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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Case No. 3:12-cv-02265-SI

PLAINTIFF,

**DEFENDANT CITY OF PORTLAND'S
STATUS UPDATE**

v.

CITY OF PORTLAND,

DEFENDANT.

I. Introduction

The City remains committed to meeting the ultimate goals of the Settlement Agreement – achieving substantial compliance, delivering enduring police reform, and returning control of our local police agency to our local community and its elected leaders. Whether through continual improvement at the Portland Police Bureau (Bureau or PPB), compliance with the remedies embodied in the Settlement Agreement almost a decade ago, the additional remedies agreed to in 2022, or through voluntary programs such as Portland Street Response (PSR), the City is diligently working to deliver public safety services in a manner that effectively supports

community safety, and which complies with the Constitution and laws of the United States.

The City intends through this filing to: provide an overview of the Portland Police Bureau's continual improvement; update the Court on the City's significant progress toward achieving the Section XI Remedies; note the transition to a new Compliance Officer Community Liaison team as of July 1, 2023; and provide updates on the Portland Committee on Community Engaged Policing and Portland Street Response. The City is reviewing and will comment at the hearing on the Seventh Compliance Assessment by the U.S. Department of Justice.

II. PPB dedicated to continual improvement

The Portland Police Bureau in the last year again showed improvement, despite headwinds including an increase in gun violence in 2022, and problems related to mental health needs and substance abuse, particularly of fentanyl, in our community. In addition, the Bureau revamped its recruitment efforts, and received 1,513 applications for police officers, hiring 80 new recruits. With 63 sworn members resigning or retiring last year, recruiting remains an important priority for the Bureau.

Use of Force. Despite those challenges, use of force data from 2022 indicates that PPB is a learning organization committed to improving performance. Comprehensive training in de-escalation, crisis intervention and methods to reduce force has continued, and its impact is evident. During 2022, PPB took almost 12,500 people into custody, using force against 654 persons. This equates to force used in only 5.25% of custodies, an average of fewer than two force events per day. Using the most recently available data, PPB's force-to-custody ratio was lower than cities of comparable size that define force similarly: Austin, Texas (14.1%), Pittsburgh, Pennsylvania (6.86%), and Detroit, Michigan (5.44%). The category of force used in 2022 demonstrates PPB's adherence to the Settlement Agreement, with category II and III force constituting less than a third of all applications. Sixty percent of applications of force were control against resistance or resisted handcuffing – the lowest level of force – showing PPB's efforts to resolve confrontations while using the least amount of appropriate force and ensuring officer and public safety. PPB officers used the lowest level of force, control against resistance

and resisted handcuffing, in 76% of applications of force against persons in mental health crisis. This demonstrates that Bureau training and policy has helped officers avoid or minimize the use of force against individuals in actual or perceived mental health crisis.

Crisis Intervention. The Behavioral Health Unit (BHU) is now fully staffed, well-supported, data-informed, and integral to PPB's day-to-day operations. As the Bureau works to address the growing problem of untreated mental illness and addiction in our community, the Behavioral Health Unit ensures that PPB does so in the most effective and humane way possible. BHU staff continues their effort to build upon past training and community outreach efforts.

The Behavioral Health Unit currently has five Behavioral Health Response Teams (BHRTs). These are the officer/clinician pairs that take referrals from patrol to assist people in the community. Typically, the people they work with either pose a significant danger to themselves or others, or they are having frequent negative contacts with police or other community members. The current five-team configuration allows the BHU to have a team dedicated to each of the three precincts, a team to serve our houseless community, and a team dedicated to addressing threats of targeted violence. The BHU receives approximately 1,000 referrals for follow-up per year, primarily from patrol officers, and assigns roughly half of those referrals to the BHRTs. The results are measurable. Comparing police contacts that individuals have in the year before and the year after BHRT intervention, total police contacts drop by 35 percent and total arrests drop by 26 percent.

Local businesses and non-profits regularly reach out for guidance on how to interact with people with mental illness and addiction challenges, so BHU has developed a two-hour presentation to provide de-escalation and communication skills for community members to improve their own interactions with this vulnerable population. The BHU also continues to be a resource to law enforcement agencies throughout the country. The BHU responds to numerous requests for information site visits, explaining BHU's framework and the Police Bureau's scaled crisis response model. The BHU continues to receive guidance from both internal and external advisory committees, who provide recommendations on training, policy and procedures, and

ideas on how to move the Unit forward.

The Service Coordination Team (SCT), a City crime reduction program since 2008, continues to manage a contract with Central City Concern to provide services to individuals with chronic conditions, including addiction, houselessness, and engagement with the criminal justice system. SCT provides access to supportive housing, intensive case management, medical care, addiction, and mental health treatment services. The most recent PSU evaluation found 87% of those who completed the SCT program saw reductions in post-program arrests and concluded that every \$1 the program spends avoids \$20.61 in criminal justice system costs.

Training. The Training Division has also achieved successes over the last year. They offered a two-day training in crowd management strategies for all sworn officers this spring. As of this week, they are training for the body-worn camera pilot program in partnership with Axon. The Training Division has developed comprehensive lesson plans for the fall in-service training that is scheduled to begin on September 8. In addition, PPB hired a national firm to continue to develop its trainers' skills, through the Force Science Methods of Instruction Course, curriculum that is certified by the International Association of Directors of Law Enforcement Standards and Training. PPB Training has also applied for accreditation by the Oregon Accreditation Alliance, a subsidiary of the Oregon Association of Chiefs of Police that develops best practices for policing in the state.

PPB Policies. The policy development team also has been productive, engaging the community and advisory committees in the review and update of the suite of mental health-related policies that are the central focus of the Settlement Agreement. The Bureau created new directives on officer wellness, procedural justice, and interacting with the LBGTQAI2S+ / Queer community, in each case putting Portland in the national forefront of police policy. They also overhauled the Bureau's policies pertaining to reporting and reviewing uses of force, including establishing clearer standards for when force is authorized and the accompanying reporting and investigation requirements. The directive says, "The community expects, and the Portland Police Bureau requires, that members use only the objectively reasonable force necessary to perform

their duties and overcome the threat or resistance of the subject under the totality of the circumstances.”

Accountability. Within the Professional Standards Division (PSD), Internal Affairs continues to work in conjunction with the Independent Police Review to review and investigate all complaints of misconduct by PPB members. PSD taught classes at both the general and supervisor in-service training this year and is in the process of crafting additional training for the Fall 2023 Command in-service. The adoption of the Corrective Action Guide in February of 2022 was a precursor to the creation and adoption of statewide standards for Oregon related to Standards of Conduct and Discipline that took effect in October of 2022. In July 2023, Council passed an ordinance amending current city code, after review and approval by the DOJ, to address a concern with challenges in scheduling more frequent police review board meetings and help PPB meet the timelines required under paragraph 121 of the Settlement Agreement.

Innovative strategies. To improve public safety, precinct commanders innovated to conduct missions and direct patrols more effectively. For example, East Precinct leaders collaborated with researchers at OHSU to develop an evidence-based methodology to identify stolen vehicles and apprehend their drivers. The partnership has shown meaningful results. In typical stolen vehicle operations, only one in every 31 vehicles stopped was an occupied stolen vehicle, and the arrest ratio was one in six. In the missions conducted after the evidence-based practices were applied, one in every six vehicles stopped by the team was stolen and someone was arrested once in every three stops.

PPB continues to innovate in other areas as well. For example, PPB’s tailored language justice program includes universal training focused on language and cultural awareness, extensive engagement with immigrant communities, and a formal PPB staff interpreter program (PPB members speak more than 30 languages).¹ As another example, PPB is implementing a

¹ Ashley Lancaster and Natasha Haunsperger, “Building Community Trust through Language Justice,” Police Chief (International Chiefs of Police, August 2023), available at <https://www.policechiefmagazine.org/community-trust-language-justice/>.

model program to identify, investigate and interdict labor trafficking operations, again through deep and ongoing engagement with immigrant communities, officer training initiatives and dedicated data collection platforms.² These and other efforts – including the reconstitution of the entertainment district detail, targeted missions to combat illegal street racing, neighborhood resource teams, and the Central Precinct Bike Squad – have shown demonstrable results, and the value of proactive policing and community partnerships

III. Status of Section XI Remedies

The City has made important progress on each of the eight remedies in Section XI, approved by the Court in April 2022. The City offers this update on each of the Section XI remedies below:

1. Update Force Reporting Forms, Para. 188

After an initial pilot at Central Precinct, on June 5, 2023, the Bureau began collecting an auto-populated date/time stamp for the submission and approval dates of Force Data Collection Reports and After-Action Reports, as required by Paragraph 188. This remedy will help establish timeliness and transparency in the completion of these important use-of-force reports.

2. Critical Assessment of City’s Response to Crowd Control Events of 2020, Para. 189

Consulting firm Independent Monitor, LLC (“IMLLC”) was retained to critically assess the City’s response to the 2020 demonstrations. IMLCC released its final Phase 1 Report on August 9, 2023. The City will publicly post the Phase 1 Report, along with the City’s Response and Training Needs Assessment. IMLCC will present the report to the Portland City Council at 2 p.m. on August 23, followed by an evening community town hall to share the report publicly and take questions.³

² Haunsperger, “Grassroots Police Strategies to Combat Labor Trafficking,” Police Chief (International Chiefs of Police, October 2022), available at <https://www.policechiefmagazine.org/grassroots-policing-strategies-combat-labor-trafficking/>.

³ The IMLCC will return six months after issuing the Phase 1 Report to start the follow-on report. IMLCC will issue a final Phase 2 Report in the fall of 2024, wherein they will assess the City’s progress in implementing their recommendations from Phase 1.

3. Overtime Budget for PPB Officer Training, Para. 190

The City Council's adopted PPB budget for the current fiscal year, spanning July 1, 2023 to June 30, 2024, again includes a separate line item for overtime needed to cover shifts when police officers participate in training.

4. Civilian Dean of Training for PPB, Para. 191

Dr. Rebecca Rodriguez, Ph.D., MSW, LCSW, started work as PPB's civilian Director of Police Education June 8, 2023.⁴ Dr. Rodriguez has most recently served as an Associate Professor and the Director of the Masters in Social Work Program for George Fox University, School of Social Work in Portland. Dr. Rodriguez's expertise in adult education and her social work lens is a welcome addition to the work at PPB to provide critical, innovative, and effective training to all members of the Police Bureau.

As Director of Police Education, Dr. Rodriguez will facilitate the design, development, and delivery of training programs for the Portland Police Bureau's Training Division. She will provide professional development and continuing education to Training Division instructors to ensure that all personnel are highly qualified and well equipped to perform their duties. Further, Dr. Rodriguez will offer her expertise in developing engaging and effective programs for adult learners through classroom instruction, interactive exercises, role-playing scenarios and on-demand, web-based modules.

Dr. Rodriguez was selected after a rigorous application process that included representatives from the Portland Police Association, the Mental Health Alliance, and PCCEP in the review of applications, and interview panels made up of community members, the Albina Ministerial Alliance, PPB's Equity and Inclusion Manager, a member of the Training Division, representatives from Mayor Wheeler and City Commissioners' teams, and Chief Chuck Lovell.

⁴ Dr. Rodriguez's initial title was Civilian Training Dean; however, at Dr. Rodriguez's request, her title was modified to Director of Police Education.

5. Independent Police Review investigation of PPB supervisors, Para. 192

Independent Police Review (IPR) has opened and is actively working on four investigations related to PPB's response to the 2020 protests between May 29 and November 16, 2020, as required by Paragraph 192. These investigations are of the following:

- Crowd management and crowd control training provided by lieutenants and above;
- Whether incident command staff inappropriately directed PPB officers to use force;
- Whether incident command staff failed to ensure that Force Data Collection Reports (FDCRs) and After Action Reports (AARs) arising from crowd control events were completed as required by applicable directive; and
- Whether command staff adequately clarified misunderstandings and misapplications of PPB policies governing the use, reporting, and review of force during crowd control events.

IPR has conducted extensive officer interviews, reviewed thousands of documents, and examined many hours of video. To ensure the integrity of the investigations, IPR will report the findings when all four related cases, and any subsequent individual investigations, conclude.

6. Release of Annual Report and Presentation at Precinct Meetings, Para. 193

Paragraph 193 requires PPB to present its Annual Report to City Council and three precinct meetings no later than September 20 of each year. The City met the deadline in 2021 and 2022, and will meet it again this year. PPB held precinct meetings on July 20, 25 and 27, 2023, and the Council presentation will be August 23, 2023.

7. Body-Worn Camera Program, Para. 194

After reaching agreement on the body-worn camera (BWC) policy in April, see Dkt. 368, the City immediately turned to plans for implementing a 60-day pilot program to start in late August. Given the significant expense of adopting a body worn camera program, the City's

Request for Proposals (RFP)⁵ includes the pilot program to allow the City to assess the equipment so as to select the most appropriate vendor prior to full implementation. If Axon is the vendor that meets the City's needs, the City will then negotiate a full contract.

Axon, the contracted provider of the BWC equipment for the pilot program, committed to not only providing the equipment and access to a server to securely hold the body camera footage of recordings, but also agreed to train a number of PPB members on use of the equipment, who will then provide the training to the rest of PPB. The City developed lesson plans and materials for the training, that is taking place August 8 to 11, 2023. The body camera pilot program includes approximately 170 sworn personnel stationed at Central Precinct, along with members of the Focused Intervention Team.⁶ This initial training is provided to Central Precinct and Focused Intervention Team officers, supervisors, detectives, evidence technicians, criminalists, records staff, Office of Inspector General analysts, as well as investigators from PPB Internal Affairs and IPR, all of whom will wear body cameras, and/or review or handle the resulting video evidence in their work.

While the policy and training were being developed, PPB also worked on the technical aspects of BWC implementation. Technology upgrades at Central Precinct include electrical upgrades for docking equipment, greater network speed, new computer equipment, and installation of upgraded networks and firewall.

Training on the body worn camera policy for all of PPB's sworn personnel will occur at PPB's in-service starting in late September and continuing into December 2023. Training on the equipment for the rest of PPB's sworn personnel will occur once a final vendor is selected and a contract is negotiated.

PPB's BWC policy is attracting national attention. At a recent conference, several law enforcement agencies, federal and local, approached PPB leaders and expressed an interest in

⁵ The RFP is attached to the City Council authorizing ordinance as exhibit A, and both the ordinance and RFP can be found at: <https://efiles.portlandoregon.gov/Record/14942562/>. Within the authorizing ordinance, Council authorized up to \$2.6 million for a body worn camera program,

⁶ The Focused Intervention Team is tasked with being a visible presence and deterrence to gun violence.

using it as a model.

8. Establishment of the Community Police Oversight Board, Para. 195

In January, 2023, the City and IPR's represented employees entered into a three-year collective bargaining agreement (CBA). The CBA provides these employees with a salary schedule that includes annual automatic pay increases, as well as annual bonuses at the conclusion of each year under the CBA, to incentive IPR employees to remain during the transition from IPR to the Community Police Oversight Board.

The Police Accountability Commission (the "PAC"), a 20-member civilian committee, is finalizing its recommendations defining the duties and authority of a new community police oversight board to investigate certain complaints of police misconduct and to impose discipline. In June, the PAC hired outside legal counsel to embody their recommendations in proposed City Code amendments. The PAC will produce its final report and recommended Code amendments by August 31. Thereafter, the recommendations will be presented to City Council. The City has 60 days after the report's presentation to Council to propose corresponding amendments to City Code and the Settlement Agreement, subject to the approval of DOJ and the Court. The City must also comply with any bargaining obligations that may exist under the Public Employees Collective Bargaining Act.

IV. COCL Transition

With substantial involvement from the Portland Police Association, *amici* and the public, the City has hired a team led by Dr. Tom Christoff, Ph.D., senior research scientist at CNA Corporation's Institute for Public Research, to succeed Dr. Dennis Rosenbaum upon his retirement as Compliance Officer/Community Liaison ("COCL").⁷ Dr. Christoff, who served on Dr. Rosenbaum's COCL team for several years up until Dr. Rosenbaum's retirement, started as COCL on July 1, retaining many existing COCL team members, while adding others with experience and expertise in policing, crisis intervention, and community engagement.

⁷ Dr. Rosenbaum remains on contract through August 31 to allow Rosenbaum & Associates, LLC, to complete its final quarterly COCL assessment, for the first quarter of 2023.

The City adhered to the COCL selection process required under Paragraph 157 of the Agreement. The City received three responses to its March Request for Resumes, from which two finalists were unanimously selected by a panel of six members, including representatives from two Council offices, the Portland Committee on Community Engagement Policing, the Mental Health Alliance, the PPA, and PPB. They were the team led by Dr. Christoff and a team led by Dr. Richard Rosenthal, Ph.D., J.D. The finalists' proposals were posted for public comment for 30 days, as required, and the finalists participated in a town hall forum on May 17, 2023. Each also met separately with an interview panel that included representatives from Council offices, the AMAC, IPR and PPB. Dr. Christoff's team received the higher score from the panelists. City Council adopted the procurement report June 21, 2023, and the City executed a contract with CNA.

V. The Portland Committee on Community-Engaged Policing

PCCEP has been revitalized over the last year. With the start of the new membership term in September 2022, the fully appointed committee elected co-chairs and launched into its work. The members made two recommendations to the Mayor this spring: supporting the appointment of an independent monitor in this case, and opposing the pilot of a gunshot-detection program. The Mayor has since halted the gunshot-detection pilot, and the City continues to mediate toward a monitor. Despite those actions, PCCEP members felt the Mayor's response should have given their recommendations more significant consideration, and on August 1, the Mayor met in person with the PCCEP Co-Chairs to discuss these concerns. The Mayor is also scheduled to meet with PCCEP on Wednesday, August 16, 2023, to further discuss their concerns and other topics of interest to committee members.

PCCEP has stepped up its community engagement efforts, supported by a new dedicated staff position, and held engaging and well-attended public conversations on issues including gunshot detection, Portland Street Response, and strategic planning for the committee. The committee has been challenged, however, in recruiting and retaining youth members. PCCEP is

recruiting members now, and the Mayor intends to replace departing members and again have a full roster this fall.

VI. **Portland Street Response Update**

Under Portland Street Response, a program within Portland Fire & Rescue, teams of mental health crisis responders and emergency medical technicians respond to certain non-emergency 911 calls that otherwise would require a police or fire response. As the Parties recognize, Portland Street Response is not required by the Settlement Agreement, but is a voluntary program initiated by the City under the leadership of then-Fire Commissioner Jo Ann Hardesty. The City reports on its progress in recognition of the interest from the Court, *amici*, and the public in the program.

In two short years, Portland Street Response has expanded considerably, from a pilot program with one team to the current program with six teams, from one neighborhood to the entire City, and from operating only during one shift five days a week to responding to calls from 8 a.m. to 10 p.m. every day. During its second year, PSR responded to 7,418 incidents – more than *six times as many* as in its first year. That rapid growth in the program’s development brought challenges, including an evolving staffing model and extended response times, as well the need for policies, procedures, and operational support for the new program, which require time to establish.⁸

The City is working to address the challenges in PSR and to ensure that this innovative program has strong program leadership to develop the necessary organizational policies and support, and to secure ongoing funding. The program was initially funded as a pilot with City General Fund resources, and in fiscal years 2022-23 and 2023-24 is also funded through a one-time federal American Rescue Plan Act grant and opioid settlement fund dollars. PSR funding

⁸ Portland State University Homelessness Research & Action Collaborative, Portland Street Response Year Two Evaluation (June 2023), at 128, available at https://www.pdx.edu/homelessness/sites/g/files/znldhr1791/files/2023-06/HRAC%20Portland%20Street%20Response%20Year%20Two%20Evaluation%20Report_Executive%20Summary.pdf. See also the Portland Fire & Rescue Response, available at <https://www.pdx.edu/homelessness/sites/g/files/znldhr1791/files/2023-07/PF%26R%20Response%20to%20PSU%20Year-Two%20Evaluation.pdf>.

for staffing increased by 26 percent in the current budget, as start-up expenses for materials, equipment and services decreased. The City General Fund dollars, which make up approximately 40 percent of the total \$10 million funding for PSR in FY 2023-24, are ongoing funding sources, whereas the federal grant monies and opioid settlement fund dollars are one-time resources that expire this fiscal year. The City is actively pursuing other potential revenue sources, including federal revenue streams, to help support and expand this important program.

VII. Conclusion

As discussed above, the City continues to make progress towards achieving the ultimate goals of the Settlement Agreement – achieving substantial compliance, delivering enduring police reform, and returning control of our local police agency to our local community and its elected leaders.

Dated: August 10, 2023.

Respectfully submitted,

/s/ Robert Taylor

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