report show, the Portland  
13 police officers have used excessive force on numerous Portland  
14 citizens last summer, and many officers couldn't remember how  
15 many times they used force.

16 A few weeks ago an alt-right group gathered on the  
17 Portland waterfront. It was said that the Proud Boys were  
18 there to provide security for the event. A white male was  
19 videotaped walking around our city streets, holding a gun, and  
20 randomly pointing it at people. Portland Police Bureau did not  
21 respond.

22 I attended a Portland Police Bureau precinct meeting  
23 on August 17th, and I asked why officers did not respond. I  
24 understood Chief Lovell to say that it isn't the job of  
25 Portland Police Bureau officers to get involved in politics.

1           This past Sunday, the alt-right group came to our  
2 town, and, once again, Portland Police Bureau did not respond.  
3 Portland Police Bureau allowed lawless individuals to roam our  
4 city and brutalize our citizens. It is my view that if you are  
5 an alt-right white man, you can roam through our city and point  
6 guns and beat people. If you are a person of color or someone  
7 experiencing a mental health crisis, the outcome is often very,  
8 very different.

9           My overall impression is that the Portland Police  
10 Bureau does not serve all of the citizens of Portland equally,  
11 and it appears that the Portland Police Bureau officers do not  
12 know who to protect and serve.

13           Thank you.

14           THE COURT: Thank you, Ms. Campbell.

15           All right. At this time we are going to take a lunch  
16 break. We will plan on convening back in this courtroom at  
17 2:00 p.m.

18           At that time I will hear first from Dr. Rosenbaum,  
19 who wanted to make some brief comments in response to what  
20 Mr. Renaud said.

21           Then we will have our list. We will go to  
22 Mr. Handelman, Ms. Bochinski, Ms. Brayfield, Ms. Silver,  
23 Mr. Schorr, Mr. Hopcroft, Mr. Nolen, Ms. Aiona, Ms. Rainish,  
24 and then also Mr. Hussaini has been added to the list.

25           If I have not read your name and you want to provide

1 public comment, please see my courtroom deputy, Ms. Austad,  
2 immediately at the beginning of this lunch break or immediately  
3 before we begin at two o'clock.

4 Have a good recess, everyone.

5 (Recess.)

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1 (Afternoon session; open court; proceedings resumed:)

2 THE COURT: Dr. Rosenbaum.

3 DR. ROSENBAUM: I would like to introduce my  
4 colleague, Dr. Tom Christoff, on the screen on the top left.  
5 He is going to make a couple of comments to earlier comments.

6 THE COURT: Excellent. Thank you, Dr. Rosenbaum.

7 Welcome, Dr. Christoff.

8 DR. CHRISTOFF: Thank you, Your Honor. Thank you for  
9 allowing me the opportunity to clarify a few points.

10 THE COURT: One moment.

11 Hold on. I forgot. One day, I will get used to  
12 COVID. I am going to go get my mask.

13 (Laughter.)

14 (Pause in proceedings.)

15 THE COURT: Dr. Christoff.

16 DR. CHRISTOFF: Thank you, Your Honor. Thank you  
17 again for allowing me the opportunity to clarify a few points.

18 First, as it relates to the Unity Center accepting  
19 walk-in patients, we point to the Unity Center's website where  
20 it says, "For immediate behavioral health emergency, Unity  
21 Center welcome walk-ins."

22 While we've always welcomed discussion on ways to  
23 improve community-based mental health systems, and we will  
24 continue to welcome such discussions, for the purposes of the  
25 settlement agreement, we have found that the Unity Center

1 complies with paragraph 89, a finding that has been echoed by  
2 the Department of Justice.

3           Additionally, there exists other locations throughout  
4 Portland which allow walk-in mental health services, and PPB  
5 officers are provided information about these locations as part  
6 of the mental health training, and they are also given  
7 reference as related to these facilities.

8           The second point I wanted to make sure that the  
9 record clearly reflects is that the COCL has never considered  
10 compliance with the settlement agreement, and particularly with  
11 Section 5, to be the responsibility of the PPB alone.  
12 Throughout the entirety of the section, we discuss efforts of  
13 the City, along with PPB, to accomplish the goals of the  
14 section, per BOEC policies and public-facing data dashboards  
15 related to Portland Street Response, neither of which are under  
16 the purview of the PPB.

17           In our report we did recommend that PPB seek other  
18 ways to support mental health organizations, though this  
19 followed a reference to PPB's role on the Unity Center's  
20 transportation work role, and in no way was it meant to imply  
21 that PPB bears the responsibility alone, as evidenced by joint  
22 references to PPB and the City throughout the rest of this  
23 section.

24           Thank you, Your Honor.

25           THE COURT: Thank you, Dr. Christoff.

1 Thank you, Dr. Rosenbaum.

2 All right. At this time, consistent with our past  
3 practice, I will invite comments by members of the public who  
4 will to speak. We will begin with Mr. Dan Handelman.

5 Mr. Handelman, are you on the telephone? I don't see  
6 you in court.

7 Thank you. Mr. Handelman, you are on mute, I  
8 believe.

9 Mr. Handelman, let me ask you to both speak up but  
10 probably most importantly to speak very slowly.

11 MR. HANDELMAN: Yes. Your court stenographer has  
12 reminded me of that already.

13 Thank you.

14 THE COURT: I look forward to your comments.

15 MR. HANDELMAN: Are you ready for me to begin?

16 THE COURT: Yes.

17 MR. HANDELMAN: Judge Simon, once again Portland  
18 Copwatch offers its comments on the status of the settlement  
19 agreement between the U.S. Department of Justice and the City  
20 of Portland. These comments are on behalf of our organization,  
21 not the Albina Ministerial Alliance Coalition for Justice and  
22 Police Reform, despite my membership on the steering committee  
23 of that group. Most of these comments reflect information we  
24 sent the Court on August 10th analyzing the compliance  
25 officer's Q1 2021 report.

1           While we recognize the DOJ is the ultimate arbiter of  
2 whether the City has met its obligations under this agreement,  
3 we urge Your Honor to recognize what PCW has said all along:  
4 the City is not as interested in meeting the spirit of the  
5 agreement as it is merely checking the boxes to try to get out  
6 from under it.

7           THE COURT: Mr. Handelman, I will suspend all time  
8 limits for you if you speak slowly.

9           MR. HANDELMAN: Thank you.

10           A prime example is that the City stopped gathering  
11 the data needed for the COCL and DOJ to assess compliance,  
12 because they apparently thought their one full year of meeting  
13 the metrics had been achieved. Those two entities charged with  
14 assessing the City's progress have told the community  
15 explicitly that they are not looking at whether or not the  
16 police have stopped killing people in mental health crisis,  
17 which has actually gotten worse, but only that systems are in  
18 place to help the Bureau be a self-improving organization. But  
19 if those systems are only functional because the DOJ is  
20 watching, this nine-year-long experiment has been a waste of  
21 everyone's time.

22           The Court has probably seen how the City tried to  
23 shift the blame for the 6000-plus uses of force at last year's  
24 social justice protests onto the federal agents who arrived and  
25 also used violence against mostly peaceful demonstrators. The

1 City is not willing to take responsibility. The COCL described  
2 how the city attorney addressed a judge's order about the  
3 difference between passive resistance and active aggression by  
4 protestors -- seemingly dismissive of the judge, rather than  
5 taking to heart the underlying message of how to meet  
6 constitutional standards.

7           The previous report by the COCL found that about  
8 eight paragraphs were out of compliance. The lack of follow-up  
9 to last year's protest violence led them to label eight more  
10 paragraphs in partial compliance, and then they added the lack  
11 of staff support for the Portland Committee on  
12 Community-Engaged Policing to that list. The failure rate has  
13 doubled. Clearly things are either not getting better or going  
14 in the wrong direction.

15           Now, the City has a chance to remedy these issues  
16 based on the nine points outlined by the DOJ. We are aware of  
17 Your Honor's support for the use of body-worn cameras first on  
18 that list. We want to go on record with the policies we  
19 outlined in 2015 to ensure those cameras are used for the  
20 reason promised -- police accountability. We have sent our  
21 15-point proposal to the Court. We particularly want to call  
22 attention to our demand that officers not be allowed to review  
23 footage before writing their reports. Without this provision,  
24 there is no adherence to the principles of *Graham v. Connor*,  
25 where officers are supposed to decide whether to use force

1 based on what they know at the time, not 20/20 hindsight. We  
2 believe that if the Portland Police Association wins the right  
3 to review the footage prior to writing reports during their  
4 now-secret contract negotiations, the City should not get the  
5 cameras.

6 We also remind the Court of our concerns about the  
7 cameras being used as surveillance tools, in violation of  
8 ORS 181A.250, the statute that was cited when a court ordered  
9 the City to stop live-streaming protest actions. We have also  
10 challenged the DOJ's assertion that body cams will pay for  
11 themselves, since they are estimated to cost \$1.2 million a  
12 year, and currently the City pays out an average of \$675,000 a  
13 year for police-related lawsuits. This is not to mention that  
14 most of those incidents would likely occur regardless of  
15 whether officers wore body cameras or not.

16 If body cameras are really about police  
17 accountability, they should be used mostly or solely for  
18 accountability purposes and not to prosecute community members.  
19 Far too many people already end up incarcerated due to the  
20 biases of the system, we don't need to hand the Portland Police  
21 a tool to make matters worse.

22 We previously cited Bureau's Annual Reports as a  
23 bellwether for how well the PPB is meeting the spirit of the  
24 agreement. There was some improvement this year-- the report  
25 was drafted by the end of June and published in August.

1 However, while there was an announcement sent out about the  
2 precinct presentations, it was buried in an August 4 email  
3 labeled as a "reminder" about PCCEP meetings. A week prior,  
4 the original email said nothing about the annual report. We  
5 only realized the hearings were happening when the Council  
6 agenda was published on August 13, four days before the first  
7 meeting and five days before the Council hearing. Only one  
8 precinct meeting was completed before the council hearing. How  
9 can the Bureau let Council know what the community said if  
10 those meetings have not happened yet? This was also a problem  
11 last year?

12           Finally on this topic, the City Council, under Mayor  
13 Wheeler's leadership, has stopped taking public input on  
14 reports, even though City Code allows them to do so at the  
15 discretion of the presiding officer. We urge the Court to ask  
16 the City if part of the problem of community trust in police is  
17 lack of transparency, why does the City continue to refuse to  
18 hear from the public?

19           In our analysis of the COCL Report we also noted that  
20 they have given the Bureau a passing grade for delivering  
21 training, even though the compliance officer and DOJ said that  
22 training on crowd control had to be done during Q1. At this  
23 point it is not even clear that training will be delivered in  
24 this, Quarter 3 of 2021. The COCL's past rating of full  
25 compliance was based in part on the City delivering training

1 which was delayed due to COVID.

2           Another frustration is the way the City posts  
3 information about officer accountability. In the past, the  
4 "independent" police review would put out an annual report  
5 detailing complaints from the previous calendar year. Now,  
6 they use an online "dashboard" which is constantly updated.  
7 Between the time we wrote our analysis of IPR's annual report  
8 in June. And today's hearing, IPR data now show that one  
9 officer was found out of policy for use of force in 2020, a  
10 number that had previously been zero. In a year with over  
11 6,000 uses of force, with at least one leading to the  
12 indictment of an officer, the fact that only one violation of  
13 policy was found is astounding. At the North Precinct  
14 presentation, Chief Lovell said he thought half a dozen  
15 officers had been found out of policy. If that is true, those  
16 data should be reflected in either the 2020 or 2021 IPR  
17 statistics, but so far there is only one sustained force  
18 allegation.

19           With regard to the incoming new oversight system  
20 voted into the City charter in November, we are glad that the  
21 COCL and DOJ are asking the City to come up with a viable  
22 transition plan. We have already seen the oversight system  
23 switch over once before in 2001 and a lot of institutional  
24 knowledge was lost. We are hoping that one thing that comes  
25 out of the DOJ's request as part of their nine-point plan on



1 this topic is that the agreement will be modified to make it  
2 clear that: (a) the oversight body can investigate and hear  
3 appeals on deadly force cases; (b) the civilians reviewing  
4 cases do not have to defer to the police's findings; and (c)  
5 the new system does not have to conform to exactly what is  
6 described in the agreement so long as it performs the same  
7 functions with the same or greater authority. We have heard  
8 verbal promises that a stronger system doesn't violate the  
9 agreement, but would like to see it in writing.

10           The COCL has begun questioning the Bureau's stop  
11 data, which continue to show a disproportionate number of black  
12 drivers and pedestrians are stopped and searched by police.  
13 About 20 percent of those stopped in cars or on foot by police  
14 are African American in a city that is six percent black. The  
15 same scrutiny needs to be applied to the use of force data,  
16 which have shown that 25 to 30 percent of people subjected to  
17 force are black. We note here that there are no demographic  
18 data for those subjected to force at the protests last year,  
19 but given that they were about the murder of George Floyd, it's  
20 likely they were also disproportionately African American.

21           The data on those being prosecuted by the district  
22 attorney for actions at the protests show a similar disparity  
23 to Portland's stop data. Also, in terms of transparency, it is  
24 alarming that the training division denied the compliance  
25 officer the right to view online trainings, despite the

1 agreement giving them full access to whatever they need to  
2 assess compliance. This brings to mind the COCL's comment that  
3 technology won't fix the problems with holding officers  
4 accountable, but it will take institutional will.

5           The COCL and DOJ also call out the Police Review  
6 Board, the body that holds hearings out of the public eye with  
7 only one or two community members on boards of five to seven  
8 people. They noted that cases were inadequately investigated or  
9 resulted in findings that were inconsistent with Bureau policy.  
10 PCW has long advocated for an overhaul of the PRB and hope that  
11 the new oversight system will fix these longstanding issues of  
12 transparency.

13           Paragraphs 101 and 110 consist of the criteria for  
14 the Enhanced Crisis Intervention Team and the Behavioral Health  
15 Response Team, and state that officers should not "have been  
16 subject to disciplinary action based upon use of force or  
17 mistreatment of people with mental illness."

18           Copwatch thought this meant that improper force or  
19 mistreating people with mental illness would disqualify  
20 officers from these specialty teams. When we asked the COCL  
21 whether officers had been flagged, since nearly every cop in  
22 Portland was involved in the violent response to protests last  
23 year, they indicated that "of people with mental illness"  
24 modifies "use of force." This makes no sense either from a  
25 policy or a grammatical standpoint -- "use of force of people

1 with mental illness"?

2           This implies that unless the officers thought  
3 protestors were living with a mental illness, force complaints  
4 would not be reported to the Behavioral Health Unit.

5           The Court should know that the BHU Advisory Committee  
6 finally held two public outreach meetings, in March and June.  
7 However, neither forum was used for input into policy issues,  
8 and most of the comments at the first meeting were people  
9 wondering why the regular Committee meetings are not open to  
10 the public.

11           The COCL reports that in March, the mayor approved  
12 the PCCEP's recommendation for the City to send a letter of  
13 remorse to families of those killed by police. We hope that  
14 the families of Robert Delgado, killed in April, and Michael  
15 Townsend, killed in June, received such letters. Both men were  
16 in mental health crisis, keeping the statistic consistent that  
17 more officer deadly force incidents have involved people in  
18 crisis since the DOJ agreement began than in the years prior.

19           In conclusion, we are deeply concerned that after a  
20 year of uprisings for racial justice and police accountability,  
21 the Police Bureau seems not to understand that they as an  
22 institution are part of the problem. They have made statements  
23 in public about the horror they felt watching a Minneapolis  
24 officer kill George Floyd by slow motion asphyxiation. But  
25 they don't acknowledge the local incidents which outraged the

1 community such as the beating death of James Chasse or the  
2 shootings of Kendra James, Keaton Otis, Aaron Campbell,  
3 Quanice Hayes, Terrell Johnson, or many others. The truth is  
4 that police taking the lives of people in the community should  
5 shock the conscience of us all each time it happens. The City  
6 seems to be waiting for the DOJ to go away so they can go back  
7 to business as usual. That is not how the Portland Police will  
8 build trust in the community, nor will it lead to holding  
9 officers accountable. We hope the judge will hold all the  
10 parties to this agreement to the spirit of the promised  
11 changes.

12           That concludes my comments. I do have two links as  
13 well. Can I put those in, or that proper with the Court?

14           THE COURT: You may, if it works.

15           MR. HANDELMAN: Thank you.

16           I'm going to turn it over top Barbara, unless you  
17 have any questions.

18           THE COURT: Thank you very much, Mr. Handelman. I  
19 appreciate that.

20           We will now hear from Barbara Bochinski.

21           MS. BOCHINSKI: Good afternoon, Judge Simon, and  
22 everyone else. I'm Barbara Bochinski from Portland Copwatch.

23           Here are some other issues that show the Bureau is  
24 not making progress on the agreement:

25           The "force to custody" ratio, which used to always be

1 at about 3 percent, is now up to 6.2 percent.

2           Officers turned off their cameras during online  
3 trainings so it was not clear whether they were actually paying  
4 attention.

5           At least one supervisor did not report an officer's  
6 use of force for investigation by IPR because they felt force  
7 had not been used.

8           Several complaints that involved possible officer  
9 misconduct were handed off as "referrals," including a question  
10 of officer courtesy, an officer rudely telling someone they  
11 could not record them, and use of profanity made worse by not  
12 providing a business card.

13           Even though the agreement gives the authority for the  
14 Citizen Review Committee to request and receive follow-up  
15 investigations within ten Days, a case they sent back in  
16 October was promised to be updated to them in August. However,  
17 the CRC chair did not relay the information provided by IPR, so  
18 now the public will hear the outcome 11 months later.

19           Next, the COCL has taken the position that because  
20 the City is not the primary entity in charge of mental health  
21 care, they can only do so much to fulfill the obligations of  
22 Section 5. However, the COCL also keeps saying they are not  
23 qualified to assess the status of paragraph 90, which calls for  
24 care agencies to have committees to address the links between  
25 police and the mental health system. They also continue to say

1 that the Unity Center qualifies as the walk-in/drop-off center  
2 called for in paragraph 89, even though it really doesn't have  
3 a viable walk-in component.

4 I would like to add, as a resident of Portland, I am  
5 concerned about the costs of body-worn cameras. It is  
6 1.2 million a year, and that is a big burden even if it is used  
7 properly, which we are not sure they will be. I agree with  
8 Elliott Young who said that the money would be better spent on  
9 other programs. I totally agree with that. We need to shift  
10 our attention from the police doing everything to solving our  
11 human needs in other ways.

12 Thank you for listening.

13 THE COURT: Thank you, Ms. Bochinski. I appreciate  
14 your comments.

15 I'll now invite Ms. Ann Brayfield to provide public  
16 comment.

17 MS. BRAYFIELD: Good afternoon, Your Honor, and other  
18 participants in the status conference today. Thank you,  
19 Judge Simon, for once again opening your courtroom in person  
20 for this status conference in the ongoing matter of the  
21 settlement agreement. Your respectful listening and  
22 questioning is a key element in these conferences and hopefully  
23 reminds us all of the wisdom to be gained from following your  
24 example. As have you been faithful to the community in your  
25 willingness to hear from the public in this matter, I want you

1 to know that in my experience since our last conference, the  
2 PCCEP has done an excellent job of listening to the community  
3 and providing many opportunities for the community to be heard.

4           As to the PCCEP, I appreciated their report to you in  
5 which they outlined the DOJ's suggested remedies that they  
6 support for the City to come back into compliance with the  
7 settlement agreement. In particular, I support a timely  
8 process to amend the settlement agreement and develop a plan  
9 for an orderly transition to and full implementation of the new  
10 voter-approved community police oversight board on an  
11 accelerated time schedule. With their vote of approval, the  
12 community has been heard and needs to see immediate follow  
13 through as part of regaining public trust in policing in  
14 Portland.

15           The lack of consistency in and the mayor's response  
16 to PCCEP's recommendation within the mandated 60-day period in  
17 my opinion directly disrespects not only the work of PCCEP but  
18 indirectly the community whom the PCCEP takes feedback from for  
19 their proposed recommendations. The lack of notice or a timely  
20 notice to the PCCEP of precinct meetings following the release  
21 of PPB's annual report leads to poor public engagement, as the  
22 PCCEP is one of the best vehicles for getting the public out  
23 for these meetings virtually or in person.

24           The City's May 7th, 2021, response to the DOJ's  
25 annual compliance report for 2020 and the DOJ's letter dated

1 March 23rd, 2021, is disheartening, to say the least, as in my  
2 opinion it reflects the view that the settlement agreement is  
3 an end in itself. Further, it appears to me that more  
4 negotiations and mediations are a likely outcome and may have  
5 already started. As I understand today, mediation is in  
6 progress.

7 I hope that you are able to have all parties find a  
8 better way to the outcomes of the community's desires on the  
9 street on a daily basis.

10 The three documents that the PPB provided to the DOJ  
11 in March of 2021 and one document provided in April 2021 are  
12 disheartening as well. In my opinion, the DOJ's May 5th  
13 response to these documents via letter to City Attorney Taylor  
14 and Police Chief Lovell calls out what is true. See the first  
15 paragraph, point 2, in their letter. If the PPB can't get off  
16 justifying what they did during the 2020 protests and blaming  
17 shortcomings on other entities and circumstances beyond their  
18 control, and concluding that they did an excellent job handling  
19 the nightly protests without a thorough self-assessment, it  
20 seems unlikely to me that the settlement agreement will create  
21 the changes we need.

22 I know there has been some discussion of training  
23 today, and I understand that policies and practices, including  
24 training of officers, continues to be worked on. In my  
25 opinion, a major piece of training that has found success in



1 many jurisdictions nearby and around the country continues to  
2 be missing. I hope I'm incorrect in that, but I can't see  
3 anywhere training in the wellness area around mindfulness  
4 practices has been instituted or designed. That piece is a  
5 toolkit of mindfulness practice, which locally is part of  
6 police officer training in Hillsboro and Bend. I'm not certain  
7 what the existence to this training might be other than the  
8 beliefs expressed six or seven years ago by a training officer  
9 at a citizen training that police officers have fight/flight  
10 trained out of them. I didn't understand then nor now that  
11 this human response could be trained out of any human being.  
12 Mindfulness practices have been shown to assist the person's  
13 fight/flight response. With these practices under their belts,  
14 I think there may have been some different outcomes during the  
15 process protests of 2020.

16           Again, the daily outcomes on the street are what  
17 matter most. In my mind, it is positive outcomes that have a  
18 possibility of building trust in the community and reducing  
19 fear among all parties in our daily interactions. We all need  
20 to be respected and to go home safe.

21           Thank you for the opportunity to share my views.

22           THE COURT: Thank you very much for those views,  
23 Ms. Brayfield. I appreciate them very much.

24           At this time I'll invite Rochelle Silver to invite  
25 public comment.

1 MS. SILVER: Good afternoon. Can you hear me?

2 THE COURT: We can.

3 MS. SILVER: Thank you for allowing me to speak. My  
4 name is Rochelle Silver. I am a retired psychologist, having  
5 served as the chief psychologist of Dammasch State Hospital and  
6 Oregon State Hospital for 25-plus years. I also served for two  
7 terms as a member of the citizens review committee and served  
8 on the COAB for its entire existence.

9 I would like to just chime in on what some other  
10 people have said, primarily community people and the amicus  
11 groups.

12 It is clear that the City and its police force are  
13 not in compliance. They are not in compliance with force, with  
14 training, with accountability, or community engagement. In  
15 that regard, I did write a letter to you, Judge, which is an  
16 exhibit, as part of the Mental Health Alliance's brief. I am  
17 also a member of the Mental Health Alliance.

18 The problem, as I see it, is the City has never  
19 really acknowledged any responsibility nor has the PPB. They  
20 see the settlement agreement as an extensive annoyance, and  
21 City Council members have made public comments about hoping the  
22 settlement agreement ends so they can get on with their being  
23 progressive as they would like to be.

24 In my opinion, the City of Portland, beautiful as it  
25 was, currently looks like a war zone. The PPB's latest tactic

1 to not intervene because of politics or because of not having  
2 enough officers or being busy with other things is just  
3 reprehensible. They are certainly available to kill community  
4 members in a mental health crisis and to hassle people of  
5 color. I hope that the Department of Justice and the COCL as  
6 well as the Court really look at what is happening and hold the  
7 City and its police force responsible to create real change,  
8 not checking boxes.

9 Thank you for this opportunity.

10 THE COURT: Thank you, Ms. Silver. And I appreciate  
11 your comments.

12 At this time I'll invite Mark Schorr to provide  
13 public comment.

14 MR. SCHORR: Thank you, Your Honor. Good afternoon.  
15 And thanks to the interested parties who are here.

16 My name is Mark Schorr. I have been a licensed  
17 professional counselor and certified addiction counselor for 30  
18 years. I'm here as one of 18 members of the Mental Health  
19 Alliance. I will be reading a statement, which was co-authored  
20 with Amanda Marshall, a MHA member and an attorney.

21 People struggling with mental illness or substance  
22 abuse symptoms are not going to be as responsive to police as  
23 an unimpaired citizen. This leads to confrontations, which  
24 often lead to tragedy. The body count continues to rise in  
25 Portland while the City government fumbles about, failing to

1 meet the rules set forward by this Court.

2           At the last court hearing, members from the  
3 subcommittee with people with mental illness of the PCCEP stood  
4 in front of Your Honor and testified about how the voices of  
5 the people with lived experiences were not being heard,  
6 including specific examples of our own experiences, despite the  
7 measures put in place that the City and the DOJ insisted were  
8 substantially compliant with the settlement agreement.

9           I appreciate Professors Young's honesty about  
10 PCCEP's many failings and the lack of support from the City.  
11 Amanda Marshall and I are two of four members of the PCCEP's  
12 subcommittee that left that group in disgust and came to work  
13 on the Mental Health Alliance work group. Group members have  
14 all been touched by mental illness, either by having their own  
15 diagnosis or a close family member with a diagnosis. Members  
16 are attorneys, mental health professionals, clergy and/or  
17 long-time advocates.

18           Organizational members include Disability Rights  
19 Oregon, Mental Health Association of Portland, Oregon Justice  
20 Resource Center, and Portland Interfaith Clergy Resistance.  
21 Many members of our group are also members of other advocacy or  
22 public interest groups that focus on the civil rights of people  
23 with a mental health diagnosis.

24           The Mental Health Alliance work group meets weekly  
25 for 90 minutes, usually beginning with a 30- or 45-minute

1 presentation involving a guest speaker. Presenters have  
2 included attorneys, ranging from the Multnomah County DA to the  
3 ACLU, state court judges, mental health program administrators,  
4 police, journalists, and other concerned parties. We have  
5 heard fascinating things, such as having an official from the  
6 Portland Street Response come and tell us that it is going to  
7 be more than a year before it expands from a single  
8 neighborhood program just responding to single-digit mental  
9 health calls, because they can't get a radio frequency assigned  
10 that's citywide, and it will take more than a year to train 911  
11 operators.

12           Having guests each week allows the group to explore  
13 new ideas and new solutions to chronic problems, such as safely  
14 getting an emergency response to a mental health crisis,  
15 alternatives to taking people in crisis to jail, and better  
16 access to outpatient treatment to lessen the amount of mental  
17 health crises that need emergency responses.

18           We subsequently discuss issues and reach a decision  
19 by consensus. Group members will then write op-ed pieces,  
20 speak to legislators, assist in preparation of legal briefing  
21 as amici, appear in court, and act as advocates for those with  
22 mental health and addiction problems.

23           We consistently hear from speakers how broken the  
24 system is and how some are resigned to seeing it not change.  
25 Week after week we give great ideas, and we highly motivate

1 people to try to create change but have met resistance or  
2 flat-out rejection to their proposed solution.

3           This is where the Court is essentially saying, "No,  
4 this is not okay." There are many reasons the system has  
5 gotten as broken as it is, but that's unacceptable. People  
6 with mental illness will continue to be the victims in police  
7 shootings until there is more than lip service for making  
8 significant changes.

9           We need the pressure of the Court to force more  
10 energy to be put into change, more money committed to outreach  
11 and peer-run programs, better training and enforcement of that  
12 training with the police force and facilities other than the  
13 emergency room or jail for people in crisis.

14           We recognize that most police officers are well  
15 intentioned and don't seek to actively persecute and perpetuate  
16 violence against the mentally ill, but they are the hammer, and  
17 everyone becomes a nail. The City needs to employ more and  
18 better tools to keep from brutalizing those struggling with  
19 mental health, addiction, and symptoms. We need the City to  
20 know that, despite all of their excuses, they are way behind on  
21 doing all that should be done to protect our most vulnerable  
22 citizens.

23           Thank you, Your Honor, for the opportunity to speak  
24 with you today.

25           THE COURT: Thank you, Mr. Schorr. I appreciate

1 those comments and the joint statement from Amanda J. Marshall.  
2 By the way, for those of you who don't know, Amanda J. Marshall  
3 is a different person than the Amanda Marshall who used to be  
4 the U.S. Attorney in the District of Oregon.

5 Ms. Marshall, I think I see you on the video screen,  
6 is there anything you would like to add?

7 MS. MARSHALL: No, Your Honor. Mr. Schorr did a  
8 fantastic job.

9 THE COURT: Very good. Thank you and welcome.

10 At this time I'll invite Mr. Michael Hopcroft to  
11 provide public comment.

12 May I ask someone at counsel table to please give up  
13 a chair so he can speak into the microphone?

14 Thank you, Mr. Chavez.

15 MR. HOPCROFT: Thank you very much, Your Honor.

16 I was before this Court last year in this case  
17 testifying on the Portland Police Bureau and the public on use  
18 of force against certain populations. These populations  
19 included people in mental health crises, people in drug-related  
20 incidents involving personal use and people who were presumed  
21 to be houseless. At the time I was doing data analysis on  
22 these classes and noticed the difficulty in apples-to-apples  
23 comparisons and noted totals of categories of force based on  
24 the data supplied by the PPB that were accessible to the  
25 public. One of the things they were asked to do is to take

1 some of that data and put each report on a dashboard on the  
2 City website. That meant particularly dedicated citizens and  
3 anyone else could get the data to show what means the police  
4 were using and in a statistical sense to whom.

5           It is theoretically possible to download multiple  
6 years' documents and drug trends over time, which was my task  
7 last year, if I might add. But that has been harder than it  
8 looks, and this problem has, if anything, worsened.

9           The PPB is continually refining its data categories  
10 to add some and remove others. For example, the use of Tasers  
11 has been categorized a few different ways in these reports,  
12 which is fine, as long as those findings can be retroactively  
13 applied to past years and the definitions corrected to the  
14 current data.

15           It is not just important that current years be  
16 readily accessible. We must be able to track these numbers  
17 across time if we are to get meaningful answers on whether  
18 police behavior and training have truly changed since the  
19 settlement agreement has been in place. We need clarity in  
20 them.

21           I'm sure the chief and the other high-ranking  
22 officers get complete reports every quarter. We, as citizens  
23 affected by the actions of the police, need the transparency.  
24 Even within the limitations I have cited, I did not find any  
25 data that indicates improvement in police conduct in resolving



1 mental health crisis situations.

2           As I have stated as recently as last week in  
3 The Oregonian, the police are usually the wrong people to send  
4 out to deal with mental health crisis. Most situations do end  
5 peacefully, but the ones that go south go south rapidly with  
6 devastating consequences.

7           This case -- this settlement -- is about the  
8 accountability of individual officers and the PPB for their  
9 actions. Sadly, they seem unwilling to accept that  
10 accountability, and that is the definition of "noncompliance."

11           Thank you, Your Honor, for your time.

12           THE COURT: Thank you, Mr. Hopcroft. I appreciate  
13 those comments.

14           At this time I'll invite Mr. Patrick Nolen to provide  
15 public comment.

16           Welcome, sir.

17           MR. NOLEN: Thank you, Your Honor. Sorry. I'm a bit  
18 nervous today.

19           THE COURT: Take a deep breath. Just remember to  
20 speak slowly. Everything will be fine then.

21           MR. NOLEN: I'll speak slowly, sir.

22           THE COURT: Thank you.

23           MR. NOLEN: I am a person who has lived with  
24 homelessness and mental health illness. I am a member of the  
25 Mental Health Alliance. Last year I resigned as a member of

1 the Portland Committee of Community-Engaged Policing in this  
2 courtroom. At that time I was against amending the settlement  
3 agreement to include the PCCEP as part the Department of  
4 Justice versus City of Portland's settlement agreement.  
5 Because I resigned my position with PCCEP doesn't mean that I  
6 lost interest in police reform or finding a way to reduce  
7 police use of force against people with mental illnesses, so  
8 I'm here again.

9 I continue to oppose including the PCCEP in the  
10 settlement agreement, as it rarely has community involvement,  
11 and in subcommittee meetings, often out of 10 or 20 guests, one  
12 or two will actually be from the community. The rest will be  
13 City or other government employees.

14 Over the last 16 months, I have continued to attend  
15 PCCEP meetings on occasion. As a person with mental illness, I  
16 continue to feel uncomfortable about going to these meetings.  
17 Very often I forget to go, even though the idea behind the  
18 PCCEP is something that the Mental Health Alliance feels is  
19 important, and it is something that I have lived experience  
20 with.

21 The reason I forget is, even with the support of my  
22 mental health providers, I could not hand the undertones of  
23 abuse directed towards myself and my mental illness. I feel  
24 this was because I felt strongly that PCCEP and the settlement  
25 agreement were first and foremost about fixing the City of

1 Portland and the Portland Police Bureau's continued and  
2 unabated problem of killing people, I know, for no good reason.  
3 People are often at times reaching out to the PPB for help.

4 My friends and allies with the MHA and Albina  
5 Ministerial Alliance have told me about the big details and  
6 about how the settlement agreement has not fixed anything. I'm  
7 not good about big details, really. They will tell you about  
8 how body-worn cameras, although a noble idea, do not solve our  
9 current problem with the City of Portland.

10 Although it seems to me that it's the PCCEP -- maybe  
11 it's hiding a new item -- a new item, body-worn cameras will  
12 add to the inertia to help the City of Portland, the Police  
13 Bureau, and the PPA to decide to finally come around and help  
14 people with mental health crisis rather than killing people  
15 like me.

16 I want to talk about items 89 and 90, the Unity  
17 Center items. COCL and the Department of Justice seem okay  
18 with the Unity Center representing that item. Supposedly there  
19 is no real way to hold the City Council -- the City for fixing  
20 the problem completely, as it asks the CCO to solve it instead.  
21 This frustrates me, because I have been before a judge before  
22 on my own time. When I agreed to the settlement of my case, I  
23 agreed to fix all of it, not just the parts and bits that I  
24 thought were the easiest or allowed to avoid the parts that I  
25 felt there was a way around.

1           As someone who has a large support network, I'm  
2 thankful of the fact that I never had to visit the Unity  
3 Center. I recognize that many of my compatriots within a  
4 mental health crisis are not so lucky. They are left with  
5 choices like call the police or go to Unity Center and hope  
6 they are allowed in.

7           Items 89 and 90 get to the heart of the settlement  
8 agreement, which was about offering better and easier access to  
9 serving people in a crisis rather than calling the police and  
10 hoping they are not shot for their needs.

11           Thank you, Your Honor.

12           THE COURT: Thank you, Mr. Nolen.

13           Mr. Nolen, can I ask you a follow-up, if I may? Did  
14 I hear you correctly that when you attended PCCEP meetings, you  
15 felt uncomfortable? Did I hear that right?

16           MR. NOLEN: Yes, sir.

17           THE COURT: Can you give me a little more  
18 understanding what it was that made you feel uncomfortable?  
19 What was being done or what was being said, if you can describe  
20 that, that made you uncomfortable?

21           MR. NOLEN: I feel that I was treated differently  
22 because of who I am and that I was often -- sorry -- that I was  
23 treated differently and that I was often resented because of my  
24 views, and my view being in particular that the reason we are  
25 here is because of something that is very grave and important.

1 Talking about many other things is really important, but  
2 talking about that is very important. It is why we are here.

3 I was told on a couple of occasions that it was my  
4 issue, and I didn't need to talk about it that much. And after  
5 the last time that was said to me, I decided that I didn't need  
6 to be there anymore. It wasn't healthy.

7 THE COURT: While you were going, did you discuss how  
8 you were being made to feel with the chair of the committee or  
9 the person presiding over the meeting and let them know that's  
10 how you were feeling?

11 MR. NOLEN: Yes, sir. And I didn't get very far, no.

12 THE COURT: I very much appreciate you coming here  
13 today, Mr. Nolen, and sharing those thoughts with us.

14 MR. NOLEN: Thank you.

15 THE COURT: At this time I'll invite Debbie Aiona to  
16 provide public comment. I would ask you speak into the  
17 microphone so the folks joining us remotely can hear what you  
18 have to say.

19 MS. AIONA: Good afternoon, Your Honor. I'm  
20 Debbie Aiona, representing the League of Women Voters of  
21 Portland. The League submitted written comments last week.  
22 Today I plan to cover some highlights from that letter.

23 THE COURT: And I have received it.

24 MS. AIONA: Thank you. In our letter, we expressed  
25 support for a number of the remedies proposed by the DOJ,

1 including amending the settlement agreement to include a plan  
2 for an orderly transition from the Independent Police Review to  
3 the new community police oversight board.

4           It is imperative that an effective civilian agency  
5 continues to have a key role in the police's oversight system  
6 with no gaps in service. While we are awaiting on the start of  
7 a new oversight board, City Council should change the citizens  
8 review committee's standard of review from the reasonable  
9 person standard to preponderance of the evidence.

10           The League also supports an independent expert  
11 assessment on the City's response to the 2020 crowd-control  
12 events. We support the three training-related remedies and  
13 agree that the Rapid Response Team lieutenants and above who  
14 approved force without adequate justification during the 2020  
15 protests should be held accountable.

16           Over the last couple of years, the League has  
17 expressed its concerns about the City's lack of compliance with  
18 paragraph 150 that requires a PPB annual report. This year's  
19 effort was a vast improvement over prior years. Our  
20 suggestions for improvements to next year's report include:  
21 The Bureau should send notices to all police-related committee  
22 email lists. They should add more information and discussion  
23 in the written report on the topics listed in paragraph 150.  
24 The City Council session should take place after the precinct  
25 meetings are completed so the chief can report back on what he

1 heard at the meeting. And finally, the mayor should allow the  
2 public to testify on the reports so that City Council can  
3 receive community feedback. Although not required by the  
4 agreement, the Bureau and the community would benefit in the  
5 future from holding these meetings with the chief and precinct  
6 commanders on a quarterly basis.

7           Next I would like to focus on two areas of concern  
8 not covered by the DOJ's nine proposed remedies. They include  
9 the deficiencies in the police review board process and  
10 operations and the disparate treatment of communities of color  
11 during stops and use of force incidents. In our view, the DOJ  
12 should make the case for remedies on these two issues.

13           Police review board. The DOJ submitted a letter to  
14 the City in March citing concerns about the police review  
15 board's misapplication of force directive, the failure to  
16 enforce the satisfactory performance directive, and poor  
17 guidance and advice given to a civilian volunteer legal and  
18 administrative staff.

19           Additionally, the OIR group, consultants that review  
20 closed investigations of police shootings, identified  
21 additional shortcomings. Among them are insufficient training  
22 for PRB members, a lack of attention and follow-up to training  
23 division's recommendations, and a failure to carefully review  
24 pre-shooting tactical decisions and determine findings on  
25 whether officers' actions were consistent with training and

1 policy.

2 DOJ intervention is particularly necessary because  
3 the PRB's work takes place behind closed doors, and the public  
4 and press are unable to monitor and comment on its process.

5 Another issue not addressed in DOJ's proposed  
6 remedies is disparate treatment both in stops and use of force.  
7 As you heard today, African-Americans are subjected to force  
8 and experience traffic and other stops at disproportionately  
9 higher rates than their numbers in the population. These  
10 issues deserve increased scrutiny and intervention.

11 In conclusion, over a year ago the DOJ and compliance  
12 officer found the City to be in substantial compliance with the  
13 settlement agreement. The PPB's inability to sustain the  
14 reforms it adopted leads us to where we are today with ongoing  
15 federal oversight. Looking to the future, the League  
16 recommends that the City consider including personnel in the  
17 new police oversight system, who will function as independent  
18 monitors of the PPB's continued performance once the DOJ  
19 completes its role. In this way, we expect over time the  
20 principles in the agreement will become widely accepted by  
21 Portland police officers and their leaders as the standards  
22 that guide their interactions with our community.

23 Thank you.

24 THE COURT: Thank you very much. I want to thank you  
25 and Ms. Kaye for the written submission you made as well.



1           At this time I'll ask Barb Rainish to provide public  
2 comment.

3           Good afternoon.

4           MS. RAINISH: Hi, there. My name is Barb Rainish,  
5 spelled like the weather, R-A-I-N-I-S-H.

6           THE COURT: I'm sorry. I thought I mispronounced it.

7           MS. RAINISH: I don't know. You called me Barbara  
8 the first time, but I'm over it.

9           THE COURT: Then I thought I mispronounced your last  
10 name, so I'm two for two. Sorry.

11          MS. RAINISH: Hi. My name is still Barb.

12          THE COURT: Barb.

13          MS. RAINISH: I am the third generation in my family  
14 to have a mental health diagnosis. I am a biochemist by  
15 training, and now I'm on disability, and that has gotten me a  
16 lot of lived experience in this town -- lived experience not  
17 only by having a mental health diagnosis and seeking help for  
18 that but also being homeless and now living in a really cool  
19 integrated place that has all kinds of immigrants and refugees  
20 that's public housing.

21                 I'm a freelance advocate, peer-support specialist,  
22 and an active community member. I've got a couple of different  
23 things for you. I think before my phone dies, and I have to go  
24 look for it, if you don't mind, I would like answer your  
25 questions about Portland Street Response.

1           Other agencies or other cities that are doing,  
2 working on something similar -- there are over 300 in USA and  
3 Canada. Anchorage, New York City, Columbus, San Francisco,  
4 Colorado Springs, and Oakland are the ones that are embedded in  
5 the fire district. I think Denver is too. I'm not sure why  
6 that is one is not on here. Portland Street Response has had  
7 430 -- has gone out on 430 calls since February 16th, when they  
8 started.

9           Now I don't have to worry about that.

10           Okay. This is from me on behalf of the PCCEP  
11 behavioral PCCEP subcommittee. I'm not a member of the PCCEP,  
12 but I am a member of the subcommittee.

13           In April of 2020, as a pandemic closed down in-person  
14 meetings, the current PCCEP behavioral health subcommittee  
15 began meeting, with PCCEP member Amy Anderson as the chair.  
16 The behavioral health subcommittee has only met via Zoom. Over  
17 the past year-and-a-half, the subcommittee met nearly monthly  
18 with the early mission of educating ourselves about the  
19 community and the Portland Police Behavioral Health Unit and  
20 other relevant organizations.

21           Advantageously, because the meetings were recorded  
22 and are available on the PCCEP YouTube channel, they can be  
23 reviewed and referred to in order to educate people as they  
24 become interested.

25           The Portland Police Bureau, BHU, and the BHUAC have

1 been supportive and available to the subcommittee.  
2 Specifically Lieutenant Casey Hettman and Officer Chase Bryson  
3 have attended our meetings, recruited other Portland police  
4 officers and non-foreign staff to present and attend our  
5 meetings.

6           There have been presentations and discussions about  
7 the Portland Police Bureau, including the training advisory  
8 council and the behavioral health unit, including the  
9 behavioral health unit itself and enhanced -- ECIT, CIT, BHUAC,  
10 BHURT, and the SCT -- I can tell you what those are if you need  
11 me to -- as well as the PPB wellness program and Employee  
12 Assistance Program is on our agenda for October.

13           Last November, the behavioral health and racial  
14 equity subcommittees jointly hosted a community forum to hear  
15 presentations from BOEC and TIP NW, the trauma intervention  
16 program. Representatives from there told us what may happen  
17 after an officer-involved force event. Together the  
18 subcommittees wrote two recommendations that were approved by  
19 the PCCEP and then sent to the mayor and police chief. Both  
20 recommendations were subsequently adopted.

21           In March, Mayor Wheeler signed the recommendation of  
22 acknowledgment, which had been initiated by the former PCCEP,  
23 SPMI, and revised with input from some of its members.

24           In April, Chief Lovell signed the recommendation that  
25 PPB train officers about TIP and asked BOEC to contact TIP when

1 an officer-involved force event occurs -- if the victim's  
2 family and community want that support.

3           In going through what Mr. Handelman said, I would  
4 like to know if that was followed for the recent  
5 officer-involved force event with Mr. Delgado and the other  
6 person whose name is escaping me, because I'm nervous.

7           The mayor asked PCCEP to prepare a report and  
8 recommendations for reimagining core patrol services. The  
9 report was presented earlier this summer to the City Council at  
10 a work session. Some of these recommendations are similar to  
11 those that the subcommittee was already working on; for  
12 example, supporting the behavioral health unit program,  
13 including the enhanced crisis intervention team and the SCT fit  
14 into a broader set of recommendations.

15           The behavioral health subcommittee has been working  
16 hard to build relationships with members of the Police Bureau  
17 in order to bring community and officers together. We went  
18 about using a "A Day in the Life" as the introduced topic. We  
19 hosted a group of ECIT officers as well as officers from  
20 various positions. The comparisons from before the pandemic to  
21 current times were often brought up. After the core patrol  
22 services' recommendations were complete, the PCCEP heard from  
23 Portland police officers that voiced their concerns that they  
24 were overlooked. The subcommittee invited officers to come and  
25 give their input. The subcommittee is committed to being a

1 safe place for these interactions. One way this was done was  
2 often by providing the questions ahead of time in order to not  
3 put the officers on the spot. However, when we gave the  
4 officers a way to leave before the public comment period, they  
5 wanted to stay and answer more questions from the community.  
6 PCCEP staff has been extremely helpful by setting the tone  
7 removing Zoom bombers, and reminding community members of the  
8 relationship-building goals of these meetings, when necessary.

9           So this is written by me on behalf of Amy Anderson,  
10 the chair of the behavior health subcommittee; Celeste Carey,  
11 who is also a member and the chair of the racial equity  
12 subcommittee; and Tia Palafox, who is a PCCEP alternate and  
13 member of the behavioral health subcommittee.

14           Now stuff that I want to throw in here: First of  
15 all, as far as training in wellness and mindfulness that was  
16 just brought up, that is something that our subcommittee is  
17 interested in and working on with Sergeant Harris. He is a big  
18 proponent of meditation. So we had a presentation of the  
19 different wellness trainings and what they have been doing  
20 along those lines, and we are waiting for the Employee  
21 Assistance Program so that we can work on some recommendations  
22 there.

23           I'm always going to give a shout-out to using peers  
24 whenever possible, and I want to let you know that LPSCC, the  
25 Local Public Safety Coordinating Council -- what do I want to

1 say? There is a project going on that's called the behavioral  
2 health emergency coordination network. Hopefully that will  
3 bring us sobering centers. It is not a promise. Then also the  
4 County is in the process of building the behavioral health  
5 resource center. I think that might be all I have to say.

6 THE COURT: Thank you, Barb. I appreciate those  
7 comments, and I appreciate you being here.

8 Remaining on my list are three commenters:  
9 Seemab Hussaini, Trudy Ann Cooper, and Rabbi Ariel Stone. I  
10 will invite now Seemab Hussaini.

11 MR. HUSSAINI: Greetings.

12 THE COURT: Welcome.

13 MR. HUSSAINI: Thank you. Greetings, Your Honor,  
14 colleagues, and all of those attending. My name is  
15 Seemab Hussaini, and I'm a community organizer with the focus  
16 on Muslim immigrant refugee communities and those carceral  
17 system. I'm a cofounder of the state of Oregon's only Muslim  
18 civil rights organization. I'm a social justice and civil  
19 rights activist and an appointee in the 20-member commission to  
20 rebuild the new Portland Independent Police Review Board.

21 I'm grateful for being allowed for public comment. I  
22 will speak slowly and clearly, if I'm also afforded the same  
23 privilege as Dan Handelman.

24 I'm here in the hopes to join my communities navigate  
25 here in these evidentiary hearings and inform you that the

1 perspective of the communities directly impacted by the actions  
2 of law enforcement called the Portland Police Bureau; that they  
3 have maintained the status quo and have mastered double-speak  
4 through their lawyers, the Portland Police Association, and  
5 their union arbiters.

6           While grieving for the loss of George Floyd and many  
7 others lost due to the brutality of law enforcement, last  
8 year's peaceful protesters were treated like caged animals by  
9 literally setting up fencing, stacking the most heavy-equipped  
10 riot police on the other side, and a long-range acoustic device  
11 also known by the acronym LRAD demanding us to not touch the  
12 fence. This set the stage for an escalation, and this cannot  
13 be seen as otherwise. They showed up as hammers, and we were  
14 all nails.

15           I cannot profess to fully understand the dichotomous  
16 relationship we have, with protester demanding accountability  
17 versus far-right and white supremacist elements that espouse  
18 nothing but hate and intolerance for faith, and on behalf of  
19 faith they have no understanding.

20           Taking into account the example of police action and  
21 a reaction of protesters doing justice versus police action  
22 against a group with the same elements that attacked our  
23 democracy on January 6th in Washington, D.C., PPB offered  
24 protection by allowing safe passages and guarding paths and  
25 routes for Proud Boys and other hate-oriented extremist groups

1 over the years. At other times PPB did not engage until they  
2 were gone -- these far-right elements -- and what was left was  
3 an exasperated public.

4 Two days ago these same elements returned, as has  
5 become a tradition for them to do so annually, and it as it is  
6 intended to happen -- these elements when they arrive -- a man  
7 filled with hate was emboldened. He followed two young black  
8 children to the corner I was standing at with colleagues and  
9 continued to antagonized them with racist heckling and go to  
10 them to see pictures of lynchings on his phone. This also is  
11 the same man who pointed his gun at us and eventually volleyed  
12 gunfire, as we didn't to lose sight of an obvious danger to  
13 communities.

14 Yes, he was arrested. But none of this should have  
15 happened. It was not very reticence for law enforcement and  
16 City management to do as it is, as an independent, which is to  
17 protect communities from these elements seen coming a mile away  
18 rather than show up after the fact. He was eventually released  
19 without bail the same evening without hate crime charges. This  
20 scenario had sent me right back to the advocacy work my  
21 communities and I engaged in, after the murders committed by  
22 Jeremy Christian in May of 2017, as he was emboldened by  
23 attending far-right gathering of Patriot Prayer, Proud Boys,  
24 and other hate groups.

25 Having telegraphed their intentions for this last



1 weekend, four years later, nothing has changed. Many of my  
2 colleagues and I have raised concern that Portland Police  
3 Bureau has been too brutal. In recent weeks, they have swung  
4 the pendulum the other way to not police at all. Ultimately  
5 this shows that PPB is not providing a public service. As  
6 though creating an alternate reality, Portland Police Bureau's  
7 chief, Chuck Lovell, a day later, yesterday, said, "Our  
8 critical staffing shortage and legal restrictions impact our  
9 response." The statement's incredulity of the obvious is  
10 astounding. There were no staffing shortages. No excuses.  
11 All 800 officers were purportedly on duty on the day of August  
12 22nd of this year.

13           In preparation for this date, the City's mayor and  
14 chief boasted and thought the winning strategic plan would be  
15 to not do anything and to allow these far-right elements to  
16 come and go. This lack planning by our city officials and law  
17 enforcement over the last few years have created a mood amongst  
18 those who have protested for justice and accountability into  
19 assuming the responsibility that we, Portlanders, are the only  
20 resistance to these far-right elements that have already taken  
21 lives in the city over its recent and historic past.

22           On top of this, this police bureau has had a  
23 magnanimous influence over the direction of policing  
24 nationwide. It has influenced how police unions shield law  
25 enforcement from accountability through leveraging of union

1 contracts and arbitration.

2           This city has been in partial compliance, has  
3 disbanded COAB, has tried to strip independent community  
4 assessment from the settlement agreement and has stifled  
5 Portland Street Response's need to retain its fullest potential  
6 while uttering its name as a gesture of incremental process.

7           Through it all, Portlanders continue to die at the  
8 hands of the Portland Police Bureau. George Takei, hero of  
9 many nerds, stargazers and LGBTQIA activists just tweeted, and  
10 I quote: "Portland Police, when you show up in force for  
11 Black Lives Matter protests but decline to show up for Proud  
12 Boys riots, you are not being neutral. You are taking sides.  
13 We see you."

14           And for that, I only have two words, "Oh, my." It is  
15 difficult to conceive that this same Police Bureau can change.  
16 Your Honor, I am completely unsure of how to address models of  
17 compliance being addressed here in these evidentiary hearings,  
18 in light of all that I have shared.

19           I'm grateful for Juan Chavez's work for the Oregon  
20 Justice Resource Center, for Dr. T. Allen Bethel's memory;  
21 Reverend Dr. Haynes; Pastor Knutson and all of the Albina  
22 Ministerial Alliance; Jason Renaud of the Mental Health  
23 Alliance; Dan Handelman and the Portland Copwatch; and the many  
24 community center organizations and legal eagles, organizers,  
25 and activists here.

1           Mostly I'm grateful to you, Judge Simon, for the  
2 clear and just process you've patiently seen over all of these  
3 years. With brutal hope, thank you.

4           THE COURT: Thank you, Mr. Hussaini. I appreciate  
5 that.

6           I do want to ask you one probably irreverent and  
7 irrelevant follow-up question. I understand your comment, "Oh,  
8 my." I understand the context in which you made it. But was  
9 it a coincidence that those were also the final words from  
10 *Generations*? Just coincidence?

11           (Laughter.)

12           Thank you, Mr. Hussaini. I appreciate your comments.

13           MR. HUSSAINI: Thank you so much. It is a honor.

14           THE COURT: At this time I invite public comment from  
15 Trudy Cooper.

16           MS. COOPER: I'm Trudy Cooper. Can you hear me okay?

17           THE COURT: Yes, we can. Thank you.

18           MS. COOPER: I'm a member of Portland Copwatch, but  
19 I'm making my remarks as a individual community member. I have  
20 been listening this morning, and I really appreciate the honest  
21 testimony given today and your answers and responses.

22           One of the things that stands out for me, given my  
23 work as a consultant who guides organizational change, is that  
24 exchange before the lunch break between you, Your Honor, and  
25 Elliott Young, and then following that the DOJ's comment in

1 response to both.

2           So starting with Mr. Young, one major theme of his  
3 testimony was about the focus of the settlement agreement being  
4 unprocessed and the outcome. Your response, as I understood  
5 it, was that the processes are presumed to bring about the  
6 outcome. And then after Mr. Young's testimony, the DOJ  
7 representative, or maybe it was the COCL representative  
8 responded, in fact paragraph 169 speaks to the outcomes and  
9 implementation by way of, I think he said, "verified  
10 performance on these processes."

11           But I think that that answer is a very important  
12 point and that collaboration and problem solving is missed  
13 inadvertently, because in my experience when an authority  
14 dictates the processes, it's, of course, on the presumption  
15 that they will lead to the outcomes. But when there is nothing  
16 that requires the required entity to reach that outcome, then  
17 we blunt creativity.

18           For example, to quote the earlier statement that the  
19 agreement requires verified progress on these processes, it is  
20 entirely possible that the verified performance shows the  
21 number of activities, but it is still going to be absent the  
22 actual outcomes. So in other words, if the agreement demands X  
23 number of training sessions and X number of directives, for  
24 example, that were put out for wide review and X number of  
25 public meetings with the community, then we can check the

1 boxes, but the proof is still in the pudding itself.

2           So if we throw training at it, so to speak, as one of  
3 the things that's mandated, we can just keep throwing and still  
4 not get to the bottom of why we're not seeing progress. And we  
5 are not, when the same number or greater of people in mental  
6 health crises are shot, so then the demand has to be built in  
7 to require that the parties reevaluate why not.

8           I agree with what I understood to be your statement,  
9 Your Honor, earlier that all parties to the agreement should be  
10 accountable to working collaboratively around the same table to  
11 do this. And if it is the outcome that is driving as opposed  
12 to the process, then the parties have to regroup to get those  
13 results. They have to reevaluate the process itself; do more  
14 problem analyses; go back to the drawing board; propose new  
15 options and alternatives for getting those results. So in  
16 other words, the outcomes drive the process, not the reverse.  
17 And the processes are adjusted, as needed, to get the outcomes.

18           So otherwise, as Dan Handelman was saying, if we  
19 don't have that, we are vulnerable to a check-box dynamic that  
20 shows that they did the processes, but we don't have a  
21 motivation for continuous problem-solving, dialogue,  
22 creativity, midcourse corrections or adjustments. And as many  
23 have said, it is institutional will that seems to be lacking --  
24 a few have said that -- then accountability for more than  
25 check boxes needs to be built in. So I wanted to reinforce the

1 points that Mr. Young made.

2 Thank you.

3 THE COURT: Thank you, Ms. Cooper. I appreciate  
4 those comments.

5 Then the public commenter on my list is Rabbi Ariel  
6 Stone.

7 Rabbi, good to see you.

8 RABBI STONE: Hello, Judge.

9 THE COURT: I will disclose that Rabbi Ariel Stone  
10 right now is the leader of Congregation Shir Tikvah, but a  
11 number of years ago, she was affiliated with  
12 Temple Beth Israel, and so she was my rabbi. Once one's rabbi,  
13 always one's rabbi.

14 RABBI STONE: Oh, thank you, Judge Simon. Nice to  
15 see you. I wish it wasn't about such a terrible and painful  
16 subject.

17 I am also representing Portland Interfaith Clergy  
18 Resistance, so I bring some experience from the streets. One  
19 of the things that I feel I would like to make sure that we do  
20 not lose in this whole conversation is the fact that there were  
21 federal police also that were a source of much harm in Portland  
22 during our protest summer last year. Federal militarized  
23 forces were sent to harm residents of Portland on Portland city  
24 streets, something which, as far as I know, is not anymore a  
25 talking point of the Department of Justice nor those who

1 represent the City of Portland. Sure, there has been an  
2 election, and we hopefully live in a different time now, but  
3 the spigots of hatred are not so easily turned on and off.

4 Night after night city police welcomed and supported  
5 indiscriminate federal gassing of Portland residents.  
6 According to our local researchers, chemical weapons were used  
7 in Portland at least 20 different times -- toxic weapons -- no  
8 regard for impact, highly dangerous, lethal smoke on multiple  
9 occasions. DHS alone used at least 26 HC smoke grenades, each  
10 one capable of killing hundreds.

11 The Portland police followed suit, using chemical  
12 weapons on protestors, with callous disregard to our  
13 neighborhoods, families, and vulnerable populations. To give  
14 only one example, on August 20, 2020, the Portland police used  
15 carcinogenic toxic weapons outside the Knight Cancer Clinic  
16 near the Ronald McDonald House.

17 How did this escalation of force on our streets  
18 affect people with mental illness and trauma who do their best  
19 to survive in our downtown area -- people who are homeless,  
20 people who have nowhere to shelter from weeks of chemical gas  
21 and flash-bang grenades? How was their trauma magnified and  
22 aggravated by witnessing hysteria, helicopters overhead, and  
23 deafening acoustical weapons?

24 Most damaging and most absurd of all is the  
25 ever-present threat of losing everything, perhaps even their

1 lives in what is so euphemistically called "sweeping of  
2 encampments."

3           There was no one to testify for the harm that the  
4 federal police caused the City of Portland, most of all our  
5 most fragile neighbors, people who are homeless, unheard,  
6 traumatized. No investigation will we done of this harm. No  
7 federal police officer will be held to account. No Portland  
8 police authority will be investigated for aiding and abetting.  
9 No reparations will be made. There is no recourse in the civil  
10 courts. There is no political price to pay. There is no  
11 accountability, again, for police violence. There is only  
12 silence for those innocently caught up in attacks by federal  
13 forces on our city. There is only, again, travail.

14           Thank you.

15           THE COURT: Thank you, Rabbi.

16           In a few moments I am going to invite closing  
17 remarks -- brief closing remarks. I think we will do it in  
18 reverse order this time with Mr. Chavez, followed by either  
19 Ms. Chambers or Ms. Alibies or Dr. Haynes, followed by  
20 Mr. Karia, followed by the City of Portland, followed by either  
21 Mr. Geissler or Mr. Hager, or both of you.

22           But I want to make two comments that aren't really  
23 asking for comment or response at this time. You're welcome  
24 to, if you want. I'm not asking for comments at this time, and  
25 they are two unrelated comments.



1           First, with respect to the motion that was raised at  
2 the beginning, we all know we're not going back to the  
3 institution of the COAB. We tried that. It is done. It  
4 didn't work. I think there was good faith in its original  
5 formation, but it didn't work. I do hear and recognize that  
6 the PCCEP has some issues that it's still working its way  
7 through, but I think what's going on right now is we are trying  
8 to work through those issues.

9           It probably makes some sense right now for me to  
10 enter some type of appropriate amendment to simply recognize  
11 that reality -- that we're living under a settlement agreement  
12 that no longer has a COAB; that does have a PCCEP.

13           So here is my suggestion that I would like the  
14 parties to think about after the hearing, and I also don't want  
15 to create any unintended adverse consequences, and so I'm not  
16 going to sign a document that has been previously submitted  
17 long ago.

18           I would like the parties to think about what would be  
19 an appropriate amendment, at least for the interim -- I  
20 understand there may be a bigger amendment coming down the road  
21 if everyone can reach an agreement at the upcoming mediation.  
22 By the way, if you want to wait until after the mediation to  
23 deal with the PCCEP/COAB issue, that's fine with me. But if  
24 you want to do something sooner rather than later, that's fine  
25 with me as well.

1           I think the United States should probably take the  
2 lead on this, but the preparation of a new order that reflects  
3 the amendment that the parties can agree to dealing with the  
4 COAB change to the PCCEP. To the extent that you can't at this  
5 time, at least before mediation, agree on all of the details  
6 and nuances and work out all the problems that might help guide  
7 PCCEP going forward, then, fine, don't put it in there. Just  
8 keep it a bit more bare bones, very simple, straightforward, if  
9 that's what you want.

10           Then we will deal with that sooner rather than later,  
11 especially if all the parties agree on that type of -- dare I  
12 say ministerial change? Labeling change? If there is no  
13 disagreement on that, I will sign it. Just present it to me,  
14 and I'll sign it. If there is still a disagreement, even by an  
15 amicus, just let me know that when you present it to me. I  
16 will give the amicus an appropriate period of time to state in  
17 writing the objections, and then I'll give the parties an  
18 appropriate time to respond to those objections, and then I'll  
19 make a prompt ruling, if you think it will be helpful to deal  
20 with that. As I said, if you can't and don't have agreement on  
21 all of the details of what the PCCEP can and should be and do  
22 and how they should do it, fine, don't put that in there right  
23 now. Leave room for that to develop down the road, just simply  
24 acknowledging that's still an unanswered question.

25           That's my comments about it. It doesn't require a

1 response now. But just give some thought to that, if that's  
2 the direction you want to go.

3           The other comment that I want to share, and this is  
4 going to be in lieu of any final comments from me -- I'm really  
5 going to give you all the final comments this afternoon -- is  
6 the following. "As Mr. Geissler mentioned and/or agreed, there  
7 have been a number of other settlement agreements reached  
8 between the U.S. Department of Justice under the pattern and  
9 practice statute with other jurisdictions. To the best of my  
10 knowledge and understanding, this one is the only one that is  
11 in the form of a settlement agreement that's not a consent  
12 decree and does not have a court-appointed monitor. I  
13 understand, because we talked about this in 2012, '13, and '14,  
14 that that was what the parties agreed to back then.

15           Well, here we are nine years later. We still have  
16 issues. By the way, I know there are issues on these cases all  
17 over the country. We're not unique in that. We're all  
18 collectively going through these growing pains.

19           But it always struck me as -- "curious" is probably  
20 too light; "concerning" is probably too heavy -- but it always  
21 struck me of importance that we don't have a court-appointed  
22 monitor here. I do totally respect the work that our community  
23 officer and liaison, the COCL has, but they report to the City.  
24 The work done by Rosenbaum & Watson has been very impressive  
25 and very helpful. I know it is not always without controversy,

1 but it has been very good. I know the City has been putting in  
2 a lot of hard work, as has the United States, as has the  
3 intervenor, the Portland Police Bureau, the enhanced amicus  
4 coalition, and the relatively new amicus, the Mental Health  
5 Association. They have all been working very hard and in good  
6 faith to make this work for everyone.

7 I wonder, though, whether there might be a role for a  
8 court-appointed monitor now. I don't know. And obviously it's  
9 not in the agreement. But as the parties go into mediation  
10 next month, one of the things that emerges from mediation would  
11 be an agreed-upon modification of the settlement agreement.  
12 Maybe at least to try to protect the progress that has been  
13 made and to prevent slippage going forward, maybe it might be a  
14 good idea now to add a court-appointed monitor. Maybe it is  
15 not.

16 Again, I don't want to, just speaking off the top of  
17 my head, end up with any unintended adverse consequences. But  
18 I would like you to give some thought to that, among the many,  
19 many other important issues you will be thinking about and  
20 talking to each about as you go into mediation next month.

21 If I don't see that as a part of any agreement to  
22 modify, that's all right with me. I am not going to hold  
23 anything up based upon that. But if you think it is a good  
24 idea to go in that direction, I just wanted to put it on the  
25 table for you to think about.

1           So those are the two comments that I wanted to make  
2 in closing.

3           Right now, I think I've heard and understood, as we  
4 all have, the comments that you've all made, the comments and  
5 insights offered by public commenters.

6           So if there are any closing comments right now,  
7 Mr. Chavez, I will give you that opportunity, as I said,  
8 followed by either Ms. Chambers or Dr. Haynes or Ms. Albies or  
9 some combination, followed by Mr. Karia, followed by either  
10 Mr. Vannier, Ms. Brown, and Mr. Taylor.

11           By the way, I do believe that neither Ms. Brown nor  
12 Mr. Taylor were here when we did this hearing back in February  
13 of 2020 right before COVID hit the nation. So welcome to the  
14 hearing. Welcome to this aspect of the litigation. It is good  
15 to see you both. I haven't heard much from you, Mr. Taylor,  
16 but that's all right. I have appreciated all of your comments,  
17 Ms. Brown. Mr. Taylor, if there is anything you would like to  
18 say in closing, by all means, you're welcome to join your  
19 colleagues in that

20           Then I'll conclude by inviting Mr. Hager and  
21 Mr. Geissler to offer any concluding comments you wish.

22           Then probably you should share with me when we should  
23 meet next. My thinking is we should meet relatively shortly  
24 after your mediation session concludes.

25           Now, I understand if you do reach some agreement or

1 partial agreement, you will want some time to document that and  
2 get appropriate approval. If you don't reach agreement, I  
3 would rather hear about that sooner rather than later and talk  
4 about where we go from here and what the next steps are. So  
5 feel free to give me thoughts in closing comments when we  
6 should meet next. Are we talking about October? November?  
7 December?

8 My thinking is January is probably the most I would  
9 like to push it out to. If you all want to meet sooner, that's  
10 fine with me. We will find the time. I think January is the  
11 furthest out that I feel comfortable, subject, of course, if in  
12 your mediation you all think that there is good cause to  
13 postpone a hearing, just let me know. If there is  
14 disagreement, we can talk by telephone. If there is agreement,  
15 I will probably defer to the consensus if there really full  
16 agreement. I would like to plan what's going next. I don't  
17 want to wait one year to find out what happens next month.

18 Mr. Chavez, the floor is yours.

19 MS. BROWN: Your Honor --

20 THE COURT: Ms. Brown, you can have the floor away  
21 from him.

22 MS. BROWN: Might I request a brief five-minute  
23 break?

24 THE COURT: Absolutely. Five-minute recess.

25 (Recess.)

1 (Open court; proceedings resumed:)

2 THE COURT: Mr. Chavez, any concluding comments?

3 MR. CHAVEZ: Thank you, Your Honor. Thank you to the  
4 City for allowing five minutes to jot down some thoughts.

5 So just on a couple of top-line matters responding to  
6 the COCL, item 89, and the discussion earlier today. We  
7 understand that there is disagreement about what it is that the  
8 City is bound to do. Fundamentally I think these are things  
9 that can be brought up through mediation, and we would like to  
10 use the mediation to do so. At the end of the day, we do  
11 believe that treatment, services, and availability of those  
12 services is what drives down use of force incidents against  
13 persons with mental illness.

14 Then there are two things that struck me about public  
15 comments and the testimony you heard today. The first thing  
16 that I talked about initially, which was public trust, and not  
17 just that there is a division of lack of trust between the City  
18 and the public and the Bureau, but also that it appears to many  
19 of us that there has not been an appropriate amount of  
20 reconciliation that has been sought with the public. Maybe  
21 that's in part because, to truly reconcile, one must speak the  
22 truth what has happened over the last few years and over the  
23 last few decades. For that process to truly take hold, it  
24 requires the City to speak the truth about what it has done to  
25 folks. Then maybe we can have some healing there and move on

1 to this trust issue.

2           And the other thing that struck me today is actually  
3 a significant amount of discourse about history. You discussed  
4 with Dr. Young about the history of federal intervention, and  
5 we touched on practically a century of policing history. We,  
6 throughout the day, talked about the last year, which actually  
7 kind of felt like a century, and we also talked about the nine  
8 years that we have been in this case. It reminded me of  
9 another hearing in this case where the Court had relayed a  
10 story about Richard Nixon asking Chairman Mao what he thought  
11 about the French Revolution, and he said, "Too early to tell."

12           In large part, we are grateful that so many are going  
13 to be engaged with this case and engaged with this issue for  
14 many, many years, but we can't wait for the course of history  
15 to play out. We do need remedies for people who are living and  
16 dying on the streets and who deserve better from their city.

17           Thank you.

18           THE COURT: Thank you, Mr. Chavez. I appreciate  
19 those thoughtful remarks.

20           Let me now invite either Ms. Chambers or Ms. Albies,  
21 if she is still with us, or Dr. Haynes.

22           MS. CHAMBERS: Ms. Albies had to excuse herself  
23 early, and Dr. Haynes is going to give our closing remarks.

24           THE COURT: Dr. Haynes.

25           DR. HAYNES: Thank you, Judge Simon.



1           There are windows of opportunity that open in life  
2 and history, but they do not always stay open. Nine years ago,  
3 we started this process with an open window, but we didn't take  
4 advantage of the opportunity and ended up with a weak and  
5 diluted settlement agreement. We would have been better off  
6 when the George Floyd movement hit if we had a stronger  
7 settlement agreement. We would have been better prepared, and  
8 our city would not be in the situation that it is in now. Let  
9 us not continue to make that mistake over and over and over  
10 again.

11           Secondly, if we are going to change the culture of  
12 the Portland Police Bureau, we must have accountability,  
13 accountability, accountability.

14           Thank you, sir.

15           THE COURT: Thank you, Dr. Haynes, for your wisdom.

16           Mr. Karia, any concluding remarks?

17           MR. KARIA: Thank you, Your Honor. Thank you for  
18 your time today. No closing remarks. I'm happy to work with  
19 the City, the amici and USDOJ in scheduling a follow-up status  
20 conference, bearing in mind that it sounds like our mediation  
21 scope may be slightly expanding as we move around the room.

22           THE COURT: Thank you, Mr. Karia. I appreciate your  
23 continued participation.

24           Ms. Brown or Mr. Taylor or Mr. Vannier or all three  
25 of you.

1           MR. TAYLOR: Thank you, Your Honor. Robert Taylor  
2 for the record. I'll handle the City's closing remarks.

3           First, Your Honor, I want to thank you for the care  
4 that you have brought to this case over many years. I know  
5 there is a long history here, and I'm just getting up to speed  
6 with this, but I know we are in good hands with you.

7           I want to thank our partners at the Department of  
8 Justice. We are partners in the settlement agreement, and we  
9 have been working hard, and we have been critical with each  
10 other in how we have operated under that settlement agreement.

11           We are committed to getting back into substantial  
12 compliance. You heard from the president of the Council today,  
13 Commissioner Ryan. There were other member of Council's  
14 offices throughout the day monitoring the hearing so they could  
15 hear your comments and hear the public's comments. We have the  
16 auditor with us. She has been here throughout the day watching  
17 this hearing, because it's important to her and important to  
18 her Independent Police Review. The transition to the new board  
19 is also important to her, and so she is bringing a great deal  
20 of thought and care to this.

21           I want to thank the amici, who have brought so many  
22 important and thoughtful and different voices to this. If you  
23 had left the City and the DOJ alone to solve this problem, it  
24 won't be as good as if it includes your voices. So I want to  
25 thank you for participating today, and I welcome the

1 participation that you are going to have in the mediation  
2 process as well.

3 I want to thank Mr. Karia for his work both here and  
4 in the PPA bargaining. That's a lot of work. I know that he  
5 himself has had to make a lot of personal sacrifices of himself  
6 and his family to be a part of the work that he is doing, and I  
7 just want to thank him personally for that.

8 I want to thank Chief Lovell. There has been a lot  
9 of talk about the need for reconciliation and the need to be  
10 willing to stand up and tell the truth. Today the chief stood  
11 here and shared with the community his statement that force was  
12 used in crowd-control events in 2020 when it wasn't  
13 appropriate. We acknowledge that. We've said that in our  
14 pleadings. We acknowledge that the after-action review process  
15 didn't always identify and correct those issues. We knowledge  
16 that. The chief has acknowledged that. So what we need to do  
17 is really turn our attention to the future; really turn our  
18 attention to the remedies that the DOJ has presented to us;  
19 that we are considering, and I'm very, very hopeful that we  
20 make progress in the mediation.

21 Finally, I just want to thank all the members of the  
22 public here that are listening and who also came and gave their  
23 testimony. It is a diversity of voices, Your Honor. It will  
24 be hard to find a mediated settlement that accommodates every  
25 single point of view that was expressed here today, but it is

1 my pledge to you on behalf of the City that we will listen hard  
2 to try to find as much common ground as possible.

3 Thank you, Your Honor.

4 THE COURT: Thank you, Mr. Taylor. I appreciate your  
5 comments, and I appreciate your participation in joining this  
6 team.

7 Mr. Hager or Mr. Geissler or both of you.

8 MR. HAGER: Thank you, Your Honor.

9 I think I would like to start with your last question  
10 to us about when we might get together. The United States  
11 would like a hearing set for the second week of November, if  
12 Your Honor is available. We do have a preference for a  
13 Tuesday, Wednesday, or Thursday so our colleagues from the East  
14 Coast can travel. We think that would be sufficient time to  
15 allow the mediation to produce a solution or an outcome one way  
16 or another to where we will be in a position to obtain  
17 approvals for next steps. If Your Honor is available that  
18 second week of November, we would appreciate time on your  
19 calendar.

20 THE COURT: Mary, it looks to me like we have five  
21 trials scheduled that week, but they are probably not going to  
22 go.

23 I do note that Thursday, November 11th, is a federal  
24 holiday. My guess is probably you don't want that.

25 Looking at Tuesday, the 9th, and Wednesday, the 10th,

1 Mary, it looks to me as if we could really accommodate either.  
2 We will have a few things to move around.

3 Do you agree, Mary?

4 THE CLERK: Yes.

5 THE COURT: All right. So, Mr. Hager, I assume  
6 Tuesday, the 9th of November, or Wednesday, the 10th of  
7 November, will work for the United States; am I right?

8 MR. HAGER: That's right, Your Honor.

9 THE COURT: Let me invite the City. Any particular  
10 choices as between Tuesday, November 9th, or Wednesday,  
11 November 10th?

12 MR. TAYLOR: I'm told Wednesday is better,  
13 Your Honor.

14 THE COURT: Let me ask Mr. Karia, Ms. Chambers, and  
15 Mr. Chavez, do you believe you all can make Wednesday,  
16 November 10th?

17 MR. KARIA: Not me, Your Honor. Tuesday, the 9th,  
18 would be better for me.

19 MS. BROWN: That's fine, Your Honor.

20 THE COURT: You can live with Tuesday, the 9th?

21 Ms. Chambers and Mr. Chavez, can you make Tuesday,  
22 the 9th of November?

23 MR. CHAMBERS: Yes, Your Honor.

24 MR. CHAVEZ: Your Honor, unfortunately, I will be in  
25 trial with Judge McShane, if there are trials during that time.

1 I supposed to be there the week of the 8th, but my colleague,  
2 Mr. Bruggemeier, is here.

3 MR. BRUGGEMEIER: I am available.

4 THE COURT: Thank you. And who knows? We have been  
5 trying to set trials and COVID keeps interfering with that.

6 All right. I'm going to schedule our next status  
7 conference for Tuesday, November 9th, this year, 2021,  
8 beginning at 9:00 a.m. We can be in touch about an agenda and  
9 other issues. Please put that on your calendar, Tuesday,  
10 November 9th, 2021.

11 Mary, it looks like there may be only two matters  
12 that I would ask you to see if you can move. Work on that at  
13 your convenience.

14 All right. Back to you, Mr. Hager.

15 MR. HAGER: Thank you, Your Honor. We also  
16 appreciate Your Honor's indication of being flexible if the  
17 mediation happens to be ongoing or approvals following the  
18 mediation haven't been secured.

19 I did want to make some comment on behalf of the  
20 United States in regard to the PCCEP amendment and potentially  
21 revisiting the terms of that amendment. As you are aware,  
22 there is a very involved process defined in the settlement  
23 agreement for how the parties go about amending the agreement.  
24 It takes an act of City Council. It requires approval by the  
25 head of the Civil Rights Division.

1           Given that those amendments have already gone through  
2 that process, the United States does not envision further  
3 refining those amendments, although I do want to assure the  
4 amici and the enhanced amicus that the metrics that they have  
5 provided will be used to evaluate the assessment of the City's  
6 compliance. So whereas we continue to believe that the  
7 fairness, adequacy, and reasonableness of the terms should be  
8 decided on the face of terms in relation to the prior approved  
9 terms, we are mindful of the metrics for quantitative and  
10 qualitative assessments, and we will incorporate those into our  
11 compliance assessment that we file periodically, shooting for  
12 annual, but those have been periodic in fact.

13           With those comments, if you don't have any questions,  
14 I will pass it to Mr. Geissler.

15           THE COURT: On that last point, Mr. Hager, I still  
16 would ask, if you can do it then, just submit to me a clean  
17 motion and a clean proposed order, because I don't want to risk  
18 either signing the wrong order -- I remember I granted  
19 something in part and denied it in part. I think it would be  
20 clean right now if we can have a clean order dealing with the  
21 PCCEP/COAB issue. If it is substantively identical, then I  
22 think that should take care of all the procedural issues you  
23 have just identified. When you file it, let me know --  
24 frankly, I'll schedule something as a scheduling order. I will  
25 give all parties an opportunity -- probably I'll give them two

1 weeks to file any objections to that proposal. If I don't see  
2 any objections, my expectation is I'll enter it. If I do see  
3 objections, I will give any other parties an opportunity to  
4 respond to the objections, and we will see where we go.

5 MR. HAGER: Very good, Your Honor. I can do that.

6 THE COURT: Thank you.

7 Mr. Geissler.

8 MR. GEISSLER: Thank you, Your Honor. I would like  
9 to echo the sentiment that Mr. Taylor expressed. My thanks to  
10 the Court for dedicating nine years to this effort, and I know  
11 you share our esteem for this particular work of civil rights.  
12 I also wish to echo the sentiment of Mr. Taylor, and the  
13 hopefulness of resolution, with the support of the amici and  
14 the community in trying to reach an ultimate remedy on this  
15 particular matter to resolve the noncompliance.

16 That said and without diminishing it at all, I would  
17 like to address very briefly the issue of outcomes. I believe  
18 there is a misunderstanding, particularly as the professor  
19 spoke, asserting that there was not an outcome measured in the  
20 settlement agreement. In fact, if one looks at paragraph 170,  
21 there is a specific set that are called "outcome measures."  
22 Each quarter, as COCL has reported, their report has been  
23 titled, "Compliance Officer's Assessment of Compliance and  
24 Outcomes." There has not been, to my knowledge, a request from  
25 new of the PCCEP members or amici nor the community to change



1 the metrics used in paragraph 170.

2 Paragraph 170 says "including," which means there  
3 could, of course, be additional metrics. And there has not  
4 been a request of the United States nor to the COCL, to my  
5 understanding, to change their reporting. In some cases there  
6 are large audits set up for outcomes. In this case COCL has  
7 helped the City establish audits of force and training and  
8 such, and thus far those have been acceptable.

9 Additionally, in the United States' compliance  
10 reports each year, we cite specific data on outcomes. In the  
11 beginning of today's presentation, as Your Honor will recall,  
12 we stated merely having a process on the shelf by way of a  
13 policy would not be sufficient. That does not reach  
14 constitutional muster in and of itself. Rather, the settlement  
15 agreement requires implementation, adherence to those policies,  
16 and what people do.

17 That is not to say that one can merely measure an  
18 outcome and say, "Three uses of force that are unconstitutional  
19 each year would be acceptable." Such an outcome measure  
20 calculus, if you will, would set a minimal level of acceptable  
21 unconstitutional conduct, and that's simply not how it is done.  
22 The process is designed to hopefully reach no unconstitutional  
23 uses of force, but where they occur, then accountability  
24 occurs. Specifically, we have addressed outcomes and  
25 accountability in our March 23rd letter. So to that end,

1 Your Honor, I believe the concern is misplaced. Outcomes are  
2 addressed in the settlement agreement, outcomes are addressed  
3 in the COCL's report, and outcomes are addressed in  
4 United States' report.

5 THE COURT: By the way, to be precise, I know you are  
6 referring to paragraph 170 of the amended settlement agreement.  
7 Paragraph numbers have changed a little bit from the original  
8 to the amended. So I'm looking at paragraph 170 of the amended  
9 settlement agreement. I assume that's what you are referring  
10 to?

11 MR. GEISLER: Yes, Your Honor. Docket entry 171,  
12 dated 5-15-18.

13 THE COURT: We are looking at the same thing.  
14 Any other comments, Mr. Geissler?

15 MR. GEISLER: No further comments from the Civil  
16 Rights Division, Your Honor. Again, I thank the Court.

17 THE COURT: I'll just conclude, I see many of the  
18 counsel that are based here in Oregon on a fairly regular  
19 basis.

20 Mr. Geissler, I know you have traveled probably the  
21 furthest from Washington, D.C., representing the United States  
22 Department of Justice, and so to you specifically I'll say  
23 welcome back.

24 MR. GEISLER: Thank you, sir.

25 THE COURT: All right. I look forward to hearing

1 from you all when you need me, but otherwise seeing you at our  
2 next status conference coming up soon on November 9th, 2021, at  
3 9:00 a.m. in this courtroom. We will see where we are about  
4 COVID compliance when we get closer to that date.

5 Be well, everyone. Be safe. Thank you for today's  
6 hearing.

7 (Court adjourned.)

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I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/ Dennis W. Apodaca  
DENNIS W. APODACA, RDR, RMR, FCRR, CRR  
Official Court Reporter

August 31, 2021  
DATE

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**DR. CHRISTOFF:** [2] 145/7 145/15  
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