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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	3:12-cv-02265-SI
)	
v.)	August 14, 2023
)	
THE CITY OF PORTLAND,)	
)	
Defendant.)	Portland, Oregon

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

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INDEX

Status conference

5

1 (August 14, 2023)

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

3 (Open court:)

4 THE COURT: Good morning, everyone.

5 COUNSEL: Good morning.

6 THE COURT: We are here in the case of United States
7 versus City of Portland, Case No. 12-CV-2265. I invite counsel
8 for plaintiff to enter an appearance.

9 MR. HAGER: Thank you, Your Honor.

10 Jared Hager, trial attorney, Special Litigation
11 Section, Civil Rights Division, U.S. Department of Justice, for
12 the plaintiff.

13 THE COURT: Good morning.

14 MS. SENIER: Good morning, Your Honor. Amy Senier,
15 with the Civil Rights Division.

16 THE COURT: Ms. Senier, am I correct this is your
17 first appearance in this case?

18 MS. SENIER: Yes.

19 THE COURT: Welcome. I'll invite counsel for
20 defendants to enter an appearance.

21 MR. TAYLOR: Thank you, Your Honor.

22 Robert Taylor, City Attorney.

23 MS. BROWN: Good morning, Your Honor. Heidi Brown,
24 chief deputy city attorney.

25 THE COURT: Good morning.

1 MS. AMES: Sarah Ames, deputy city attorney.

2 THE COURT: Good morning.

3 I'll invite counsel for the intervenor,

4 Portland Police Bureau, to enter an appearance.

5 Good morning.

6 MR. KARIA: Good morning, Your Honor. Anil Karia,

7 Portland Police Association.

8 Thank you.

9 THE COURT: Good morning and thank you.

10 I'll invite counsel for the Albina Ministerial

11 Alliance Coalition for Justice and Police Reform to enter an

12 appearance.

13 MS. CHAMBERS: Good morning. Kristen Chambers,

14 counsel for AMAC. Also with me is Ashlee Albies for AMAC and

15 our clients, Dr. Haynes and Dr. Knutson, and we expect Dan

16 Handelman to be on the video.

17 THE COURT: Mr. Handelman, are you with us on the

18 video?

19 MR. HANDELMAN: Yes, I am, Your Honor.

20 THE COURT: Good morning.

21 Finally, I'll invite counsel for Mental Health

22 Alliance to enter your appearance.

23 MR. CHAVEZ: Good morning, Your Honor. Juan Chavez

24 with the Mental Health Alliance.

25 MS. LAMB: Good morning, Your Honor. Amanda Lamb

1 with the Mental Health Alliance.

2 THE COURT: Good morning and welcome.

3 All right. I have received and read the joint status
4 report regarding body-worn cameras, Docket 368.

5 I have received and read the plaintiff's notice of
6 the seventh periodic compliance assessment, Docket 369.

7 I have also received and read the City of Portland's
8 status update, Docket 373; the Defendant City of Portland's
9 notice of filing from the report of Nicholas Mitchell of
10 Independent Monitor, LLC, regarding the 2020 protests, and the
11 response by the City of Portland and the training needs
12 assessment related to all of that from the Portland Police
13 Bureau.

14 I have received and read the August 2023 status
15 report from the Albina Ministerial Alliance Coalition for
16 Justice and Police Reform, Docket 379.

17 I have received and read the August 2023 status
18 report from the Mental Health Alliance, Docket 368.

19 And a few months ago I received and read the
20 Compliance Officer and Community Liaison's Q4 quarterly report.
21 That's the one dated May 25th, 2022, that was filed by the City
22 of Portland. That's Docket 364.

23 I have also received and read comments from four
24 members of the public: Mr. Nathan Castle. That has been
25 entered as Docket 380. I have also received comments from the

1 League of Women Voters, Docket 374; comments from Ms.
2 Ann Brayfield, Docket 377; and comments it from Jake Dockter,
3 375.

4 If you have submitted written comments previously in
5 connection with today's hearing, I have not received them.
6 During a break or at the end of the hearing, please check with
7 my courtroom deputy, Mary Austad. I will make sure I get them,
8 read them, and enter them in the record.

9 I also understand that there is a request for oral
10 comments, in addition to our parties, from Ms. Brayfield, who
11 is appearing by video.

12 Ms. Brayfield, can you hear me? We will see if you
13 are there later. You may be on mute. For Mr. Marc Poris, I
14 will do the same thing. Mr. Handelman, I have spoken with. We
15 will hear from him later. Caroline Buppert and Lightning. We
16 will hear from those folks a little bit later.

17 Let me tell you, though, and I apologize for this
18 inconvenience. There is a judges' meeting in the building that
19 I must attend beginning at noon. It addresses matters of court
20 business, and I really must be there. If we are done by noon,
21 fine. I am not going to rush anybody. If we are not done by
22 noon, we will take a break from noon to one o'clock and resume
23 promptly at one o'clock.

24 Let me also briefly summarize -- I know I'll hear
25 more about it briefly. There has been very positive

1 developments, although still some concerns by some folks
2 regarding the body-worn cameras, and I look forward to hearing
3 more about that. I also look forward to hearing more about
4 some accountability issues. I know that a new Community Police
5 Oversight Board has replaced the IPR. I am eager to hear how
6 that's coming along.

7 I know that we have received the report, as I
8 mentioned, from Independent Monitor, LLC, regarding the
9 crowd-control events of 2020, including the City's response. I
10 know that the City will be presenting that to the City Council
11 on August 23rd followed by an evening community town hall. Is
12 that later that evening, the town hall?

13 MS. BROWN: It is, Your Honor.

14 THE COURT: So in terms of topics: Topic one,
15 body-worn cameras; topic 2, accountability; and topic three, I
16 would like to hear more about training. I do understand that
17 the City has hired Dr. Rebecca Rodriguez as the Portland Police
18 Bureau's civilian director of police education.

19 I know Dr. Rodriguez was hired on June 8th.

20 Dr. Rodriguez, are you in the courtroom? I don't
21 think we have met before.

22 MS. BROWN: Your Honor, she had hoped to be here, but
23 unfortunately wasn't able to, but we will certainly invite her
24 next time.

25 THE COURT: I look forward to meeting her at an

1 appropriate time.

2 I know that from some of these submissions that there
3 are still some of the concerns about the Rapid Response slide
4 deck training and the City's responses to that. I know that
5 there are still some concerns about training regarding the
6 culture issues. We will talk more about that under training.

7 The fourth topic that I have is Portland Street
8 Response and the crisis intervention issues in the settlement
9 agreement. I know that Portland Street Response is not
10 technically required under the settlement agreement, but timely
11 crisis intervention is, and I think Portland Street Response is
12 the best approach I've seen towards dealing with those crisis
13 intervention issues.

14 I know there has been some concerns raised by, at
15 least some of the commenters, that there might not be a vocal
16 champion at the Portland Street Response at City Hall. I would
17 like to hear more about that. I would also like to hear
18 whether or not there is support for Portland Street Response by
19 our chief of police, Chief Lovell. By the way, is Chief Lovell
20 here? I don't see him. Same issue?

21 MR. TAYLOR: Deputy Chief Frome is here.

22 THE COURT: I don't think I know the deputy chief.

23 Welcome, sir. I'm glad you are here.

24 I know that there are issues about continued funding
25 and funding uncertainty for the Portland Street Response. I

1 know that they've received some initial funds from federal
2 sources. I wonder whether this is a priority for the City. I
3 look forward to comments on that.

4 I also heard some concerns -- and I read some
5 concerns -- about several members of Portland Street Response
6 staff, including its director, resigning. And I look forward
7 to information about that issue.

8 I also wonder whether Portland Street Response is
9 being used to its full capacity. If I read correctly, it's
10 currently in operation from 8:00 a.m. to 10 p.m. And that's
11 really good. It is better than where we were before.

12 Are there plans to get it to 24/7? It seems to me
13 that's the right approach to deal with this, but I look forward
14 to your comments on that.

15 I would like to hear a little more about the
16 Behavioral Health Unit, including some concerns raised about
17 transparency; same with regard to the Unity Center.

18 The next topic is the transition from the Compliance
19 Officer on Community Liaison, the COCL transition. First of
20 all, Dr. Tom Christoff has been retained as of July 1st to
21 replace Dr. Rosenbaum. As I said at our last hearing, the
22 Court expresses its appreciation to Dr. Rosenbaum and his staff
23 and entire team for all they've done over the years

24 Dr. Christoff? I don't see you. There you are, sir.
25 I need stronger glasses. I apologize.

1 Welcome, Dr. Christoff. Welcome on your new
2 position, and I'm glad you are here.

3 Then with respect to the PCCEP, I understand we have
4 a fully appointed committee and co-chairs, but I have also been
5 seeing some comments that there may be some continued turnover
6 issues. I would like to hear more about that.

7 I also understand that we have some continuing issues
8 with the Employee Information System, the EIS; in particular,
9 whether we are doing all that the settlement requires and all
10 that should be done with respect to identifying and training or
11 appropriately dealing with officers that exhibit the highest
12 levels of force on a consistent basis.

13 Then finally, I understand you all have been meeting
14 with the mediator, Magistrate Judge Stacie Beckerman. I have
15 not been discussing anything substantive with her. So I'm
16 eager to hear your reports on where things stand with a
17 court-appointed monitor.

18 Of course, I'm interested in anything else you may
19 wish to share with me, but those are the issues that are on my
20 mind. I look forward to your comments.

21 Then consistent with the agenda proposed jointly by
22 the parties, I now look forward to the United States's
23 presentation.

24 MR. HAGER: Thank you, Your Honor.

25 I would also like to introduce behind me,

1 Deputy Chief Laura Cowall of the Special Litigation Section as
2 well as the Honorable Natalie Wight, the U.S. Attorney for the
3 District of Oregon.

4 THE COURT: Welcome. I am glad you are both here.

5 MR. HAGER: I want to give thanks to the Court for
6 giving us a space to discuss our most recent periodic
7 compliance assessment report. I also want to give thanks to
8 the rank and file of the Portland Police Bureau. There has
9 been substantial progress in the last year, and that work could
10 not have been done without the members of the Portland Police
11 Bureau.

12 In addition, thanks to all of the community members
13 and the City employees. Again, the settlement agreement
14 requires a lot of different people, and the City of Portland
15 relies extensively on volunteers, whether through an
16 accountability commission or through the Portland Committee on
17 Community Engaged Policing, PCCEP. They deserve our thanks as
18 well for their volunteer efforts.

19 By way of overview, we wish to outline some key
20 progress as well as some key barriers to substantial compliance
21 that we observed over the last year. There is plenty of reason
22 for positive feelings with respect to progress. Their overall
23 compliance assessment has gone up from 66 percent of the
24 paragraphs to 74 percent, and that reflects a lot of
25 substantial progress with the new remedies of Section 11,

1 reachieving substantial compliance, where there had been
2 previous slippage, as well as protecting the progress that had
3 been made, and the City deserves credit for that.

4 There is some serious work that still needs to be
5 done, as outlined in Docket 369, our seventh periodic report.
6 Today, my colleague Ms. Senier, will be addressing Sections 3
7 and 7. That's on force and the Employee Information System,
8 EIS.

9 After Ms. Senior is done, I will pick up with
10 Sections 11, the new remedies, including the IM LLC report that
11 Your Honor mentioned, as well as body cameras and the
12 accountability commission, and then proceed to Sections 4, 5,
13 6, 8, and 9.

14 So with that, I will pass it to Ms. Senier to address
15 Sections 3 and 7.

16 THE COURT: Thank you very much, Mr. Hager.

17 Good morning again, Ms. Senier.

18 MS. SENIER: Good morning, Your Honor.

19 We are pleased to report the City's significant
20 progress in implementing and maintaining substantial compliance
21 in several areas of Section 3 of the settlement agreement,
22 which, as my colleague just mentioned, is in large part due to
23 the good work of Bureau members and direct-line supervisors in
24 the field.

25 Just by way of overview, the City maintains

1 substantial compliance with respects to paragraph 68, which
2 governs Tasers units, and 71, which governs sergeant staffing
3 ratios.

4 The City also reached substantial compliance in
5 three provisions within this section, which was really good
6 news. The first was with respect to paragraph 72, which
7 required the Bureau to revise its use of force supervisory
8 review checklist, known as the after-action report.

9 We were even more encouraged to see the City reattain
10 substantial compliance with paragraphs 66 and 67, which govern
11 implementation of the Bureau's use of force directives. Again,
12 this is a significant achievement, because it's based not only
13 on the Bureau's revision of its directives, but our review of
14 categories 2, 3, and 4 use of force incidents, which shows that
15 officers are using force in ways that are consistent with those
16 directives. So that was very encouraging.

17 The City does remain in partial compliance with those
18 areas of the settlement agreement and this section governing
19 use of force reporting and review. Those are paragraphs 69,
20 70, and 73. Because the incident review did reveal significant
21 progress in both officer reporting and supervisory review,
22 there were some categories, 2, 3, and 4, use of force reports
23 and after actions that revealed shortcomings in documenting and
24 reviewing those incidents; in particular with respect to
25 efforts to deescalate and issue warnings.

1 And finally, we share the compliance officer's
2 assessment that the City remains in partial compliance with
3 those provisions of the section related to the force
4 inspector's audits of force.

5 We want to acknowledge the good work the City and the
6 Bureau, particularly what the force analysts have done to
7 ensure the Bureau is gathering extensive data on officers' use
8 of force. We had an opportunity to meet with the new force
9 inspector and compliance officer last week to discuss ways that
10 the inspector can demonstrate compliance with these provisions,
11 and we are hopeful that these provisions can move into
12 substantial compliance in the following assessment period.

13 If there are no questions, I will move to the
14 Employee Information System.

15 So in terms of a positive, Your Honor, we were really
16 happy to see that many entries are being used to function as
17 sort of a jacket for an officer, detailing their recent
18 behavior in a way that supervisors can then use to get
19 acquainted with the officers' performance in the field. And
20 this is particularly important in an organization where
21 officers can move between supervisors over time, and so that
22 was a really positive development.

23 But as Your Honor noted, our review did reveal that
24 the system is not yet being used to effectively intervene when
25 it flags problematic officer behavior. In a sense, there has

1 been no change since our last compliance report, which found
2 paragraphs 116 and 117 remain only in partial compliance, and
3 that also tracks the findings of the compliance officer during
4 that same period.

5 We are continuing to work with the Bureau and the
6 compliance officer to fashion and help some steps that can be
7 implemented to help the system function more effectively, and
8 we are hopeful that we can come to some agreement on what those
9 steps will be so that these two provisions can finally move
10 into substantial compliance in the next reporting period.

11 I'm happy to answer any questions.

12 THE COURT: No questions.

13 Thank you.

14 MR. HAGER: Your Honor, with respect to Section 11
15 and the new remedies, the City committed substantial resources
16 to resolve our notice of noncompliance in 2020, and to their
17 credit, they have moved promptly to implement many of those
18 remedies. We found substantial compliance with four of the
19 eight paragraphs and significantly also hiring a civilian
20 director for the training division, which we think will have a
21 follow-on positive effect for training in the rest of the
22 police bureau.

23 In respect to paragraph 189 and the outside
24 assessment of the crowd control response, we have now received
25 and reviewed the report, which was even-handed and very

1 thorough from the Independent Monitor, LLC, Mr. Nick Mitchell.

2 THE COURT: By the way, that's a great name for an
3 entity.

4 MR. HAGER: It is a great name. And they do great
5 work. We are familiar with their work from Denver.

6 THE COURT: That's what I saw.

7 MR. HAGER: As well as in L.A. County.

8 The report -- I think the focus going forward is on
9 the 12 recommendations that that group has made. And again, to
10 the City's credit, they promptly responded and accepted all 12
11 of those recommendations. One I would like to highlight is the
12 final one. So in addition to the requirement that IMLLC assess
13 the City's implementation of those recommendations that they've
14 accepted, which, again, all of them, to their credit, the City
15 will also produce a self-assessment. And we think that's an
16 important part of this process -- is to just not receive an
17 external entity's review and implement it but to self-assess.
18 That was one of the root causes that we found in 2020. So we
19 look forward to those reports coming in in 180 days.

20 With respect to paragraph 194 and the implementation
21 of the body-worn camera program, again, we are pleased that the
22 City and the police union were able to reach a compromise that
23 is acceptable to the Department of Justice for a pilot project
24 and a pilot program that will go forward. Indeed, it is going
25 forward.

1 We've reviewed and sat in on some of the training on
2 how to use the body-worn camera for Central Precinct and the
3 Focus Intervention Team and are looking forward to rolling that
4 out in the next month.

5 One concern we have -- and we will be working with
6 our colleagues and partners with the City -- is to allow
7 realtime access to the body-worn camera recordings. That can
8 be through the evidence.com portal. It is something that is
9 standard in our cases.

10 Any internal or external oversight body is going to
11 need realtime access, and that includes the Independent Police
12 Review and whatever body might supersede that oversight agency
13 as well as perhaps the auditor, if there is a lawful auditing
14 purpose, and most certainly the monitor. And right now, that
15 is the Department of Justice. We have served in the monitor
16 capacity for nine years now.

17 The City's external contractor, the Compliance
18 Officer Community Liaison, would also need access to that
19 realtime recording in order to really evaluate, not only the
20 pilot program but for the tool to serve its accountability
21 purpose. So we look forward to resolving those issues with the
22 City in the coming weeks.

23 With respect to paragraph 195, the Police
24 Accountability Commission, a 20-member civilian group that was
25 appointed by counsel, they have for 18 months worked

1 diligently. We have sat in at the Department of Justice and
2 watched some of their proceedings; countless hours of their
3 proceedings. They have been meeting three to four times a week
4 in the last month to get their work done, which I believe
5 concludes at the end of this month.

6 The settlement agreement and city charter requires
7 that group to make a proposal to City Council for a new
8 accountability system, in particular an oversight board to
9 replace Independent Police Review, IPR, and that is going to be
10 coming again in the next few weeks. Under the settlement
11 agreement, the City Council will then assess those
12 recommendations. They will receive them and propose changes to
13 city code to address the proposal as well as corresponding
14 amendments to the settlement agreement in order to ensure "full
15 implementation of the oversight board in effective police
16 accountability." Now, that comes within 60 days.

17 One point of clarification that I want to make, and
18 it was always, I think, presumed that the settlement agreement
19 isn't a constraint necessarily on those amendments that
20 City Council will propose to us, because, again, they are
21 amendments, and this is a new structure. We have a lot of
22 experience with the system, as it is codified in Section 8 and
23 other areas of the settlement agreement. And if there are
24 improvements that need to be made, we invite the City and
25 City Council to propose those to us.

1 Once the Department of Justice reviews them, we will
2 reach an agreement with the City and then propose those
3 amendments to Your Honor, as they are adequate and reasonable
4 substitutes for the current system.

5 THE COURT: So what do you expect is the timeline for
6 the pilot? I understand that, by agreement of the parties, it
7 can be extended. But what do you expect?

8 MR. HAGER: I expect the pilot to be 60 days. I
9 don't think there is any reason to believe at this point that
10 the pilot will be extended. But that is not a decision that
11 the Department of Justice will necessarily be involved in.
12 That will be between the City and the police officer
13 association, represented by Mr. Karia over there, and we will
14 evaluate any recommendation or, I guess, request from them to
15 extend the pilot.

16 Our role at the Department of Justice is to hold the
17 City to its obligation to implement fully a body-worn camera
18 program within 240 days of the amendment. Now, we are long
19 past that. We understood that the bargaining process would
20 take some time. We understood that the implementation process
21 would take some time, and we agreed to allow extensions of that
22 240-day period. I think the language is that we would not
23 unreasonably withhold an agreement to extend that period. The
24 City hasn't requested an extension now, and we have seen
25 progress slow and steady but still forward, and we would

1 evaluate any need to extend that pilot program with the lens of
2 reasonability.

3 THE COURT: Do you want to further address the crisis
4 intervention issues and Portland Street Response?

5 MR. HAGER: I will, Your Honor. Moving to Section 5
6 and Section 6 -- and we have kind of grouped together in our
7 mind that crisis intervention is really at the heart of the
8 agreement.

9 There are several bright spots that I want to
10 emphasize for the Court first. The first is that there is a
11 low overall use of force when police officers encounter folks
12 with actual or perceived mental illness. Over the last year of
13 data, and that's April '22 to April '23, there were 109 uses of
14 force across 22,000 encounters. That equates to about 1 in
15 every 209 encounters. Most of that force, Your Honor, is the
16 lowest category of force, resisted handcuffing and the like,
17 where there is no injury or no complaint of injury.

18 The higher levels of force are less than half and
19 only ten instances of category two force was used. That is a
20 great testament to the restraint and the skills of the police
21 officers in those encounters and the learning they've gotten
22 through the crisis intervention training and the enhanced
23 crisis intervention team. So that is a real positive to
24 emphasize.

25 A second bright spot has been the Behavioral Health

1 Unit. For a long time we have found they're in compliance with
2 their obligations under the agreement, including the mobile
3 response teams that, while conceived as a first responder, it
4 acts in a secondary responder role in accord with the City's
5 wishes for that group. The service coordination team has also
6 been achieving good result and cost saving all under the
7 umbrella of the BHU.

8 The advisory committee that serves the Behavioral
9 Health Unit re-achieved substantial compliance with paragraph
10 95. The City agreed, after some extensive discussions with the
11 compliance officer and the Department of Justice, to provide
12 force data, actual encounters in the deadly force events, as
13 well as a summary of statistics and answer questions through
14 the Office of Inspector General as well as the
15 Detectives Division, and we believe that presentation was well
16 received by the committee members who some of them are here in
17 attendance today.

18 To the BHUAC, the committee's credit, they created
19 their own recommendation to have that be an annual report.
20 Each March, they will receive that report of actual encounters
21 and force data so that they might be able to discharge their
22 mission to reduce the likelihood of those violent encounters.
23 Again, a violent encounter is where anyone gets injured,
24 whether it's a citizen or a police officer. The goal here is
25 to reduce the incidence of those violent encounters.

1 The third bright spot is, as Your Honor mentioned,
2 Portland Street Response. While not a program under the
3 auspices of the Portland Police Bureau -- it's under Fire &
4 Rescue. It has been an important part of the City's approach
5 to crisis triage over the last two years.

6 Portland Street Response has also achieved really
7 excellent results over the last couple of years. In particular
8 this last year, we saw a five-fold increase in the number of
9 calls that that group responded to. Zero uses of force over
10 those 7,000 encounters. And if we want to reduce the incidence
11 of violent encounters, sometimes taking away an officer who
12 might be more trained with command and control type of
13 techniques, who is armed, who might be perceived in a way that
14 can escalate someone who is dealing with mental illness, and in
15 a lot of those encounters we have found here, and across the
16 country, that a police response isn't necessary.

17 So seeing Street Response respond to over 7,000
18 calls, seeing them take those calls away from the police --
19 that frees up admittedly an understaffed police bureau to deal
20 with other types of calls and achieve good results in those
21 calls that PSR is going to, it goes hand in glove, we believe,
22 with the positive results we are seeing with Police Bureau
23 members using force less frequently in those encounters.

24 THE COURT: Is 8:00 a.m. to 10:00 p.m. sufficient?

25 MR. HAGER: We haven't evaluated that, but I think

1 Your Honor is getting to a point that folks in crisis, who have
2 the call criteria that the City has established for
3 Street Response, those calls come in at all hours of the day.
4 I think that's a rational deduction to make from the existence
5 of a crisis in our community.

6 So I think there would be a savings in terms of
7 officer availability, in terms of force encounters to allow
8 Street Response to be able to make those calls. Again, I think
9 that is a political decision, I think, for the City to
10 evaluate, and we will look forward to their response.

11 Ultimately, however, there is an obligation in the settlement
12 agreement for 911 to increase the capacity and the City to
13 increase the available options for 911 to directly dispatch
14 mental health professionals to certain calls. And these are
15 the types of calls that PSR is handling, and they are handling
16 it quite well.

17 THE COURT: Obviously it does require additional
18 resources to expand availability. Those resources may come if
19 the City makes it a priority. But also earlier resources came
20 from the federal side. Is the U.S. Department of Justice doing
21 anything to assist the City in finding additional responses on
22 the federal side?

23 MR. HAGER: We have not been asked for that
24 assistance. I think we would be happy to help our partner with
25 the City find those federal resources. I know the senator

1 delegation from Oregon has made available funds. I think those
2 are arguably contingent on there being no geographic limitation
3 and no temporal restriction on the service that's provided.
4 That's under the Center for Medicaid Services. I'm happy to
5 provide citation to that if it would be helpful to the City or
6 to the Court.

7 THE COURT: I don't need it; the City may.

8 Let me ask you this: Does the Department of Justice
9 have any views on what was going on with the personnel issues
10 within Portland Street Response, including its director?

11 MR. HAGER: That's a good question, Your Honor. We
12 have met with the former director, Robyn Burek, and received
13 her views of what was going on within Portland Street Response
14 and Fire & Rescue and city government. Those sorts of issues
15 that we heard, I think, are common within any bureaucratic
16 structure.

17 I think, from our perspective right now, we would
18 reserve comment to see how the interim director is doing, to
19 see how the new chief of Fire & Rescue is doing with the
20 program. Ultimately our charge is to monitor compliance with
21 the settlement agreement, and the focus for us is really on 911
22 having available options and expanded capacity in order to
23 directly dispatch qualified mental health professionals to
24 appropriate calls as is currently now the policy at 911.

25 THE COURT: That entity sure is showing an awful lot

1 of promise and positive results. And I commend you. I commend
2 the City. I commend everyone involved with that.

3 By the way, you also mentioned the Behavioral Health
4 Unit and I believe at least one or maybe two of the amici or
5 the commenters made some reference to transparency issues.
6 What's the department's perspective on that?

7 MR. HAGER: Thank you, Your Honor. We have been
8 intimately involved with the advisory committee. We observed
9 their meetings. We observed their community engagement
10 outreach. A couple of years ago the committee considered and
11 addressed transparency concerns. They came up with a community
12 engagement plan that they have held to since they did invite
13 the amici to comment on that community engagement plan. I
14 believe, if I'm recalling from our prior report, that the amici
15 did not comment on the community engagement plan, but we have
16 observed those community engagement meetings as well.

17 From a compliance perspective, there are provisions
18 of the settlement agreement dealing with the Training Advisory
19 Council, for example, that requires those meetings to be open
20 to the public. The same is not true for the Behavioral Health
21 Unit Advisory Committee. So the department has taken the
22 position, both within the settlement agreement that is a court
23 order, and in terms of meeting with the amici and hearing
24 community concerns, that it is really up to the Behavioral
25 Health Unit Advisory Committee to decide for itself whether and

1 to what extent to open their meetings to the public. They have
2 settled on a quarterly community engagement meeting where they
3 address concerns of what they've been discussing.

4 In addition, I know that several members of the
5 Behavioral Health Unit Advisory Committee are very open to
6 meeting with members of the public to discuss what's going on
7 with the committee, to hear concerns, and bring those back to
8 the committee, and that's from the top to the bottom. There
9 are folks like the director of legal services of Disability
10 Rights Oregon, Ms. Emily Cooper, who serves on the Behavioral
11 Health Unit Advisory Committee. There are people with lived
12 experience that serve on that committee, who I think are very
13 open to the notion of sharing what's going on. At the same
14 time the committee has decided several times not to open up
15 their regular monthly meeting to the public, and we respect
16 that decision of the committee.

17 THE COURT: Thank you, Mr. Hager.

18 Mr. Hager, your comments and Ms. Senier's comments
19 have been very, very helpful, very thorough, and very
20 informative. I appreciate that.

21 Let me ask my final follow-up question. And if you
22 want to talk about it later this morning, that's fine. But
23 you're not leaving the courtroom without talking about it at
24 some point today, and that is any update on where things stand
25 with the court-appointed monitor.

1 MR. HAGER: Thank you, Your Honor.

2 We have met several times with Magistrate Judge
3 Stacie Beckerman. Judge Beckerman has been helpful to the
4 parties. Any agreement -- and we do seek agreement with the
5 City on what those terms would look like for an independent
6 monitor -- would require an amendment to the settlement
7 agreement. So we have been very careful to make sure that it
8 is something that can be acceptable to both of our respective
9 client chains.

10 We are working diligently on preparing a final
11 proposal for our clients to consider. We have been trying to
12 include the amici and the police union in what those terms look
13 like. It is a balance of interest to change something like
14 this nine years in. I take ownership of some of the recent
15 delay, as we were trying to prepare a compliance report. For
16 nine years, we have served as the monitor, and it is not a
17 typical position for us in these cases. But we do want to be
18 respectful of the community and the Court by regularly
19 reporting. That does entail a process.

20 So we own some of that delay for the last month or
21 two. We are confident that in the next couple of weeks we can
22 finalize a proposal and hopefully get the City's agreement and
23 hopefully also get the agreement of the union and both amici
24 groups so we can prepare and present Your Honor with a fair,
25 adequate, and reasonable substitute for the current monitoring

1 arrangement within the settlement agreement.

2 THE COURT: Very good. And I do believe, by and
3 large, the United States Department of Justice has done an
4 excellent job as a monitor of the settlement since its
5 inception. But unlike other lifetime appointments, that's
6 probably not one you want for the Department in this case.

7 MR. HAGER: I think that's fair to say, Your Honor.

8 THE COURT: Thank you very much for your continued
9 excellent work, Mr. Hager.

10 Thank you for your contributions, Ms. Senier, and
11 welcome.

12 Anything further?

13 MR. HAGER: Your Honor, I did want to quickly make a
14 couple comments about training, accountability, and community
15 engagement.

16 Training really is a leading indicator of the City's
17 success in the last year. We have seen them do an in service
18 training on mobile field force so that all members of the
19 police bureau will be prepared if there is any sort of riotous
20 or mass demonstrations in the coming weeks and years, and that
21 training was well received. It was a very collaborative effort
22 between the City and Department of Justice to be able to review
23 and approve training materials quickly. That training was well
24 delivered, and it had a lot of eyes on it, Your Honor. In
25 addition, there are only two concerns lingering. We do believe

1 the City is on the cusp of full substantial compliance with all
2 of their training obligations.

3 Quickly, Your Honor, with respect to accountability.
4 It has been an area of persistent compliance concerns. We've
5 outlined some of our concerns both with the Police Review Board
6 process, with the City's willingness and ability to hold
7 officers accountable to the policy that ideally reflects the
8 mission and vision and values of the chief and police bureau as
9 a whole.

10 So we have worked with our colleagues at the City to
11 understand those concerns. I don't need to belabor them here,
12 but most importantly in uses of deadly force, we believe that
13 those provisions do deserve to be applied with fidelity, and
14 that means every use of deadly force. It's not looking at an
15 event as a whole, but every discharge of a weapon deserves to
16 have eyes on it, deserves to be individually justified, and
17 more than "deserves," it's required under the City's own
18 policy, and we think under the Constitutional precedent of
19 *Graham v. Connor*.

20 With respect to the slide investigation, we also have
21 had a couple of concerns with how the accountability side of
22 the Rapid Response Team slides has went down. Ultimately we
23 provided the City with our criticisms and concerns, and we will
24 continue to work with them in terms of understanding those so
25 that future accountability investigations can be compliant with

1 the settlement agreement and hopefully with their own best
2 practices.

3 Now, on the positive side, they have implemented
4 their corrective action guide. Where the City and Police
5 Bureau have found noncompliance with policy, they're applying
6 that guide with fidelity, and that is a great thing. It
7 provides predictability to officers and community members, and
8 we do credit the City for that.

9 Community engagement has been another bright spot.
10 Under the auspices of the Community Safety Division, staffing
11 and supervision for PCCEP has improved dramatically. We do
12 have some concerns with the membership. I think Your Honor had
13 suggested that it's a full complement. It is still at 11 out
14 of 13 members. There has been some difficulty with recruiting
15 and retaining youth members, and "youth" is defined as 16 to
16 23. So college-aged individuals would qualify for that. We
17 think that the remaining concerns with Section 9 really could
18 be fully compliant within the next quarter and certainly by the
19 end of the year.

20 Again, the progress has been demonstrable, and we
21 appreciate both the City and especially the mayor's office and
22 the Community Safety Division for leading the charge in
23 providing very competent and skilled supervision and oversight
24 to support that group of volunteers. The volunteer members,
25 I'll say it again, both with the Accountability Commission and

1 with the Portland Committee on Community Engaged Policing, they
2 deserve a huge commendation, not just from the Department of
3 Justice but hopefully from the City for the volunteer work that
4 they do.

5 THE COURT: I agree with that.

6 On these accountability issues, what's the
7 relationship, if any, between accountability and culture; and
8 what, if anything, have you seen with respect to changes, if
9 any, on the culture?

10 MR. HAGER: Your Honor, I think those two are
11 intricately linked. It is not my place to comment here on
12 culture. But in terms of accountability and seeing some of the
13 same concerns, to repeat, finding the route to justify officer
14 action versus finding the route to find that there is a policy
15 violation, I think is a real challenge. Now, I understand and
16 respect officers who have a very difficult job. But policy,
17 it's not really a policy if it is not enforced. I think good
18 supervision will enforce the policy requirements after officers
19 have been duly trained on what the policy requires so that the
20 system hums.

21 I think there have been some hiccups there. I think
22 part of it is a reaction to the difficulty of the job, and I
23 think there is a natural cultural inclination to support
24 another officer, support each other, when the circumstances
25 become even more difficult or less precedented in a way, which

1 we certainly saw through 2020, and we see, I think, in cases of
2 deadly force.

3 THE COURT: Thank you.

4 By the way, I just noticed the presence of
5 Judge Beckerman.

6 Thank you for all the work you're doing in this
7 matter too.

8 Thank you.

9 Thank you very much, Mr. Hager. Those were very wise
10 insights.

11 MR. HAGER: Thank you.

12 THE COURT: Anything further from the United States
13 at this time?

14 MR. HAGER: Nothing further.

15 THE COURT: I look forward to the comments from the
16 City. I again welcome Mr. Taylor and Ms. Brown and Ms. Ames,
17 and I appreciate your continued presence and involvement in
18 this matter.

19 MS. BROWN: Good morning, Your Honor. I will be
20 presenting on behalf of the City. Nice to see you.

21 Your Honor, I'm going to just focus on the questions
22 you asked. If there is anything else, of course, I invite any
23 other questions.

24 I want to say good morning to all the colleagues and
25 everyone else who is present this morning. On behalf of the

1 City, I do want to acknowledge we have our City Council staff
2 here: Stephanie Howard, from the mayor's office, who is just
3 to the left of Judge Beckerman. Angela Rico Cornwell, who is
4 with Commissioner Rubio's office, is here. Grace Zarpak from
5 Commissioner Gonzalez's office is here. And I know that
6 Jackson Powell has been trying to get online on the phone, and
7 hopefully he was able to enter in. He is from
8 Commissioner Mapps' office.

9 THE COURT: Welcome to you.

10 MS. BROWN: I'm missing one other person. And
11 Darion Jones from Commissioner Ryan's office. I think he was
12 planning on calling in as well, but there was a problem with
13 the Zoom link for folks.

14 THE COURT: By the way, I hope you all know. This is
15 a temporary courtroom for me. They are rewiring everything up
16 and down the building. Last week and this week is the
17 15th floor's time to get rewired, and so hopefully by the time
18 we meet again, we will be back in my regular courtroom in 15B,
19 and hopefully everything will have 21st century wiring by then.

20 MS. BROWN: Judge, I'll admit to you that I
21 repeatedly think you're on floor nine, because the first time I
22 came and appeared before you, I think was in 2020, during the
23 pandemic, and you were in this courtroom. So I finally got
24 used to you being on 15.

25 THE COURT: Well, I started, I think, when I came

1 here, on 13, and I am pleased to announce that I do not suffer
2 from triskaidekaphobia. But I'm on 15, and there is a better
3 view.

4 MS. BROWN: That's great.

5 So I want to start with the first thing you asked
6 about, which was body-worn cameras. We are very excited that
7 we're finally moving forward with body cameras. So the process
8 that we went through, Your Honor, in addition to the
9 bargaining, was that the City put out a request for proposals,
10 which is our usual procurement process which is impacted by
11 state law requirements on procurement.

12 And within that, City Council authorized us -- or the
13 procurement office in Portland Police Bureau -- to move forward
14 in conjunction with having our office and Community Safety
15 Division's input on a final contract. Currently we have a
16 contract for the pilot program, which is for 60 days, and that
17 is the extent of the pilot for the equipment. There is not an
18 option to extend. The pilot acts on it providing us the
19 equipment and the training for the 170 folks approximately that
20 will be participating in the pilot program for free.

21 So the next step after that will be to determine is
22 Axon the appropriate vendor for us. If we decide they are,
23 then we will move forward with negotiating a full contract with
24 them. And as part of that process, the chief procurement
25 officer will bring a report to City Council for them to

1 consider whether the full contract is warranted. So I just
2 wanted to clarify that the pilot for the equipment does end
3 after 60 days.

4 As you heard, though, the policy -- if the City finds
5 anything, or if DOJ raises concerns during the pilot program
6 with the policy itself -- I think our hope is to continue
7 forward with our policy. There was a lot of bargaining and
8 time and effort put into that to come to agreement with the
9 unions, both PPA and the Portland Police Command Officers
10 Association, and then to go through the Department of Justice
11 to ensure that we weren't running afoul of their interests.

12 There were changes made to address concerns that the
13 Department of Justice raised to us prior to us bringing a final
14 contract agreement for PPA and for the City to City Council for
15 approval. So ideally we will retain this policy, as is -- we
16 could go back into bargaining in a year-and-a-half with the
17 PPA. And if there is larger changes that folks feel after
18 having that long of a period of time, a year-and-a-half or so
19 of using the equipment and the policy, then certainly it will
20 be an easier place to start negotiating again on any changes to
21 it. But hopefully we can roll out our body-worn camera program
22 and move forward with it.

23 As the Department of Justice stated, it will be
24 Central Precinct and the Focus Intervention Team, and they
25 focus on gun violence within the City. Those were the two

1 groups that we determined would be best to pilot this program.
2 They went through training this last week, and we are excited
3 to have it roll out on August 21st. So a week from today we
4 will start seeing those folks with body cameras on.

5 Any questions on body cameras that I haven't
6 addressed? Okay. Great.

7 Your Honor, I heard you say something on
8 accountability issues about the new Police Accountability
9 Commission. And, yes, they are moving forward with -- the
10 commission was appointed to make a recommendation to council of
11 what that final oversight board -- in the charter it's called
12 the Community Police Oversight Board. I know the Commission
13 has come up with some ideas for their own name, and I want to
14 be respectful of that.

15 Once that comes forward to the City at the end of
16 this month, we will -- it actually will be formally presented
17 to Council, which is important that that will happen. We will
18 schedule that as soon as possible. I guess it would be
19 mid-September at the latest. At that point City Council will
20 look at: Is this what we finally want? Then we will have 60
21 days to adopt something and start meeting with the Department
22 of Justice and see if that's appropriate for them. So we will
23 be looking forward to that.

24 In the meantime the Independent Police Review, or
25 IPR, continues to handle their cases as they come through.

1 They did have -- they recently have -- they currently have --
2 excuse me -- I think five positions that are open out of 16,
3 and they have a hiring -- ongoing -- that they expect to fill
4 at least three of those positions. So they are still working
5 hard to keep their numbers up.

6 We entered into a collective bargaining agreement
7 with AFSCME who unionized the IPR employees. As part of that,
8 we set a step salary schedule so they get automatic increases
9 to pay each year, in addition to their cost of living
10 adjustment. We also agreed that at the end of each full year
11 of the contract that any IPR employee who stayed with us for
12 that would get a bonus. It is \$3,000 the first year. It's
13 \$3,000 at the end of the second year. Then the third year is
14 \$3,500 that will get prorated if the Oversight Board is stood
15 up during that period of time. So we did what would could to
16 incentivize, with the input of AFSCME, those employees to
17 remain with the City, and I think we are doing pretty well
18 overall with that.

19 As to the next thing I have on my list is the IMLCC
20 report and the City's response on the training needs
21 assessment. It is long, and I know you had a lot to read. I'm
22 not sure you've read that yet. But I agree with the Department
23 of Justice. It is a very thorough, objective, and well-done
24 report. I think everybody at the City and police bureau in
25 particular were impressed by it and appreciated the insights,

1 as noted. We've agreed to all 12 of the recommendations --

2 THE COURT: I saw that.

3 MS. BROWN: -- and are looking forward to continuing
4 to work with the IMLCC to implement those recommendations. I'm
5 happy about that.

6 And as you noted, on August 23rd, for anybody who's
7 listening, that will come to Council, as is required for the
8 IMLCC. They will be here physically to present that report to
9 Council, and the Council session is at 2:00 p.m. on
10 August 23rd. We will have plenty of time for public testimony.

11 In addition, that evening, at 6:00 p.m., the mayor's
12 office is hosting a town hall, and the IMLCC will be present to
13 present their report again. We are expecting around 30 minutes
14 of presentation. Then there will be a question-and-answer
15 period for the next hour: That's at 6:00 p.m. We will get all
16 of that information out to the public very shortly so that
17 folks can attend. We look forward to people being there.

18 I'm going to move to training, if you're ready.

19 THE COURT: I am.

20 MS. BROWN: We are very excited to hire
21 Dr. Rebecca Rodriguez. Sorry she couldn't be here; she was
22 intending to. I was hoping to have you meet her. She is a
23 really very impressive person. She brings a lot of great
24 experience.

25 She has in the past worked within a jail. She has

1 worked most recently at Pacific University, so she has a -- as
2 an academian and has a vast understanding of adult education,
3 but also because of her other prior work, she understands some
4 of the issues that go with at least a law enforcement agency,
5 not policing in particular but a law enforcement agency and
6 understanding some of the struggles they may face. And she is
7 really looking forward to helping the training division work
8 through some of the -- and help the education focus on adult
9 education.

10 THE COURT: Is she full-time or part-time?

11 MS. BROWN: She is full-time, Your Honor. She hit
12 the ground running. She tried her best to review the body-worn
13 camera training that recently was provided, but she came on so
14 late in the process that she tried to just tighten it up and
15 make it better. I know she has a lot of ideas for how to make
16 our training better as far as keeping it really focused on how
17 do adults learn and keeping the message succinct, keeping it
18 focused and high level, when you're teaching a policy so that
19 people can retain the information and not going so much in the
20 weeds that you lose folks.

21 THE COURT: At the appropriate time, whenever you
22 want, why don't you confer with plaintiffs so I don't do this
23 ex parte, but maybe you and a representative from the
24 U.S. Attorney's Office or the Department of Justice can bring
25 her by into chambers. I would like to meet her informally. It

1 would be off the record. I would like to say hello and welcome
2 her.

3 MS. BROWN: Great. Thank you, Your Honor. I'm sure
4 Mr. Hager and I can work that out. Thank you. I appreciate
5 that offer.

6 Then I appreciate -- on training, as you noted and as
7 Mr. Hager noted, the progress that has made, and we will
8 continue working on that and keep that moving forward. There
9 was one minor thing on the training I just wanted to correct,
10 because I saw it repeated in the AMAC's briefing about the 40
11 millimeter training.

12 I think what the DOJ -- the Department of Justice
13 wants to see in there is affirmatively reminding people -- so
14 this is on the 40 millimeter weapons qualification, and I think
15 there was a statement in the Department of Justice's report
16 that the City had incorrectly instructed on firing at groups
17 without individual justification. They wrote in the AR-15 that
18 we didn't instruct officers on the need to justify every single
19 shot. I think that's what they meant to say in the other one
20 as well. We will talk to them about it. But I just wanted to
21 assure the AMAC and the community that it wasn't incorrectly
22 stated in the lesson plan, but rather, wasn't affirmatively
23 stated, reminding people that during a qualification -- this is
24 just out on the range, qualifying with a weapon, a reminder
25 that they need to justify each round. So we appreciate that

1 feedback from the DOJ, and we will look at that going forward.

2 With the RRT slide deck training -- and I did want to
3 note, from my perspective, Internal Affairs did a very thorough
4 job. There was extensive computer search done. It brought
5 many people in. Internal Affairs attempted to interview
6 everybody who attended that training. Of course, it is from
7 2018 --

8 THE COURT: We talked about that last time.

9 MS. BROWN: We did. Thank you.

10 THE COURT: I do want to hear what you have to about
11 Portland Street Response -- both the positives and the
12 challenges. I would like to know whether or not it is
13 supported by the City and to what extent. I would like to get
14 the City's view on whether or not it's supported by the
15 Portland Police Bureau and whether or not there are any
16 daylight issues.

17 MS. BROWN: Thank you. So absolutely Council
18 supports 100 percent Portland Street Response. Since the
19 inception of Portland Street Response, Council has dedicated
20 approximately half of the \$10 million is in ongoing funds. So
21 the City has ongoing funds that we need to ensure that we can
22 commit for at least a five-year period. Then we have --
23 anything that we can't ensure will have available for five
24 years is considered one-time funding.

25 So the funding initially started with half ongoing

1 funding, and that continues. And council continues to support
2 that. And I also want to assure you that not only does Council
3 support it, but the prior fire chief, Sara Boone, and the new
4 interim fire chief Ryan Gillespie, who served as division chief
5 under Chief Boone, both 100 percent support Portland Street
6 Response. In fact, I would note that Chief Boone started the
7 community health chat -- Community Health -- I'm sorry; I am
8 forgetting.

9 MS. HARDESTY: Assessment Team.

10 MS. BROWN: Assessment Team. Thank you. I knew that
11 Commissioner Hardesty would know. She oversaw Portland Fire &
12 Rescue for her duration at the City. And they send out folks
13 to check in with people and meet some low-acuity medical needs.
14 They have been around for a while now, and Portland Street
15 Response was more newly set into Portland Fire & Rescue.

16 The plan by Chief Gillespie -- he noted in writing
17 recently his interest and dedication to expanding Portland
18 Street Response to a 24/7/365 day-a-year program. The concern
19 was that there were no policies developed for Portland Street
20 Response, and so there was some practices using city credit
21 cards that just didn't follow city procurement processes that
22 we are required by state law to follow.

23 So the new interim manager of Portland Street
24 Response previously worked for policy response and prior to
25 that worked for Project Respond, and so she has a lot of

1 experience --

2 THE COURT: Any estimate on when we might expect to
3 be seeing 24/7?

4 MS. BROWN: Your Honor. I don't know. That's a good
5 question. I know that Lielah Leighton, the new Portland Street
6 Response manager, has already started working on those. But
7 she has been in the position, I think, for four weeks. She is
8 very focused on -- that's her number one priority -- getting
9 that established.

10 Then I think the next piece would be -- they are
11 doing some hiring right now to fill some other positions. But
12 I think that Chief Gillespie is a little concerned about hiring
13 people beyond July 1 of 2024 for half of the funding. I know
14 Commissioner Gonzalez' office has been meeting with
15 Senator Wyden and with Oregon Health Authority and
16 Chief Gillespie similarly has been looking for another approach
17 to find funding.

18 There are, as noted by the Department of Justice,
19 some issues with the Medicaid funding that Senator Wyden's bill
20 made available. But I think we are looking for any and all
21 sources. And if the Department of Justice can help us or
22 anybody, I think everybody is interested in being able to
23 increase the funding source, whether it be through grants or
24 another avenue. We would greatly appreciate that, and that is
25 absolutely the interest.

1 THE COURT: From the City's perspective, is the
2 Portland Police Bureau fully supportive of Portland Street
3 Response?

4 MS. BROWN: Absolutely, Your Honor. I think they
5 really welcome Portland Street Response. We entered into a
6 letter of agreement in 2020 with the police unions and with the
7 fire union, because the work that historically -- that was done
8 historically was done by police and fire. They were going out
9 to those calls.

10 So when you take that work away, you need to bargain
11 with the unions. And they did bargain with us. And we came up
12 with parameters of the calls that they could respond to and
13 where and when -- those parameters -- and it was based on the
14 presentation that was done by the stakeholders around what
15 Portland Street Response should look like.

16 So they agreed to the -- to the implementation
17 requests that was presented by -- there were Street Roots and
18 other folks involved with that -- that came up with that. We
19 have abided by that. At that time our Bureau of Emergency
20 Communications set up a triage protocol, as is required under
21 the settlement agreement, to be able to implement Portland
22 Street Response and make those calls occur.

23 And then recently the COCL and the Department of
24 Justice requested that actually be in a policy -- and we
25 learned for the first time that it was a compliance concern,

1 and I would say that within less than a week we talked to the
2 Portland Police Association and put that into a policy. I
3 think there was disappointment on behalf of the Bureau of
4 Emergency Communications to be found -- not be found in
5 substantial compliance after many years of being found in
6 substantial compliance. I think they felt like they did have
7 protocols, which is what is required but disappointed to see
8 that it was not having a policy and that we didn't know that
9 that was going to be a compliance issue.

10 THE COURT: Let me ask you a related question, if I
11 may.

12 I know that the City is working hard towards trying
13 to improve quality of life in the city for everyone. Does it
14 view Portland Street Response providing crisis intervention for
15 people experiencing mental health crisis as part of that plan
16 or as something distinct?

17 MS. BROWN: As part of -- I'm sorry?

18 THE COURT: I know the City has announced and it is
19 working hard to try to improve quality of life in the city,
20 including downtown areas. It's an important goal. I think
21 everybody would like to see quality of life for everyone
22 improved. I was just wondering whether or not Portland Street
23 Response is part of that agenda or part of that plan or whether
24 the City views Portland Street Response in a separate, distinct
25 bucket.

1 MR. TAYLOR: Your Honor, Robert Taylor, Portland City
2 Attorney. That's a great question, and I appreciate the Court
3 recognizing the urgent concern in our community and everything
4 that we want to do on behalf of our community to make this a
5 safe, vibrant, livable, welcoming space for everybody.

6 Your Honor, you're right that we need to use every
7 tool program, every available program, every available resource
8 to try to solve those urgent issues facing our community.
9 Portland Street Response is one of those. But as you also
10 know, there is a lot of community urgency behind solving these
11 problems. Those decisions are being made each and every day by
12 the elected officials represented by this community. They are
13 trying to balance all of those competing interests. They are
14 making decisions each day to try to be responsive to the
15 community. Part of what is important to me is giving those
16 elected officials the ability to make those decisions on behalf
17 of the community.

18 But I agree with you, Portland Street Response is
19 part of the solution, but there are many different strategies,
20 many different ways we can deploy our resources, and I think
21 right now our elected officials need to be able to use any tool
22 available to solve these urgent problems.

23 THE COURT: I do remember -- and I think I may have
24 mentioned this at an earlier hearing sometime in the past nine
25 years, but I think it is worth repeating. I do remember

1 learning, when I was in a high school science class, everything
2 connects to everything.

3 Okay. Back to you, Ms. Brown.

4 MS. BROWN: Thank you, Your Honor.

5 Are there any more questions on Portland Street
6 Response? I want to be sure.

7 THE COURT: I'm not shy. If I have a question, I'll
8 chime in.

9 MS. BROWN: That's true. I was trying to be
10 respectful.

11 THE COURT: Of course you are, and I appreciate your
12 responsiveness.

13 MS. BROWN: Your Honor, you asked about BHUAC,
14 Behavioral Health Unit Advisory Committee. I think Mr. Hager
15 answered that, and I don't have anything to add to that. If
16 there is something more to add, you can let me know.

17 I also wanted to address PCCEP and the monitor and
18 make sure I get to those and didn't miss anything. I would
19 note that last year when we were here, we had just over a
20 quorum. We have 13 members on there, and we had seven at that
21 time.

22 As of September 1 of last year, shortly after our
23 hearing, we had a fully equipped PCCEP group. And in the last
24 year, I know the lowest we've dropped down to is ten out of 13,
25 and I know the mayor's office, through Stephanie Howard, has

1 been working very hard to continue to fill this position, as
2 has Dori Grabinski, our staff member for PCCEP. So folks are
3 continuing to work hard to fill the positions.

4 I understand that we have two of our -- we have our
5 two PCCEP co-chairs here today, Celeste Carey and Pastor
6 Wisner. I understand they're going to address the Court. So
7 if I could, Your Honor, I would love to, when they address the
8 Court, defer to them. Then if there is anything more you want
9 from the City, I know you are not shy, and you will follow up
10 with me. I think they will better address this for you.

11 THE COURT: That's fine.

12 MS. BROWN: Then lastly, I do want to really express
13 my appreciation and the City's appreciation for
14 Judge Beckerman. She has met with us numerous times --
15 sometimes just the Department of Justice, sometimes with all of
16 us, with the amici and the PPA. She has helped move us forward
17 when we feel stuck and offers great solutions for us. I feel
18 we are in a really good place. I agree with Mr. Hager. We
19 have been exchanging redlines and really narrowing down the
20 differences, and partly for us was getting the DOJ's
21 assessment, because that impacts things. So we are very
22 excited to see the next iteration from the Department of
23 Justice, and I do feel like we are getting really close and
24 hope to see you soon on this issue.

25 THE COURT: Excellent. And I agree. The Court has

1 tremendous respect and admiration for Judge Beckerman. I truly
2 have absolutely no idea of the details of what she has
3 discussed with any of you. But if and when I get a
4 recommendation from Judge Beckerman about it, it will be given
5 a great deal of deference.

6 MS. BROWN: Thank you, Your Honor. We appreciate it.
7 Unless you have something else, then I'm done.

8 THE COURT: Very good. Thank you.

9 Mr. Karia, thank you for your continued presence and
10 for all that you're doing. I look forward to your comments on
11 behalf of the Portland Police Association.

12 MR. KARIA: Thank you, Your Honor.

13 I plan on touching on three issues. Of course, I
14 invite you with any additional questions on any of the other
15 issues if I don't touch on them.

16 Those three issues are body-worn cameras, Portland
17 Street Response, and accountability.

18 With respect to body-worn cameras, I think it's
19 pretty self-evident at this time that a lot of work went into
20 the program, went into the policy. The PPA and its members are
21 looking forward to a successful pilot project. I second all
22 the comments -- the feedback from the officers about the
23 training was positive, and, frankly, the association is looking
24 forward to a full rollout of the program across all precincts
25 and across all of its patrol services.

1 With respect to of this question of realtime access
2 that the plaintiffs raised, frankly, that came a little bit out
3 of left field for me. I was aware that it was an issue just
4 recently late last week. The bargaining process is a living,
5 breathing, ongoing process. After months and months, if not
6 years of negotiations, this question of third-party access to
7 evidence, which is exactly what a body-worn camera system
8 produces, is something that certainly the union would have
9 expected and looked forward to bargaining when we went through
10 that bargaining process ad nauseam.

11 So we will work through it with the federal
12 government and the City. We always do. It's just a little
13 disappointing that something came out of left field of such
14 great importance that everyone is mentioning at this status
15 conference.

16 With respect to Portland Street Response, as part of
17 its last collective bargaining of agreement with the City, the
18 police union agreed to sit down with the operational
19 stakeholders, the people who manage the actual operations of
20 the Police Bureau, the Bureau of Emergency Communications,
21 Portland Fire & Rescue, and Portland Street Response, along
22 with the unions that represent the actual rank-and-file workers
23 who are engaging in all the work in those various bureaus, to
24 come up with an integrated public safety model in the city, to
25 include Portland Street Response as their resources may be

1 available. We were very intentional about using that
2 terminology, an "integrated public safety model." It's much
3 like your very wise science teacher had indicated.

4 The PPA has been engaged in that collective
5 bargaining process. We will continue to engage in that
6 collective bargaining process. The end goal is to have
7 protocols and policies to make sure there are resources, and
8 the right resources for the right calls.

9 To give you an example of how that bargaining process
10 actually plays out in realtime is actually something that
11 Ms. Brown raised. The U.S. Department of Justice raised some
12 concerns about a lack of policy in the Bureau of Emergency
13 Communications, as it relates to Portland Street Response. The
14 PPA, which represents not just the police bureau's officers,
15 but also BHUAC's call takers and dispatchers, worked very
16 quickly to take the preexisting protocols -- and I want to be
17 clear about that. It is not like BHUAC was just flying by the
18 seat of its proverbial pants. It had protocols in place and
19 took those protocols and turned them into a rigorous policy,
20 and we moved quickly using the collective bargaining process to
21 spit out a policy that appears to be fully acceptable to all
22 involved parties. And we did so in short order. And that's
23 because the police association agreed to ensure that it was
24 fully participating and materially participating in an
25 integrated public safety model.

1 Your Honor, not speaking as an advocate for a moment
2 but as a person who lives in this city and who raises his
3 children and family in this city, there is a humanitarian
4 crisis outside. If officers have every available resource that
5 they can and has clear direction about how to work with those
6 resources to make sure the members of our community are getting
7 the help they need, the police officers support that. So
8 whatever misgivings there may be about the notion of Portland
9 Street Response being part of the calculus, I want to correct
10 that, both as an advocate for the PPA and as a person who lives
11 in this city.

12 THE COURT: Let me ask this, just to be clear on
13 this: So does the Portland Police Association believe that the
14 Portland Street Response is an important and valued component
15 of an integrated plan of community safety and welfare?

16 MR. KARIA: Yes. We put it in writing.

17 THE COURT: Very good.

18 MR. KARIA: With respect to accountability, Mr. Hager
19 mentioned in passing an officer-involved shooting case as an
20 example of some misgivings of accountability that the
21 Department of Justice had. For the Court's reference, in the
22 DOJ's seventh periodic compliance assessment and report,
23 pages 62 to 63, it's at Docket 369-1 -- this is a 2021 case.
24 It happened late fall of 2021. And I want to touch on it,
25 because, frankly, I disagree with the notion that case somehow

1 illustrates a broken accountability system. And here is why,
2 Your Honor:

3 As a foundation notion, the evidentiary record in
4 that case is hundreds, if not thousands, of pages long, and the
5 DOJ critiques the review of that incident with a few
6 paragraphs. The accountability system, which is what the DOJ
7 here is both monitoring and ensuring that is complied with as
8 the plaintiff in this case, that accountability system, as
9 envisioned by the DOJ, was applied in that case. That full
10 evidentiary record was presented to the District Attorney's
11 Office, which is headed by an independently elected prosecutor,
12 the Police Bureau's Internal Affairs Division, the City's
13 Police Review Board, which in those cases includes two civilian
14 members and members of the independent police review, City
15 Attorney's Office, the Police Bureau's chain of command, and
16 the training division. And each layer of that multifaceted
17 review process yielded the same result, which is the
18 application of deadly force was in compliance with law and
19 policy.

20 The District Attorney's Office analysis presents a
21 good example of how this accountability system works. The
22 evidence is reviewed, the evidence is laid out against the
23 rules, and then the matter is evaluated. Any use of deadly
24 force -- hugely important to the public, hugely important to
25 the police bureau, hugely important to the officers based on

1 their training and experience who employ it. That use of
2 deadly force is a question of justification.

3 And so what may appear to the Department of Justice
4 as an analysis justifying the officer's actions is exactly
5 that. By law and policy, it is a question of whether deadly
6 force is justified. This is not an agency in the police bureau
7 looking to give officers a pass. This is not a District
8 Attorney's Office looking to give officers a pass. There is a
9 legal issue that needs to be answered whether under the police
10 bureau's policy or whether under state law, and that legal
11 issue is: Was that use of deadly justified?

12 THE COURT: Not only state law but also the U.S.
13 Constitution.

14 MR. KARIA: You are absolutely right, Your Honor.
15 And when you look at the district attorney's evaluation, you
16 see that evaluation done correctly. And if I may, I'll quote
17 from some of their evaluation, because it's important to shed
18 light on this process.

19 The District Attorney's Office writes: "The evidence
20 clearly establishes that at the time the officers fired at the
21 subject, he was driving the truck recklessly at a high rate of
22 speed directly toward them, creating a risk of serious physical
23 injury or death to the officers. The subject himself said that
24 he tried to drive through or around police vehicles to get away
25 from the police and said the police officers were probably

1 afraid of his driving."

2 The District Attorney's Office continues: "Here, it
3 would be impossible for a reasonable fact finder to conclude
4 that the use of force was not in response to a reasonable
5 belief that unlawful physical force was about to be used
6 against the officers and that reciprocal deadly force was
7 reasonably necessary in response." And the DA's Office --
8 incidentally I'm quoting sentences out of a seven-page
9 single-spaced memorandum -- ultimately concludes: "The facts
10 of this case makes clear that the decision to use physical
11 force and the level of force used were reasonable under
12 president circumstances."

13 And I'm talking and quoting to you, Your Honor,
14 because the DOJ and its expert have a different opinion.
15 Incidentally, an opinion that, in the eyes of the DA's Office,
16 that would be "impossible for a reasonable fact finder to
17 conclude."

18 But I raise this case, not to somehow invite
19 litigation of that particular use of deadly force in this
20 forum. I raise it because that case does not reveal a broken
21 accountability system. To the contrary, the depth, the
22 thoroughness, the redundancy of that review process is the
23 embodiment of accountability.

24 Thank you.

25 THE COURT: Thank you, Mr. Karia. I appreciate your

1 contributions always.

2 Let me now invite comments from the Albina
3 Ministerial Alliance Coalition for Justice and Police Reform,
4 either Ms. Chambers or Ms. Albies or anyone else you wish to
5 identify.

6 MS. CHAMBERS: I will begin, Your Honor. I am going
7 to highlight a few items from our memorandum. Then I'm going
8 to hand it over to Dr. Haynes, who has some comments, and then
9 Ms. Albies has something to add.

10 First, I would like to address the PCCEP. I know the
11 City did not elaborate on that, because we have the co-chairs
12 here today, which is fantastic. I just wanted to highlight a
13 few things that were in our memorandum that we're hoping you
14 might be able to answer for us, or the City might be able to
15 answer for us.

16 The first is that it appears to the AMA Coalition
17 that new members have been joining the PCCEP without getting
18 the full training for the PCCEP. We were just curious about
19 that. The AMA Coalition has historically been invited to that
20 training and haven't been invited to training members and was
21 wondering about that.

22 Secondly, in the City's memorandum, we read that
23 there is a dedicated new staff position involving community
24 engagement for PCCEP, and we just have questions about what
25 that position entails; how many staff the PCCEP have now; was

1 this a position that was redesignated from something else; and
2 what is the role and the scope and duties of this new position?

3 Then third, the AMA Coalition is just concerned about
4 the lack of retention of youth members on the board, and we are
5 curious if there is particular outreach or strategies being
6 used to both recruit and retain youth members. We acknowledge
7 that is particularly hard, especially with the nature of the
8 subject material of this board. So we are not saying it is an
9 easy task, but we would like to know if there are some specific
10 outreach and retention strategies being used.

11 Secondly, we would like to talk about body-worn
12 cameras. The AMAC has held its position for a long time now,
13 that I will just reiterate briefly, that the Coalition
14 strenuously opposes any policy that allows officers to review
15 footage before writing the reports, even for category 3 or 4
16 offenses of force. Furthermore, the AMA Coalition believes the
17 City should select a third-party Oregon company subject to
18 Oregon law, who is not the manufacturer nor law enforcement, to
19 store the footage and ensure access to storage and prevent
20 tampering.

21 So we understand that Axon is not a local agency, but
22 it is not totally clear to us how the footage is being stored
23 and who has rights to review it and what protocols are in place
24 to prevent tampering.

25 Lastly --

1 THE COURT: Are there any instances that you know of
2 involving Axon in other cities, in other jurisdictions, where
3 they have assisted anyone in going around protocols? I
4 understand the issue of protocols, and that's being negotiated.
5 And I'm assuming it will be adhered to. Are there any concerns
6 specifically with Axon of them assisting one of their business
7 clients with going around and avoiding protocols?

8 MS. CHAMBERS: Not that I know of, Your Honor.

9 THE COURT: Okay.

10 MS. CHAMBERS: Lastly, I would just like to focus on
11 accountability. The AMA Coalition is very concerned about
12 accountability for officers violating their own policies and
13 failing to deescalate situations. With all due respect, I have
14 to disagree with Mr. Karia about the scenario that he
15 presented. That particular scenario caused concern to the
16 AMA Coalition, and it seems that some reevaluation would be
17 necessary there.

18 Also, the EIS system is not properly identifying
19 officers who show a pattern of violating policies and practices
20 in order to prevent future incidents from happening. It seems
21 like that should be a major goal of this system, and we have
22 not seen that yet.

23 And then lastly, with the slide deck investigation,
24 not only was that severely delayed, but it wasn't conducted
25 properly and only resulted in a lower discipline of one

1 officer, and so the AMA Coalition believes that should be
2 reinvestigated.

3 I will hand it over to Dr. Haynes for additional
4 comments.

5 THE COURT: Thank you, Ms. Chambers.

6 Welcome. Dr. Haynes, the floor is yours.

7 DR. HAYNES: Thank you, to the Honorable Judge
8 Michael H. Simon and to the distinguished parties.

9 The Albina Ministerial Alliance Coalition for Justice
10 and Police Reform continue to fight for Constitutional policing
11 in the City of Portland that will treat all the citizens of
12 Portland, and especially the most vulnerable citizens --
13 African-Americans, communities of color, mentally ill, and
14 those of different gender -- with respect to justice, dignity,
15 fairness, and equal application of the law.

16 For more than two decades we have Constitutionally
17 fought battle after battle to bring our police department to do
18 Constitutional policing. At times, we have moved two steps
19 forward and one step forward and one step backward. At other
20 times we move in increments. Now we stand, once again,
21 Judge Michael, on a crossroad that will either lead our
22 wonderful city forward or backwards. Let us make a decision to
23 move our great city forward with just, fair, and equal
24 treatment of all its citizens with 21st century community
25 policing.

1 There are a couple -- maybe two things I want to
2 emphasize. One is accountability. AMA Coalition has
3 historically -- even before the settlement agreement, it has
4 been a major advocate in this city for police accountability.
5 The issue of accountability still lacks full compliance in
6 AMA's perspective.

7 When police officers violate policies that are
8 produced by the Portland Police, they should be held
9 accountable. Failure from sergeants to the command staff, when
10 they are not held accountable, creates a pattern and breakdown
11 in the structure and discipline and leads to serious
12 consequences in our community.

13 An example that is often given, the deescalation
14 policy and training. We have seen over the last 20 years case
15 after case, and I can call them all out in my head, where
16 officers immediately to use of deadly force or extreme force
17 rather than trying to deescalate the situation. Deescalation
18 and policies that restrict shooting -- I want to go back to the
19 case that my good friend emphasized in terms of moving cars.

20 In 2003, the first policy that was developed in the
21 Portland Police Bureau was a reference to the murder of
22 Kendra James. In the Kendra James case, the officer attempted
23 to pull her out of the car. And when he could not pull her out
24 of the car, he put himself in the position of being in front of
25 the car to stop the car moving. And when the car didn't stop

1 moving, he shot her and killed her.

2 Each case has its own individual idiosyncrasies. And
3 so this policy has been implemented since 2003. This is not a
4 new policy. This is an old policy. It has been around in the
5 Portland Police, and there was supposed to have been training
6 on this. So that is an issue to us.

7 There is a difference between having a policy in
8 black and white and written and the implementation and the
9 practice of the policy. When the practice and the policy do
10 not go together, then we have confusion and contradiction, even
11 in the laws of life, of people.

12 The same thing in the area of training. We want to
13 welcome this new Director Rodriguez. We are looking forward to
14 working with her. But cases, after arbitration after
15 arbitration, one of the major issues that keep coming up in
16 training is that the policy and the training contradict each
17 other. I don't know about you, but even in large
18 organizations, churches that I belong to, we have policies and
19 training that are congruent with each other. They are supposed
20 to flow together, not contradict each other. If the policy
21 says one thing, the training should say the same thing. And it
22 should be held accountable.

23 That brings us to the whole issue that AMA Coalition
24 has been emphasizing on the sergeant level. If the sergeant in
25 a situation does not hold officers accountable for either the

1 after-report or the incident in terms of policy, you allowed
2 that particular officer to develop a thinking that they can
3 violate the policies, and they will not get any type of
4 accountability.

5 So we are very, very concerned with those issues that
6 not just -- that my good friend here emphasized, but incident
7 after incident for the last 20 years, and I know you don't want
8 to pull up all of the cases.

9 Thank you very much, sir.

10 THE COURT: No, thank you. Those are wise comments,
11 as always, Dr. Haynes.

12 Ms. Albies, welcome.

13 MS. ALBIES: Hello, Your Honor. I just want to weigh
14 in on a training issue. I had the opportunity to review the
15 City's submission and their update for the hearing here today,
16 and one thing stood out to me, which is that PPB hired a
17 national firm to continue to develop its trainer skills through
18 the Force Science Methods of Instruction Course. My
19 understanding this is from the Force Science Institute, which
20 is a national organization that provides training and
21 consultation on police practices.

22 And if I'm mistaken that this Force Science Methods
23 of Instruction Course is not the same as the Force Science
24 Institute, please do correct me. But to the extent it is the
25 same entity and organization, we have deep concerns about the

1 Force Science Institute training trainers.

2 Back on August 1st of 2015, there was a New York
3 Times article by Matt Apuzzo titled *Training Officers to Shoot*
4 *First, and He Will Answer Questions Later* about the founder of
5 the Force Science Institute, Bill Lewinski, who the District
6 Attorney's Office has used historically in Portland to justify
7 officer-involved shootings.

8 This was a 2015 article, but it sets out the concerns
9 about this claim of science -- the use of the term "science" in
10 talking about officer-decision-making process, as Mr. Lewinski
11 frames it.

12 But more recently in March of 2023 in a District
13 Court case in California, the case of Tracy Alves v. Riverside
14 County, 5:19-cv-02083-JGB-SHK, District Judge Jesus Bernal
15 wrote in a motion in limine about offering expert testimony
16 from the Force Science Institute: "The Force Science Institute
17 is widely regarded as a purveyor of unreliable pseudoscientific
18 analysis engineered to justify officers' use of force, and its
19 studies, virtually all of which are non-peer-reviewed and none
20 of which have been published in reliable scientific journals,
21 enjoy little or no acceptance within the relevant scientific
22 community."

23 It is a different question under Daubert obviously,
24 but this is an organization that essentially uses junk science
25 to train officers and testify on their behalf to defend uses of

1 force.

2 THE COURT: Can I interrupt? Two things: One, has
3 that order gone up on appeal? If you know.

4 MS. ALBIES: I do not know.

5 THE COURT: Will you please file a copy of this
6 report in this case. Put your cover sheet on it and say,
7 "Filed at the request of the Court."

8 MS. ALBIES: I am happy to do that, Your Honor. It
9 is in the context of many motions in limine for an upcoming
10 trial. I am just quoting that one part, and I'll highlight
11 that. I put this forth and put it on the record, because,
12 again, the City might be legitimizing an institution that might
13 give good training. I understand the DOJ has reviewed the
14 training. But again, as a broader issue, we do really want to
15 ask about what are the concepts that we're using to train
16 trainers and what is going to infiltrate that training.

17 I think this is a substantial problem. Again, I only
18 had a few moments to review all of the filings for this case,
19 but I think that is something that is very important. I will
20 follow up with Dr. Rodriguez about it as well. But it is
21 something we wanted to raise with the Court and put on the
22 record here today.

23 I appreciate and echo the work of my colleagues,
24 including Dr. Haynes' concern about accountability. We have
25 seen many officer-involved shootings and deadly force cases. I

1 agree with Mr. Karia and the PPA that these are incredibly
2 important instances when they happen, and that's why
3 accountability is critical and important. And we've not seen
4 any officers disciplined for excessive use of force or use of
5 force out of policy, and that remains a concern.

6 And so if there's one shot at the tail end of 15
7 shots that are fired, that there is a question about, I think
8 that's a fair question that should invoke self-reflection
9 rather than defensiveness.

10 Thank you.

11 And I believe Pastor Knutson would like to weigh in
12 as well.

13 THE COURT: Thank you, Ms. Albies.

14 Reverend Knutson, welcome, sir.

15 REVEREND KNUTSON: Judge Simon, thank you, again, for
16 your continued work on this case for these many years.

17 We are spending more time in federal court, I imagine
18 this year with Measure 114, a week-long trial earlier this
19 summer --

20 THE COURT: That's not my department.

21 REVEREND KNUTSON: I know it is not, but it was ruled
22 beautifully. And we will be in Harney County in September and
23 in Washington, D.C. as well. But I say that because the work
24 of the Court is so important.

25 And to Judge Beckerman, thank you for your mediation.

1 Wonderfully done.

2 THE COURT: We do have three co-equal branches for a
3 darn good reason.

4 REVEREND KNUTSON: You bet we do. Dr. Haynes'
5 leadership and our colleagues at the City, the Department of
6 Justice, the Portland Police Association, and, of course,
7 Mental Health Alliance, and we are grateful for the two chairs
8 of the PCCEP, colleagues and friends.

9 A couple of items I just want to underscore today.
10 You asked a vitally important question: The relationship
11 between accountability and culture, and that's at the heart of
12 this. Accountability is so important, but to have a culture
13 that leads to that. It has been a long time coming and a long
14 time to go. We have been at this for 20 years, and we raised
15 the question about recruitment many times. We haven't seen the
16 latest statistics on how much the police department has changed
17 over the last 20 years, but we know it stayed pretty stagnant
18 for many years. That's key to creating culture.

19 Also, listening to the chief of police when he has to
20 write a memo to his officers about dissing our district
21 attorney. There is something out of kilter here. That's
22 culture.

23 So if we are going to change and become what we can
24 be, we really have to look at this. When I was coming over
25 here this morning, I got onto Martin Luther King Avenue from

1 our house on Going Street. I noticed a number of people
2 carrying their bags; one man was barefoot. And I look at the
3 new camping policies in the city, and it is tragic. I thought,
4 wouldn't it be refreshing if every police officer was called to
5 be out there in summer clothing -- not with weapons -- but
6 looking for those who are vulnerable. I'm sure they are. But
7 even dressed the way we do today, it is intimidating, but
8 especially for someone who is vulnerable.

9 How do we recharge and rethink who we are? So
10 accountability and culture is critical in this conversation,
11 and I can't underscore that enough.

12 As clergy -- from all the traditions -- Muslim, Jew,
13 Hindu, Buddhists, Native American, Christian -- we know God
14 gets angry when the poor and vulnerable are being trampled
15 upon. And that's a part of the issue in this city and cities
16 across this nation.

17 So how are we going to weave institutions of
18 peacekeeping that will provide life and preserve and protect
19 everybody? I know at the heart of most officers, that's the
20 goal. But we don't train and equip in that way necessarily.
21 So accountability and culture, I cannot underscore what you
22 asked today.

23 Secondly, Portland Street Response. I have been at a
24 number of places recently where I have seen them come. It was
25 so -- as clergy, we deal with a lot of people who are on the

1 edge. They come to our churches. We are dressed in a way that
2 is not threatening. And people do deescalate.

3 To watch Portland Street Response do their work -- if
4 somebody comes to me -- an officer, here I am, a white man,
5 well off, I still get nervous. So if you're vulnerable, it is
6 more so. To have Portland Street Response to continue to grow
7 and become 24/7 like you suggest, we couldn't encourage more.

8 Portland Commissioner Hardesty, thank you for your
9 work in championing that cause.

10 We have gone through so many mayors and police chiefs
11 and city council people in the last 20 years -- and longer --
12 that the public record of accountability has to be there for
13 our elected officers. And there are is some backsliding
14 happening here right now.

15 I think your questioning are asked to probe where
16 things are. And I couldn't agree more. We have to hold
17 ourselves accountable to our elected leaders and to the people
18 of the city.

19 Again, with the camping band right, now there are so
20 many people who are vulnerable. To get up and pack up by
21 eight o'clock and walk around looking for a safe place on a day
22 like today, you're at extreme risk. And we are going to see
23 the fruits of that going forward.

24 So I want to underscore Portland Street Response and
25 how important that is -- and the dignity and respect. 7,000

1 calls and not one incident of violence, that's amazing.

2 Third and finally -- I could keep going. I will keep
3 it brief today. I preached all weekend, so I can bring it
4 down. But the third thing down is PCCEP -- and they worked
5 hard -- the COAB before them. But often they didn't have the
6 support they needed. I hope this new position is helping with
7 community organizing and quorums. You can't lay that on a
8 group of volunteers. We have talked about that from the
9 beginning, but they need to have that support, as they set the
10 agenda, as they set the quorum. Staff come alongside and help
11 implement decisions they make. And I really honor that.

12 There has been an issue of numbers at times, which
13 have held them back, and others following up on their
14 recommendations. And the youth component. I served eight
15 years at the National Director for Youth Ministries for the
16 Lutheran Church out of Chicago. A million teenagers, 5 million
17 members, 11,000 congregations. We had the most diverse boards
18 in the country of 16 to 19 years old. But that took work to
19 fly them out for a four-day meeting in Chicago -- teenagers and
20 college students. They knew the issues as well as any adult,
21 because their actions as a board helped lead our denomination
22 be so open to the LGBTQ community. It helped us to talk about
23 police reform back in the '90s and ending gun violence.

24 But they need all the support to make it because
25 their schedules are so packed, and I look upon the City

1 staffing to do that -- to help those young people get to those
2 meetings. Equip them with their voices. Oh, we know their
3 voices are so powerful today. Jeremiah was only a child; so
4 was Mary. And those voices speak to the future.

5 So I really underscore having PCCEP have support,
6 because their voice will be vital going forward and for our
7 young leaders not to be set up for failure, but to set up to
8 thrive. These young leaders, I listen to their voices every
9 day, and they are going to help lead us to a new day.

10 Thank you, Judge, for your continued work. We honor
11 that.

12 THE COURT: Thank you, Reverend Knutson. I
13 appreciate what you have done and everything done by the Albina
14 Alliance Coalition for Justice and Police Reform.

15 Thank you, all.

16 THE COURT REPORTER: Judge, I need a recess.

17 THE COURT: Let's take a ten-minute recess.

18 (Recess.)

19 (Proceedings resumed:)

20 THE COURT: At this time I will invite a presentation
21 by the Mental Health Alliance.

22 Mr. Chavez, or anyone working with you, or Ms. Lamb.

23 MR. CHAVEZ: Good morning, Your Honor.

24 So for the Mental Health Alliance's portion this
25 morning, I'll speak first, followed by Mr. Eben Hoffer and then

1 Mr. KC Lewis, who is on Zoom today.

2 I will try to be brief in my introduction. As our
3 briefing highlights, transparency is and has been an ongoing
4 concern for us, and I don't need to belabor the points about
5 the BHUAC specifically, but I do want to highlight some of the
6 findings in the Independent Monitor's, LLC's report,
7 particularly regarding RRT tactics and, more or less, they're
8 kidding.

9 I found it striking that the independent monitor
10 brought up the public surprise, really, that the PPB had
11 militarized as much as it has. And part of the recommendations
12 was making sure that there was greater transparency about what,
13 in fact, the police tactics, what's their gear, what do they
14 intend to do when they police these protests.

15 Again, to the Independent Monitor, LLC's review, they
16 also noted how many copious community groups there were that
17 nominally would have looked into these RRT tactics or their
18 equipment and maybe provided input.

19 But I think that goes to one of the core issues for
20 MHA; that we can have all of the nominal community engagement
21 that we possibly can, but it doesn't matter if there is no
22 input, if there is no feedback, if there is no ability to
23 change and comment on these tactics. And that's important for
24 oversight.

25 I'm reminded of an old story that all families that

1 are happy are alike, but all unhappy families are unhappy in
2 their own specific way. In a way I think our system tries to
3 manage that by looking at all the individual facts and peering
4 into that greatly. But that requires transparency. That
5 requires knowing and being honest with ourselves about what
6 indeed is happening.

7 Mr. Karia highlighted the officer-involved shooting
8 from 2021. What strikes me there, of course, is that PPB
9 stopped the video before it demonstrated the last shot and did
10 not play it with audio to the PRB. If we are so sure that what
11 we did that day was within policy, why hide those facts? Why
12 not be transparent about those? So I'm grateful that the
13 Department of Justice did do another review of that.

14 But going back to RRT, again, the monitor's report
15 speaks to PPB hired staff's own higher staff with lack of
16 engagement with the RRT trainings themselves. They referred to
17 those officers' expertise, and as we saw from the training
18 slide, that was a mistake, I believe.

19 All this to say that transparency and oversight go
20 hand in hand. If we had more transparency, we could do more
21 oversight, and we shouldn't be afraid of that. With that, I'll
22 turn it over to Mr. Eben Hoffer.

23 MR. EBEN HOFFER: Thank you so much.

24 THE COURT: Good morning.

25 MR. EBEN HOFFER: Good morning, Judge. It is my job

1 to talk to you a little bit about Portland Street Response
2 today for the MHA. As we discussed, paragraph 90 calls for
3 immediate and long-term improvements to the behavioral health
4 care system, and Section 7 there lists some initial
5 improvements, one of which is expanding capacity of BHUAC to
6 send people who aren't police.

7 The Mental Health Alliance appreciates that DOJ has
8 appropriately identified Portland Street Response as a program
9 that, while not founded pursuant to this case, can fulfill a
10 critical and long, ignored, immediate requirement of the
11 settlement. We also share DOJ's concerns as to the durability
12 of Portland Street Response. Reports from Portland Street
13 Response have changed somewhat for the worst in the last year.
14 While the program was once steadily growing, we have seen in
15 the last year a hiring freeze, loss of senior leadership, and
16 some counter-productive policy changes that you have
17 highlighted.

18 These issues are arising during a major expansion of
19 the program. To some extent, growing pains are expected, of
20 course, but some changes have arisen following turnover in the
21 political leadership of the fire bureau as well. As such,
22 while DOJ is correct to assess PSR's role in fulfilling
23 paragraph 90, mere existence of a program in name does not
24 necessarily mean that it's doing what it's supposed to, nor
25 does it necessarily reflect compliance with letter or spirit of

1 agreement in the fullness of time, although we remain hopeful.

2 Some concerning developments, many of which you've
3 mentioned, include the firing freeze, although we are glad to
4 understand this has come to a close and the staffing
5 limitations that we've heard about are being improved; the
6 decision to halt expansion to 24-hour service. While it must
7 be said that most incidents that would call PSR do happen
8 during the day, some of the most critical incidents do happen
9 after hours, including many that have ended in officer-involved
10 shootings.

11 Ending outreach workers' ability to distribute street
12 supplies, like tents, clothes, and food to clients and the
13 enlistment of PSR staff in camp cleanups.

14 Building trust is critical to getting people closer
15 to recovery and changing behavior. We think that these
16 policies reveal a misunderstanding and perhaps a suspicion of
17 the realities of street social work.

18 Loss of senior staff. Though we are very encouraged
19 by hearing about the pedigree of the recent hire, it is
20 important to recall how unique the people who do this work at a
21 high level are. Administrative specialists, who can also work
22 in the field, who are also clinically excellent, who are also
23 et cetera, et cetera. These are rare people, and they are
24 precious.

25 And also, the confused preparation for the coming

1 funding pivot as one-time federal dollars run out. There have
2 been discussions about moving the program out of the fire
3 bureau into the public safety portfolio. There is
4 conversations about Medicaid dollars becoming available, which
5 they are not currently under fire.

6 Some of these questions may involve or necessitate a
7 significant reorganization of the program, particularly if they
8 are going to become eligible for Medicaid. We're concerned how
9 little we know at this point, and we hope that this
10 conversation is developing and becomes more public very soon.

11 I would like to note, while we are talking about
12 budget shortfalls, that PSR's 10 million budget reflects about
13 6 percent of Portland Fire & Rescue's resources, .14 percent of
14 the City's overall budget, and, of course, 5 million is half of
15 that.

16 To your point earlier, we in MHA regularly bring
17 together people who run programs like Portland Street Response
18 around the country. We have been lucky enough to organize
19 conferences on the topic, learning about how these folks do
20 this work. We have asked many of those folks how they have
21 politically and administratively made this program happen; make
22 them successful.

23 These are novel programs in how cities organize
24 public safety. As you know, to succeed over the road blocks of
25 institutional inertia, you need something special, and we have

1 identified five things that come out of that:

2 Unwavering championship from a political leader at
3 the elected level; somebody who is an unwavering champion.
4 Full support from police department leadership. Early
5 engagement and work with dispatch. Early engagement and work
6 with the city attorney. And, of course, one of those unique
7 unicorn-like administrators to lead the program, whether that
8 comes from police, from fire, or from somewhere else.

9 While we have heard today that support for the
10 program remains strong, I think it's beyond question that some
11 things have changed in recent months, and we hope that the City
12 views this and views that list of what's needed as an
13 opportunity to make this program strong and to step up.

14 I do want to talk a little bit about old news about
15 Portland Street Response -- about the question of dispatch; who
16 can go. So as we understand, negotiations about where the
17 spheres of influence lie here between the departments, PSR's
18 dispatch is limited to events in public space where there is no
19 evidence of a weapon or risk of suicide.

20 We understand that this is rooted in concerns about
21 safety absolutely. However, perhaps it goes without saying,
22 that's a notable limitation, and it is not universal among
23 programs around the country. It's notable limitation in a
24 world where most people living on the street carry some sort of
25 defensive weapon and where 4 percent of the United States

1 population experiences suicidal ideation every year. The
2 diversion of 9 percent of non-emergency welfare check and
3 unwanted persons calls to PSR, in our opinion, is lower than it
4 needs to be.

5 This brings to mind a couple of cases -- well, just
6 one case I know we have discussed before here, and that is of
7 Michael Ray Townsend, who was shot and killed by a police
8 officer in Portland after he escalated to violence surrounding
9 questions of being searched before getting in an ambulance.
10 And I don't know if you are familiar with the grand jury
11 transcript of that case.

12 THE COURT: I'm not. I am also reluctant to talk in
13 this context in this setting about the details of specific
14 cases. That said, if you want to make a few more general
15 comments about that, please do. But I really don't want to get
16 into the details of any specific case in a way that people may
17 misunderstand and may think that it is fact finding, because it
18 is not about a specific case.

19 Go ahead.

20 MR. EBEN HOFFER: Absolutely. I will express that in
21 that case -- in the testimony in that case the paramedic
22 assigned to it was able to identify opportunities for
23 deescalation that were not able to happen because leadership at
24 the scene was unclear.

25 It was a suicide call. It was a call where there was

1 a weapon. It did not need to be dangerous until it was made
2 dangerous by failing to deescalate. And we believe there is a
3 role for Portland Street Response in these issues, and we hope
4 there can be in the future, because of its critical importance
5 and its commonness in American life.

6 So that being said, a program is what its practices
7 are. We urge the City, the DOJ, and the Court to watch closely
8 and maintain focus on what is being done here, especially given
9 that that it is in the contract now between PPA and the City
10 that PSR cannot cost the Police Bureau any jobs. We feel we're
11 all on the same page. We want this thing to succeed, and it
12 needs affirmative support to get there.

13 Thank you.

14 THE COURT: Don't go away. I have a question for
15 you. By the way, I was unaware that there are conferences
16 around the country of similar organizations in different cities
17 getting together to share best practices and talk about solving
18 problems. I'm glad to hear that.

19 I have read over the years a couple of books about
20 improving police practice, changing police culture, and things
21 like that. I have not yet seen any books at all -- what's the
22 right generic name for like what Portland Street Response is or
23 what Cahoots is? Is there a generic name for that?

24 MR. EBEN HOFFER: Yes. Well, I think a generic name
25 is still unfolding.

1 THE COURT: Okay.

2 MR. EBEN HOFFER: Different places call it different
3 things. Some of them are within the fire department. Some are
4 within police bureaus. Alternative mobile services.

5 THE COURT: Alternative mobile services.

6 So my real question for you is: Are you aware of any
7 basically books that generally come from academics that might
8 survey what is working? What's not working? What are some of
9 the best practices for alternative mobile services around the
10 country? I would be interested in reading something that is in
11 the public domain already. If you're aware of any such books,
12 please tell me. If you are not, keep in mind that if you do
13 come across any, please contact my courtroom deputy and let me
14 know. I like to keep on those things. Are you aware of any
15 now?

16 MR. EBEN HOFFER: Of written publications, I'm not
17 personally. However, all of the presentations around the
18 country, including Chicago, San Francisco, Atlanta, et cetera,
19 all of those keynote presentations that we have organized are
20 publicly available on the Internet. We would be happy to link
21 them to you.

22 MS. LAMB: Your Honor, let us ask our membership.
23 This is Amanda Lamb.

24 THE COURT: Please do keep in mind, I really don't
25 want to get -- I have enough reading to do in the world. I

1 don't want -- and no disrespect to any of these great
2 conferences, conference presentation materials. What I like to
3 see is essentially peer-reviewed academic publications,
4 preferably in books that talk about these evolving issues.
5 There are some really good books about police culture issues.
6 I have not seen anything yet about alternative mobile services.
7 I might have missed it. If you can find something, just
8 contact my courtroom deputy, or file it so that the public has
9 a general knowledge. Also, what I really want are things that
10 are in the public domain.

11 MS. LAMB: Thank you, Your Honor.

12 THE COURT: Thank you. Anything further from Mental
13 Health Alliance?

14 MS. LAMB: Yes. We would like to invite K.C. Lewis
15 on Zoom.

16 THE COURT: K.C., I can see you on the screen. Can
17 you see and hear me?

18 MR. LEWIS: Yes, I can. Can you hear me?

19 THE COURT: Yes, I can. The floor is yours.

20 MR. LEWIS: Good morning, Your Honor. My name is
21 K.C. Lewis. I am a member of the Mental Health Alliance as
22 well as a member of the Police Accountability Commission. I am
23 appearing today in my role as a member of the Mental Health
24 Alliance, and I'm not speaking for the Police Accountability
25 Commission or in my role as an individual commissioner.

1 The Mental Health Alliance continues to believe that
2 an effective system of police accountability is crucial to the
3 City achieving compliance with the settlement agreement.
4 Indeed without such a system, compliance is impossible. After
5 years of failure by the City to institute such a system, the
6 people of Portland took matters into their own hands, approving
7 Ballot Measure 26217 in 2020 with more than 80 percent of the
8 vote in favor.

9 Since then, the volunteer members of the Police
10 Accountability Commission, appointed unanimously by City
11 Council, have been working tirelessly to implement the will of
12 the voters, holding well over 100 public meetings, hosting
13 stakeholders feedback, and going out into the community to talk
14 to Portlanders to talk about what they need for their police
15 accountability system.

16 The response has been overwhelming. People of
17 Portland remain deeply invested in seeing a system that can
18 keep Portlanders safe and restore community trust in the police
19 bureau by holding officers and the system at large accountable.

20 You don't have to look far to see why this work is so
21 vital. The City's woefully insufficient investigation into its
22 inaccurate and offensive training for the Rapid Response Team
23 and its failure to investigate and discipline officers in
24 leadership positions during the 2020 protests, nearly three
25 years later, shows a system that remains fundamentally

1 incapable of delivering the kind of meaningful oversight that
2 the people of Portland deserve.

3 By implementing the recommendations of the Police
4 Accountability Commission, the City will be taking a large step
5 in the right direction. Indeed in its recent report regarding
6 lessons to be learned from the 2020 protests,
7 Independent Monitor, LLC made the new board a cornerstone of
8 its recommendation, stating, "In November 2020, Portlanders
9 voted overwhelmingly to replace independent police review with
10 a new police oversight entity. Once the new community
11 oversight community has begun its operations, it should review
12 all complaints of misconduct regarding the new public routine
13 to determine if it conduct or oversee the vision. Further,
14 that entity should be subject to existing law and have
15 unfettered access to PPB documents, reports, and materials,
16 including all such records generated by the new team."

17 In the PAC's meeting with City Council members, they
18 have expressed to us that fidelity to the will of the Portland
19 voters who asked for this new system was their first priority.
20 Then the commission's recommendations will reflect that
21 fidelity.

22 On behalf of the Mental Health Alliance, I urge the
23 City to move quickly and decisively, to create the new
24 oversight board, and empower it to achieve the changes that are
25 needed to achieve compliance with the settlement agreement.

1 Thank you very much, Your Honor. I am happy to
2 answer any questions

3 THE COURT: No, I have no questions.

4 Thank you very much.

5 Anything further, Mr. Chavez or Ms. Lamb?

6 MR. CHAVEZ: Nothing further.

7 THE COURT: Thank you all very much. Add this time I
8 would like to hear from the co-chairs of the Portland Committee
9 on Community-Engaged Policing, the PCCEP, Co-chairs Carey and
10 Wisner. Welcome to both of you.

11 MS. CAREY: Good morning, Judge.

12 THE COURT: Good morning.

13 MS. CAREY: I am here for the Portland Committee on
14 Community-Engaged Policing, PCCEP. I really thank you for this
15 opportunity to present in this forum and speak on behalf of all
16 of us at PCCEP on the committee. I realize there has been some
17 questions that have emerged. But if it pleases the Court, we
18 are eager to address all of them, as time and you all allow
19 after our prepared statement.

20 PCCEP really takes the charge to represent the many
21 communities that are affected by this settlement agreement very
22 seriously. We are humbled by it every day. And as a committee
23 of 13 members, we recognize our limitation when it comes to
24 representation, but each one of us believes in the value of
25 connecting the larger community to this process and being a

1 microphone for people who have been historically excluded from
2 the decision-making process. When it comes to themes of mental
3 illness and race that override and under-ride, rather, the
4 settlement agreement, we see this as a core reason for PCCEP's
5 existence.

6 Rest assured, no PCCEP member serves on this
7 committee to help the City check boxes toward compliance. We
8 serve because we are passionate about this. We are community
9 members who want to make our city -- everyone's city -- safer,
10 stronger, and more equitable for people, and especially those
11 who have not had that equitable treatment before historically.

12 PCCEP is proud of the work we have done this year.
13 We appreciate a space for genuine community input into policing
14 and public safety. We are back in the rhythm, having dialogue
15 with community and city officials, hosting town halls, writing
16 recommendations. We have rebuilt our internal culture amongst
17 the members, and we are collaborating extremely well with
18 skilled staff who empower us to serve as a strong and
19 insightful committee.

20 Today, however, we want to challenge the City, the
21 Department of Justice, and the Court on the parts of this
22 process that are unfriendly, hostile, to the point that it
23 might impede us in our ability to do some of the things that we
24 were charged to do. I know those sound like strong words, but
25 hear me out.

1 After rebuilding internal function with extreme
2 effort from both members and staff, we submitted two
3 recommendations to Mayor Wheeler in the spring. These
4 responses were received, and they were so insubstantial that it
5 left us not just incredibly discouraged, but wondering if the
6 City values our service at all. When we read and hear in the
7 compliance report that we're not accomplishing objectives laid
8 out in the agreement, we wonder how, given the amount of work
9 and time we've poured into this effort, how we, as volunteers,
10 are supposed to do even more.

11 PCCEP has also faced criticism about our member
12 turnover and failure to recruit people with sufficient diverse
13 experience, such as people with diverse and persistent mental
14 illness or those that have been directly harmed by police use
15 of force. We already do. And we have a genuine desire, an
16 ongoing desire, to increasingly engage these communities.

17 But I ask you to consider how this process that we
18 are working under and its current state might appear to those
19 with those types of experience to any volunteer or for us, a
20 process that often tells people that their input does not
21 matter. And that's been incredibly challenging to us,
22 determining a workload, and then meeting the duties laid out in
23 the settlement agreement and the PCCEP plan.

24 It doesn't leave us enough time to not only explore
25 our interest and passions as volunteers, but more importantly

1 it might hinder our flexibility in addressing emergent issues,
2 such as gunshot detection technology, independent monitor, or
3 the divisive PPB training deck.

4 So we are looking to get some clarity, not to mention
5 there is a kind of professional culture that can be
6 exclusionary to a committee that is expected to read and
7 process documents containing jargon and not necessarily written
8 for the everyday person. We engage with technical data, and we
9 are thankful and appreciative of our how our staff may break
10 down some of the more arcane aspects of it and also trying to
11 navigate city bureaucracy.

12 So with all of that in mind, we have had invitations
13 go out to folks for training, and the MHA and AMA were invited
14 last year, and we also mentioned that at the last status
15 hearing, and this invitation is still available. We are
16 looking forward to your response.

17 THE COURT: May I interrupt right there? I thought I
18 heard the AMA say that they hadn't been invited or not aware of
19 new training. Where is the disconnect?

20 MS. CAREY: I'm not sure. I know our staff sent out
21 the invitation, because I read it.

22 THE COURT: Can I interrupt you for a second and ask,
23 Ms. Chambers or Dr. Haynes, what's your understanding of where
24 the disconnect is?

25 DR. HAYNES: My understanding is we received a

1 24-hour notice of the training from the staff on that.

2 THE COURT: Got it. Let me go back to you,
3 Ms. Carey. Could you see if we could get a longer window for
4 the invitation?

5 MS. CAREY: It was a bigger window. We will work on
6 it. Regardless, there is some confusion. We will make sure we
7 get that straightened out.

8 THE COURT: Thank you.

9 MS. CAREY: Our challenge, to everyone listening: If
10 the City and the Department of Justice are committed to
11 enabling authentic community engagement with this process from
12 a truly broad spectrum of volunteers, you must remove barriers,
13 not enforce even more for the sake of compliance. As
14 volunteers, we need space to work on issues relevant to the
15 committee's current needs and interests.

16 We also need space to learn how these systems work
17 and space to make PCCEP sustainable, fulfilling volunteering
18 opportunities for people from all kinds of backgrounds. We
19 believe PCCEP's duties under the settlement and the PCCEP plan
20 are good guidelines for things we might work on. We request
21 the opportunity to revisit our current proscribed workload and
22 think about how to make this a more sustainable volunteer
23 experience. We reiterate our request for a full-time community
24 engagement staff person. We have somebody who facilitates the
25 logistics but not to actually do the community engagement.

1 On the other side, we demand more structure and
2 accountability when it comes to engaging with the input we
3 worked so hard to gather. As written, the mayor is required to
4 provide PCCEP with a thorough response to our recommendations
5 within 60 days. The level of engagement we received, or lack
6 thereof, highlights the limitations of compliance when it comes
7 to holding leadership accountable to the community, and
8 moreover, capturing what we believe is the real spirit of the
9 settlement agreement -- what it is really about.

10 One of the challenges with keeping a full complement
11 of community members on the committee is the quality of
12 engagement that we receive from our partners. That will and
13 does affect our ability to hold and recruit volunteers, and it
14 serves as an inadvertent gatekeeper. People perceive that they
15 are not going to get the information they need in a timely
16 fashion, a digestible, assessable fashion. Then after you do
17 all of the hard work to bring in, compile, digest, and then
18 submit public input, it does not get a substantial response.

19 Although we've taken this opportunity today to speak
20 about community engagement and challenging you to recommit to
21 what PCCEP represents, please trust that PCCEP continues to
22 work on many of the policy matters that have been discussed
23 today.

24 We reiterate our support for an independent monitor.
25 We are concerned about the vagueness of the City's camping band

1 and how it may intersect with policing of people experiencing
2 mental illness. We plan to take a deep dive into PPB stops
3 data and the use of consent searches this fall.

4 We are also deeply committed to supporting the
5 Portland Street Response. We hope that many of you join us
6 with a meeting with Mayor Wheeler and Commissioner Gonzalez
7 this Wednesday to discuss the mayor's response to our
8 recommendations and PSR.

9 Then I'll wrap up by acknowledging that much of the
10 progress has been made in the City's support for PCCEP. I do
11 want to make sure everyone heard that and certain areas of this
12 settlement. PCCEP is proud of where we are right now. I want
13 to thank you all for the opportunity to remind you, as always,
14 that the community is owed more in this process.

15 Thank you.

16 THE COURT: Thank you, Ms. Carey. I appreciate that.
17 Mr. Wisner.

18 MR. WISNER: I am not going to follow up with much
19 more. I have told not to follow the preacher who already gave
20 the message. The message was clear.

21 I would like to say this, which was a thought
22 earlier. I have shared this with quite a few after Pastor
23 Knutson and Dr. Haynes has spoken.

24 Starting back in the '90s, we never thought that we
25 would be here this far in 2023. Listening to all of the pieces

1 that are going into this, to get what we are looking for from
2 the settlement agreement, in my mind I never thought there was
3 so much work that needed to be put in, listening to all of the
4 differences from the settlement agreement and all the working
5 pieces that are being now worked on. That's, again, a lot of
6 work -- a lot of work. But we have now seen what we need to
7 work toward in the city.

8 Again, I always leave the place where I am, and
9 that's a call as a pastor. I have hope. I have hope. But
10 more so, when I look in this room and everyone that I have seen
11 and I have engaged with, even you, Judge Simon, I would call a
12 friend that is living here to make it better for our children.
13 I want to thank you for indulging my comments.

14 THE COURT: I appreciate that. I appreciate your
15 comments, Ms. Carey and Mr. Wisner, all that you and everyone
16 at PCCEP does. I heard the comments about the difficulty in
17 getting some youth members. I have no good suggestions on
18 that.

19 MS. CAREY: We have some ideas.

20 THE COURT: But I leave it in your very, very
21 talented hands. Thank you for all the work you have been
22 doing. And please express my appreciation to the entire PCCEP
23 membership for the work they have been doing and, frankly, the
24 PCCEP staff.

25 MS. CAREY: Thank you, Judge Simon. Before we leave,

1 did you have any further questions? Were there any from the
2 Court?

3 THE COURT: No. The only thing I wanted to find out
4 was the disconnect on the training issue. Nothing can be more
5 frustrating than wanting to attend something and then finding
6 out the day before. Everybody, please work hard harder on
7 those types of things.

8 MS. CAREY: Thank you.

9 THE COURT: Thank you all very much.

10 At this time I am going to invite comments both from
11 our former and retired COCL officer. I see Dr. Rosenbaum on
12 the screen. I see Dr. Christoff here. I welcome you both.

13 Dr. Rosenbaum, thank you for all of the work you have
14 put into this settlement over the years. I will let the two of
15 you fight among yourselves in terms of who goes first.

16 DR. CHRISTOFF: I have learned not to fight with
17 Dr. Rosenbaum. He wins. I know that we have a twelve o'clock
18 deadline.

19 THE COURT: But we will resume at 1:00. Then it is
20 unlimited after that.

21 DR. CHRISTOFF: I will try to make my comments brief
22 to be able to give time to Dr. Rosenbaum.

23 Good morning, sir. As you know, my name is
24 Dr. Tom Christoff. In June, I had the honor of being selected
25 to carry on the work of Dr. Rosenbaum as the new COCL.

1 I see us at an intersection of several different
2 events here, sir. We have a transition with COCL teams. While
3 maintaining some of the same members, we have a new DOJ report.
4 As the monitor, that provides us as the framework for moving
5 forward and what still needs to be done. And we are
6 transitioning into a likely monitor in the coming months, or
7 whenever that may happen. I think this gives us a unique
8 opportunity to take a look at where we have been, where we are,
9 and where we are going.

10 Your Honor, in DOJ's report, the most recent report,
11 they identified 25 paragraphs that are in partial compliance.
12 In our report, we identify 23. There are some areas of
13 difference between the DOJ and the COCL's reports on some
14 paragraphs. However, I'm a statistician, sir. The high degree
15 of inter-rater reliability between the DOJ and COCL leaves me
16 95 percent confident that we are seeing the true picture. That
17 true picture is that the City and the bureau are in substantial
18 compliance with 75 percent of all the paragraphs. There are
19 some issues that the DOJ and the COCL have not shied away from
20 in terms of identifying the outstanding concerns, but there has
21 been significant progress towards compliance with the
22 settlement agreement.

23 Within use of force, PPB, when it first began, were
24 doing paper-based data coding for analysis. At present, they
25 have one of the most transparent and comprehensive publicly

1 available force data sets across the country. They also use
2 the systems and process. They also have systems and processes
3 for using the data with a team of highly trained analysts who
4 also serve as a broader audit team for the bureau.

5 Their work has resulted in valuable insights. One of
6 the valuable insights, for example, is that PPB has 1.8 uses of
7 force per precinct per day. Given some of the actions which
8 constitutes force, this is an overall low number of raw numbers
9 of force.

10 The DOJ has already discussed a lot the areas where
11 progress is necessary, and they relied on our reports,
12 including the use of consistent application of terms, such as
13 deescalation and improved processes for identifying outlying
14 officers and potentially problematic members. These issues
15 remain. These issues will need to be dealt with.

16 However, the remaining seven paragraphs, I believe,
17 are achievable. They require a greater collaboration between
18 the force inspector, the COCL, the PPB, the DOJ, but they are
19 not impossible. As Ms. Senier noted, we did have a chance to
20 meet with the new force inspector, and we look forward to more
21 regular and ongoing collaboration.

22 With training, we have identified two paragraphs that
23 are in partial compliance. However, one is summative, meaning
24 with the completion of another paragraph, that paragraph
25 automatically becomes substantially compliant as well. That

1 paragraph deals with a certification database. PPB is
2 currently in the process of migrating skill certifications over
3 to LMS. The bureau believes this will be completed in the
4 coming months.

5 More broadly, since 2015, PPB training is now done in
6 accordance with a formal needs assessment. The training is
7 comprehensively evaluated on several different levels and
8 training has incorporated soft skills to a certain degree,
9 including procedurally just behaviors. That does not mean that
10 there's not more room for incorporation of procedurally just
11 behaviors and training overall.

12 As Your Honor has noted, PPB has now hired a civilian
13 training director. We had the opportunity to meet with her
14 last week, and we are very impressed with the level of
15 professionalism she is bringing to the bureau.

16 For community-based mental health services and crisis
17 intervention, this has long been an area where for the most
18 part the City and PPB have been in substantial compliance. PPB
19 and the City have coordinated systems for crisis response and
20 service connection, including the Enhanced Crisis Intervention
21 Team, the Behavioral Health Response Team, the Service
22 Coordination Team, the Crisis Line, and PSR. These are all
23 informed by the Behavioral Health Unit Advisory Committee, who
24 also had the opportunity, as Mr. Hager noted, to see the
25 outcomes associated with the work they have provided input on.

1 I did note that there were some areas where the DOJ
2 and the COCL have differed in our assessments of this section.
3 Paragraph 115 is one of those. However, I will note that the
4 Department of Justice concerns appear to be largely related to
5 finalizing policies and formalizing processes within PSR, and
6 they should not take away from the work of BHUAC leadership and
7 the telecommunicators in triaging calls involving persons in
8 mental health crisis.

9 For PSR overall, like I said, I'm of the
10 understanding they are currently in the process of formalizing
11 processes. This is an important step to ensuring consistent
12 service delivery. Taken together, the PPB and the City have an
13 overall positive approach to mental health crisis response.

14 With EIS, this is an area that additional
15 conversations are going to be necessary. However, since 2015,
16 the PPB have incorporated the required thresholds and have a
17 system. We will need to measure the effectiveness of the EIS.
18 We've asked the City and DOJ to make a joint determination as
19 to whether such an assessment is a requirement for compliance
20 and what the implications of that assessment might be.
21 However, other remaining issues within this section parallel
22 issues that remain in the use of force section, meaning that
23 both sections will equally benefit from an improved
24 identification and intervention process, and we look forward to
25 working with the parties on that.

1 Accountability. Your Honor, in our most recent
2 report we identified several barriers to accountability,
3 including the chain of command, on-scene supervisors, the PRB
4 process, and a lack of objective body-worn camera footage.
5 This recent quarter we additionally noted data validity
6 concerns as one barrier to consistent discipline. However,
7 many of these barriers, as I have already said, do have
8 corresponding remedies within other sections related to use of
9 force as well as EIS.

10 For specific paragraphs, with the accountability
11 section, some are relatively easy fixes. Some require a change
12 to policy. Other paragraphs will require a larger timeline,
13 such as the transition to the new accountability system.
14 However, these steps necessitate a longer timeline, and even
15 adhering to the PAC's timeline listed, it is still achievable
16 within the next two to three years.

17 With community engagement and PCCEP, PCCEP is
18 operating at near full capacity, although we do continue to
19 recommend prioritizing youth recruitment. We do echo the
20 comments from the Department of Justice as well as all parties,
21 recognizing the commendable work of the PCCEP community
22 volunteers.

23 PPB, for their part under community engagement, has a
24 diverse set of advisory groups, a developed community
25 engagement plan, and a well-functioning office of community

1 engagement. Although we provide recommendations for
2 sustainment, the section as a whole is in substantial
3 compliance. The fact remains that PPB and the City actively
4 seek and receive community feedback and view such feedback to
5 inform their processes.

6 With remedies, in response to the City and PPB
7 falling out of substantial compliance three years ago, the
8 parties agreed to remedies which would allow us to move past
9 those events of 2020. For these remedies there has been
10 significant progress. PPB has enhanced the FDCR and
11 after-action data collection processes. They've authorized and
12 budgeted for overtime and training. They've hired a director
13 of police education.

14 Other paragraphs have taken substantial steps, such
15 as the beginning of the body-worn pilot program. This is a
16 reform, which as you know, sir, we have long championed. And I
17 know Dr. Rosenbaum is going to speak more about this. We do
18 need to observe the pilot program and evaluate the
19 effectiveness in order to discuss how the program might need to
20 change going forward, and so a good, strong evaluation will be
21 need. It has begun. The work has begun.

22 Additionally, as noted, the Independent Monitor, LLC
23 group has released their report, which is a necessary step
24 forward for moving on past 2020 and bringing PPB into the
25 future.

1 Finally, the new accountability system is finding its
2 shape, while the current accountability system, such AI, IPR,
3 and CRC, they continue to operate in earnest. It is likely
4 that this remedy may take the longest to fully implement.
5 However, we look forward to working with the parties to make
6 sure that it is time well spent.

7 In summary, the COCL has identified areas where
8 greater processes of accountability, oversight, and auditing
9 are needed. These are important reforms, Your Honor, and we
10 will continue to work with the City and the PPB and DOJ to
11 address them. They still need to be addressed.

12 However, I say this again: There are 23 paragraphs
13 left. In the past week, myself and new members of the COCL
14 team spent three days meeting with PPP members, while also
15 observing the body-worn camera training. Through these
16 meetings, I believe we can significantly reduce the number of
17 paragraphs that are currently in partial compliance, allowing
18 us to take a more targeted technical assistance approach for
19 the remaining paragraphs that will necessitate a longer
20 timeline.

21 Overall, Your Honor, there is reason to be optimistic
22 while also remaining vigilant.

23 With that, I will yield the floor to Dr. Rosenbaum.
24 As I know Your Honor would agree, we would not be here without
25 Dr. Rosenbaum's leadership. I have learned immensely from him

1 throughout this process, and I would encourage everyone within
2 this courtroom to take the opportunity to learn from him today
3 as well.

4 Thank you, sir.

5 THE COURT: Thank you, Dr. Christoff. Welcome to you
6 your new position, and I know you have been with us in one
7 capacity or another. Welcome in to your new position. I
8 welcome your new staff members, and I look forward to your
9 continued insights and contributions.

10 Thank you, sir.

11 Dr. Rosenbaum, I hope that retirement is treating you
12 well. Thank you very much for joining us today. The floor is
13 yours.

14 MR. ROSENBAUM: Thank you. I'll try to rush through
15 this. I have comments, and I know you have to leave in a few
16 minutes.

17 Your Honor, having served in this capacity, first, as
18 compliance officer -- can you hear me, by the way?

19 THE COURT: Yes. Perfectly well.

20 MR. ROSENBAUM: For eight-and-a-half years. I would
21 like to thank you and, really, everybody who has helped us with
22 our job in Portland. I want to thank you, Judge Simon, for
23 bringing new insights into this process and joining me and
24 asking some tough questions, like where are the body cameras?

25 THE COURT: I think we found them now. So good job.

1 And thank you, Commissioner Hardesty.

2 MR. ROSENBAUM: Yes. Absolutely. I would also like
3 to thank the many community volunteers and community
4 organizations for offering their insights along the way and
5 giving this helpful feedback on our reports.

6 I would like to thank the City and the Portland
7 Police Bureau for maintaining a working relationship with us
8 over the years, despite our endless requests for information
9 and our disagreements at times.

10 I would like to thank DOJ working side by side with
11 us, while respecting our independence.

12 And finally, I would like to thank Dr. Christoff for
13 doing a fantastic job. He will do a fantastic job as the
14 compliance officer.

15 Today I want to make on the status of the settlement
16 agreement and some of the obstacles to police reform work
17 generally that I have learned over the years. Portland is my
18 home town, so I genuinely care about the city and would like to
19 offer some constructive recommendations as I walk out the door
20 here for retirement.

21 First, a statement about sort of the polarization.
22 Clearly there are some extreme views in Portland on both sides
23 regarding the settlement agreement. Some community activists,
24 I often hear statements like, "There has been absolutely no
25 improvement in the Portland Police Bureau since the start of

1 the settlement agreement." That's simply not true. There have
2 been significant improvements in the bureau's policies and
3 actions regarding training and community engagement regarding
4 force and mental health.

5 At the other extreme, inside the City and the bureau,
6 I also hear people saying, "We have done everything asked of
7 us, and we can't do our jobs well now because DOJ and COCL are
8 standing in our way." The first part of that statement is not
9 true. The City and the bureau have not implemented all of our
10 requests, and that has been pointed out today by the DOJ and
11 the COCL

12 The second part, are we standing in the way?
13 Possibly. Ideally the City should be self-regulating, and we
14 were ready to do that in 2020 when they reached full
15 compliance, but we are still today, three years later, because
16 the crowd management piece is still a work in progress, along
17 with accountability.

18 I would like to offer some departing advice to the
19 City and the community on the effective methods of police
20 reform and transition to self-regulation without oversight from
21 DOJ. I'm pleased to see the progress in some of these areas
22 and training and developing a new oversight body and body-worn
23 cameras, et cetera. These systems, however, must be carefully
24 implemented, and clearly more work is needed.

25 In terms of police reform in general, first, I will

1 address the community side. PCCEP and the Training Advisory
2 Council and the Police Accountability Commission, as examples,
3 are very engaged and very productive and produce some great
4 reports and recommendations that need to be taken very
5 seriously by the City. But some community activists have taken
6 extreme positions that are counter-productive. For example,
7 calling for the elimination or abolition of the Portland Police
8 Bureau is just not a sound tactic. In fact, it will backfire.
9 We all need the police and we need 911, period. Sometimes we
10 even want them to use the deadly force to save the lives of
11 other people, as we have seen with hundreds of mass shootings
12 each year.

13 By creating alternatives to law enforcement -- what I
14 want to say, though, creating alternatives to law enforcement
15 for handling mental health calls is an excellent idea; one that
16 is being pursued nationwide. Even though the bureau has a set
17 of mental health systems in place, I encourage you to keep
18 working in this area and continue to invest in other options
19 such as the Portland Street Response.

20 Second, if you, as community members, want to make
21 impactful recommendations for improving the police, then you
22 must first get to know the police. I've done this before. You
23 need a deep understanding of the current problems in urban
24 policing and in Portland in particular. You must take the time
25 to ride along in police cars, conduct interviews with them,

1 observe their training, participate in their community, academy
2 training, read their policies and procedure, and invite them to
3 participate in your community meetings. Essentially you must
4 be willing to work with the police, talk with them, listen to
5 them, learn about their work and the challenges they face.
6 Otherwise, you are yelling in the dark without any knowledge of
7 who or what you're complaining about.

8 I had to log literally hundreds and hundreds --
9 probably thousands of hours hanging out with police in dozens
10 of American cities before I really achieved a deep
11 understanding of what they are facing.

12 Now, I'll turn to the City and the police side of the
13 equation. The same is true for you. You must be willing to
14 work with the community at all levels and respond to their
15 recommendations. Don't put your lawyers or your PR people or
16 the police chief's office on the front lines to defend you.
17 For most of these issues the setting should not be like a
18 criminal court, where the lawyers are defending their client
19 whether their client is guilty or innocent. You need to be a
20 learning organization, willing to work with and listen to
21 community members and subject matter experts. And you have
22 done that to a large extent, so I don't want to sound extreme
23 here. Acknowledging more of your mistakes, though, and be
24 willing to work with them to improve police services rather
25 than circling the wagons.

1 The settlement agreement tends to focus on holding
2 officers accountable for misconduct. Let's be honest, and I'm
3 speak to the police union here as well: Some police officers
4 create problems for the entire organization and should be held
5 accountable for their actions. There are deviant cops in every
6 American city, and the police on the streets know who they are.
7 The failure of management to properly identify and intervene
8 with a few problematic officers who have repeatedly misbehaved
9 has a negative effect inside and outside of the organization.

10 In contrast, the vast majority of Portland are good
11 people. They are good employees, trying to do a very difficult
12 job. They simply need better guidance from first-line
13 supervisors, who, by the way, hold the keys to reform. So
14 please pay more attention to the sergeants and what they're
15 doing.

16 Moving the agency beyond traditional police culture.
17 Most officers simply need clear incentives and new forms of
18 supervision so they can do the right thing in their daily work.
19 So, yes, the City should administer serious negative
20 consequences for these few rotten apples, a task that could be
21 done better, but the City and the bureau need to give much more
22 attention to rewarding good behavior throughout the
23 organization. I will return to that in just a second.

24 First, both sides, Portland Police Bureau and some
25 community activists need to reboot and begin to listen to each

1 other to take down the barriers to communication. I encourage
2 you not to do what the rest of our country is doing right
3 now -- engaging in a political warfare with disinformation and
4 hatred. Instead show good intentions and make a good-faith
5 effort to learn from each other and work together rather than
6 take extreme defensive or legalistic positions. We live in a
7 time where trust in government has declined significantly over
8 the past decades. A good government, as you know, is the
9 backbone of our democracy. So everyone needs to work together
10 to achieve what I call the three E's of policing: Efficiency,
11 effectiveness, and most of all, equity.

12 As a psychologist, I also want to acknowledge the
13 real psychological harm that occurred in Portland as a result
14 of the 2020 protests on both sides. After days and weeks of
15 violent confrontation, some folks experienced trauma.
16 Recovering from trauma is not easy. Often we withdraw with
17 anger, depression, and fear. The bureau has introduced
18 wellness training officers, and that's good. Trauma therapy
19 should be available for both police and community members.
20 Also, please work together to create an environment where this
21 doesn't happen again.

22 In terms of restoring public trust, your systems of
23 community engagement and policing should be designed for
24 self-regulation by the community and police, working together
25 without oversight from DOJ, the federal courts, or independent

1 monitors. That's the goal eventually. And the new community
2 oversight board, when operational, must also function with the
3 understanding that there are a few bad cops that need more
4 accountability, and the agency. But from my perspective, the
5 new job for this group is not to run the Portland Police
6 Bureau, especially when you have limited knowledge of police
7 work and the challenges that they face. Leave that job to the
8 police administration and observe their behavior.

9 Finally, I want to back away and return to the bigger
10 question about police reform and why it has been so difficult
11 to change police culture. And it does need to be changed. The
12 most basic question: Can we change the rigid quasi-military
13 culture that has defined American policing for so many decades;
14 and if so, how?

15 These systems of reforming are to be based on a solid
16 understanding of organizational behavior. I happen to be an
17 organizational and social psychologist by training, so I have
18 some expertise here. All organizations are living, breathing
19 groups of individuals who are social beings; that care about
20 what others think about them; that conform to peer pressure,
21 they're responsive to group leaders, and most want to perform
22 well on their jobs. They want to be successful and please
23 their bosses, especially when they first start as new recruits,
24 and Portland will be getting a number of new recruits.

25 So what is expected of them currently? Think about

1 your own job. How is your performance evaluated on your job?
2 As a university professor, I can tell you from my experience,
3 professors at major universities are judged based on how many
4 articles and books they publish, not how well they teach.
5 Major law firms, I know from my family members, lawyers are
6 judged almost entirely on how many hours they are able to bill
7 their clients. When I ask police officers about this, I get
8 different answers. Sometimes, unfortunately, they say, "Well,
9 we are judged by how many tickets we write," or "how many guns
10 or drugs we recover from a traffic stop."

11 Surprisingly, many, many officers tell me we are
12 judged on whether or not we can stay out of trouble, so judging
13 on what they don't do rather than what they actually do.
14 That's not good. And maybe the settlement agreement/consent
15 decrees contribute to this and maybe it's nearly true in all
16 big cities

17 So we need a new set of metrics to evaluate police
18 performance to change the culture, and it needs to be taken
19 seriously by police administrators and city officials. If you
20 don't measure something, as you have heard me say before, you
21 have no idea whether the officers are engaging in that activity
22 or have achieved that outcome. It gives them the freedom, as
23 administrators, to ignore it or tell the public, "We are doing
24 a great job," even if they have no clue how well the officers
25 are doing in that area.

1 You don't just measure something. You need to use
2 that information for management purposes to incentivize good
3 policing. In other words, we need to reward officers for the
4 desired behaviors, not just punish them for misbehavior.
5 Psychology is very clear about what shapes behavior. Nearly
6 all human behavior is driven by rewards and punishments,
7 incentives and disincentives. And that's a fact.

8 So how should they be evaluated? Certainly the
9 metrics should be community-oriented, as police are public
10 servants. Let's keep it real simple. The public cares about
11 two things: Public safety and how they're treated by the
12 police.

13 I know we are running out of time, so I am going to
14 skip all my notes about public safety, except to get officers
15 out of their cars. I will tell you that right now. I said
16 this to the President's task force: Meet community members.
17 In Portland, for example, only 6 percent of community residents
18 know the first or last name of a Portland police officer who
19 patrols in their neighborhood. That number needs to rise.

20 But most importantly is the issue of how well people
21 are being treated by the police. If you care about public
22 trust in the police, which is supposed to be the focus on the
23 settlement agreement, then you must care about how officers are
24 interacting with the public. Hundreds of scientific studies
25 say that's what dictates trust.

1 Over the years I've repeatedly suggested the City
2 create a context survey program. I'm not going to go into it
3 right now because we're out of time, but it is a far-reaching
4 method of community engagement that will measure procedural
5 justice. In other words, are they being treated with dignity
6 and respect by the Portland police? Do they have a voice? Are
7 they treated in an unbiased, neutral, fair manner and not
8 considering someone's age or mental health or disabilities or
9 gender identity?

10 Anyway, the bottom line there is that this kind of
11 program will incentivize a new definition of "good policing,"
12 by introducing community-based performance metrics and
13 encouraging more police officers to serve and protect in a
14 fair, respectable, and compassionate manner.

15 Anyway, one last thought. After working in dozens of
16 U.S. cities over the years, I have thought about innovative
17 programs and policing and why many of them don't get
18 implemented. And this relates to many of the comments I've
19 heard already today. Sometimes the unions get in the way.
20 Sometimes police and city administrators are unwilling to take
21 a risk and challenge the status quo. Sometimes they face
22 budget constraints. I often hear the same response from
23 criminal justice leaders locally and nationally: "That's a
24 great idea, Dennis. I really wish we had the time or resources
25 to make it happen." Well, here is my view: You make time for

1 something you consider important, and you find the resources to
2 make it otherwise. Otherwise, it is simply not a priority.
3 And this should apply to nearly all innovations that are
4 strongly supported by the communities they serve.

5 I wish you all the best. I hope the people of
6 Portland will continue down the challenging road of police
7 reform and police innovation.

8 Thank you so much.

9 THE COURT: Dr. Rosenbaum, thank you for your
10 contributions and your insights over the years but also for
11 right now. Those are very wise comments you've just made.

12 Thank you, sir.

13 MR. ROSENBAUM: Thank you.

14 THE COURT: As I mentioned, and I apologize, but I've
15 got to go to a judges' meeting to deal with some court
16 business. We will resume at 1:00 p.m. with public comments.

17 Thank you.

18 (Recess.)

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1 (Afternoon session; proceedings resumed:)

2 THE COURT: Thank you. I apologize for any
3 inconvenience, but, frankly, the agenda at the judges' meeting
4 literally ended about three minutes ago.

5 One of the things that was not on the agenda was why
6 is this building so hot? But I did learn that there are two
7 chillers in the building that run the air conditioning system,
8 only one of which is working.

9 (Laughter.)

10 All right. Unless there is anything else that anyone
11 wants to say at this time, I think it is now time to open it up
12 for public comments. The first person on my list is
13 Ms. Brayfield.

14 I can see you on the video, Ms. Brayfield. Can you
15 see and hear me?

16 MS. BRAYFIELD: I can hear you. I can't see you.

17 THE COURT: Mary, is that on our end or her end?

18 Is that any better, Ms. Brayfield?

19 MS. BRAYFIELD: It's fine. It is not showing you,
20 but I can hear you. Oh, yes. Now I can. Okay.

21 THE COURT: All right. I look forward to your
22 comments, Ms. Brayfield.

23 MS. BRAYFIELD: Okay. Thank you. Good afternoon,
24 Judge Simon, and others gathered here today.

25 In my opinion the current bright spot in these

1 matters is that with one exception, the items in substantial
2 compliance at the last status conference have remained in
3 substantial compliance, with more items moving from partial to
4 substantial compliance.

5 Reviewing the items in the use of force training,
6 crisis intervention, EIS, accountability, and PCCEP sections
7 that have been and continue to be in partial compliance over
8 many reporting cycles, I find that these are many of the items
9 that came as a result of where we began nine-plus years ago.

10 Therefore, I continue to support the DOJ in
11 requesting the appointment of an independent monitor and look
12 forward to hearing the outcome of mediation in a few weeks.
13 The community has waited long enough.

14 The Portland Street Response outcomes are heartening
15 and where we need to be. Moving to 24 hours, seven days a week
16 responses is critical. It is my hope that a decision to move
17 forward on 24/7 responses doesn't get lost in politics and that
18 all persons and bodies involved in getting to 24/7 are
19 committed to the needs of the community. Setting 24/7 as a
20 priority and joining it with our will, we can get there.

21 The United States is going through an era where our
22 democracy and civil institutions are being tested. In that
23 context it is crucial that the City, the police bureau, and the
24 DOJ all do their parts to strengthen our democracy and our
25 civil society by following through on the current agreement to

1 create a system of police accountability that serves the entire
2 community. Nine years is far too long. The current delay in
3 coming to substantial compliance and maintaining it for a year
4 is contributing to the erosion of our democracy and civil
5 society.

6 Thank you.

7 THE COURT: Thank you, Ms. Brayfield.

8 As always, I appreciate your comments.

9 Let me announce to you all that I think over the
10 lunch hour we received written comments from Portland Copwatch.
11 We filed them in the public docket as Docket 381.

12 And I'll now invite first Mr. Poris and then
13 Mr. Handelman to speak on behalf of Portland Copwatch.

14 Mr. Poris, are you on the video?

15 MR. HANDELMAN: Thank you, Judge Simon.

16 I am going to go first, per prior agreement with
17 myself and Mr. Poris. This is Dan Handelman. I use he/him
18 pronouns. I am also a member of the AMA Coalition steering
19 account and the Police Accountability Commission, but I'm not
20 speaking on behalf of either of those groups today.

21 Portland Copwatch is pleased to be able to once again
22 give you our analysis of the progress of the City in enacting
23 the spirit of the USDOJ Settlement Agreement. The letter of the
24 Agreement, I think we all learned, isn't enough, since three
25 and a half years ago the DOJ and Compliance Officer thought

1 there was substantial compliance with all the requirements. Yet
2 here we still are.

3 Notably, both the DOJ and COCL find that the City is
4 out of full compliance with 23 paragraphs. However, they only
5 agree on twenty of those paragraphs, with the DOJ thinking that
6 the 911 operators need to have a firm policy to dispatch
7 Portland Street Response (115), that the IPR and Internal
8 Affairs haven't adequately laid out plans to be sure
9 investigations are finished in 180 days (123) and that PCCEP
10 hasn't met with the Mayor and Chief or completed its quarterly
11 reports as required (151).

12 The COCL, on the other hand, thinks the Bureau has to
13 create a policy affirming that officers who witness deadly
14 force can forego interviews if they are psychologically
15 traumatized (126), that the PPB has to update its policy to
16 match the discipline guide adopted in February 2022 (137) and
17 that there were issues about suitably involving the community
18 in hiring the Training "Dean" (191), though that's a remnant of
19 the COCL looking at Q1 while the DOJ report goes through
20 June/July. For the record, we agree with all six of these
21 assessments.

22 On the subject of the Dean, Dr. Rodriguez (formerly
23 introduced as Dr. Yazzie) was given the title of "Director of
24 Education." However the PPB's draft Training policy presented
25 in July refers to that position as "Director of Police

1 Education." Some of us at Portland Copwatch take pains not to
2 pronounce "COCL" and "PCCEP" like others do, so we're hoping
3 people don't call Dr. Rodriguez the DOPE as that title spells
4 out. The COCL told a story at the PCCEP town hall about being a
5 civilian employee at a police department and not getting
6 respect. We wonder if Dr. Rodriguez has been deliberately
7 greeted with a pejorative title.

8 We also often comment to the court about how the City
9 brings its "homework" in too close to these status conference
10 deadlines. This time, the Independent Monitor LLC report on the
11 2020 protests, which was promised to be ready in January, was
12 just published on August 10, four days before this hearing.
13 That's about enough time to digest the report before it goes to
14 Council on August 23, but not enough to give your honor a deep
15 analysis. We will say that we're concerned about the
16 consultants asking the City to get permission to violate state
17 law by collecting information on people's First Amendment
18 activities using video. The state's anti-spying law was
19 hard-won in the 1980s and just survived an attempt by the City
20 to gut it during this last legislative session.

21 The City's behavior, which is not captured in either
22 report, also includes recent revelations that they lied to the
23 public about the extent of their ability to enforce traffic
24 laws as a ploy to get more funding.

25 News came out at the same time that the Chief had to

1 write a memo to direct officers to stop telling community
2 members they won't make arrests because they think the District
3 Attorney won't prosecute. This kind of corrupt behavior is so
4 overarching that it leads us to wonder why the US DOJ hasn't
5 suggested scrapping the Portland Police Bureau and starting a
6 new institution that will have more integrity.

7 Such dishonesty is also a hallmark of the Bureau's
8 self-analysis of the many racial disparities in policing we've
9 been calling to your honor's attention for many years. As noted
10 by the COCL, a disproportionate number of traffic stops are
11 made against Black drivers in Portland-- roughly 20% of stops
12 in a City that's 6% Black. Similarly, use of force is doled out
13 to Black people in over 25% of all uses of force, and roughly
14 18% of people subjected to deadly force are Black. That last
15 number was on its way down until the PPB shot three Black men
16 just between November and July, killing two of them. Yet
17 analysis of deadly force incidents is not part of either the
18 DOJ or COCL's reports.

19 They do note that very few deadly force cases have
20 been through Police Review Board hearings, due to lack of
21 professional facilitators willing to head up those mostly
22 one-sided hearings. The DOJ calls out the case where officers
23 shot 14 bullets at Andreas Boinay's moving car in 2021, then
24 firing a fifteenth round after the car stopped. The DOJ says
25 the Police Review Board didn't seek a rationale for each bullet

1 fired, nor did the presenters include video of that last bullet
2 shot. The COCL says that one deadly force case did not include
3 the required review by the Training Division. There have been
4 twenty deadly force incidents since January 2021. Only a
5 handful have gone through the whole process.

6 We have now learned that the presentation to the
7 behind-closed-doors Behavioral Health Unit Advisory Committee
8 about deadly force incidents included summaries of all deadly
9 force cases, because the Bureau allegedly doesn't identify
10 which suspects were living with mental health issues. This is
11 nonsense, and the entire reason PCW pushed the BHUAC to hear
12 presentations on these cases is that lessons could be learned
13 from those involving mental health to prevent future
14 occurrences. If the meetings were open to the public, comments
15 could have been made to direct the BHUAC's attention to certain
16 cases.

17 The COCL says that one reason for long delays in
18 deadly force cases is that people are hiring lawyers who don't
19 respond to interview requests in a timely manner. At first we
20 thought these were the community members or their surviving
21 family members. But the report states that it is police
22 officers' lawyers who are delaying the cases. Yes, officers
23 have the same rights as anyone not to self-incriminate, but
24 this is unacceptable when it comes to the administrative
25 investigations.

1 Now I'll turn it over to Mr. Poris

2 THE COURT: Thank you, Mr. Handelman.

3 Mr. Poris, good afternoon.

4 MR. PORIS: Good afternoon, Judge Simon. Can you
5 hear me?

6 THE COURT: We can.

7 MR. PORIS: My name is Marc Poris. I use he/him
8 pronouns, and I am with Portland Copwatch.

9 The Court heard brief discussion about the City's
10 requirement to follow paragraph 195, implementing the new
11 police oversight board. PCW member Dan Handelman sits on the
12 Police Accountability Commission, which has met for 20 months
13 and is combing through its draft City Code to hand over to
14 Council for adoption. I have been to several of the PAC
15 meetings, read their reports, and took a close look at the
16 proposed code. Nothing surprises me based on the tasks given
17 to the PAC to build out the Charter's basic framework. It was
18 discouraging to hear members of City Council ask questions at
19 the PAC's May quarterly report presentation showing they did
20 not fundamentally understand the City Charter that created the
21 new Board. They asked about powers embedded in the city's
22 "constitution" that, for instance, give the board subpoena
23 power -- and power to compel officer testimony. They
24 questioned that the Charter assures the new board a budget
25 equivalent to 5% of the Police Bureau's, and they questioned

1 that current or former police officers may not sit on the
2 Board, despite these items being in the Charter.

3 In the months since that time, despite hearing from
4 the good Reverend Dr. LeRoy Haynes Jr. about the history of the
5 community struggle for an independent oversight system during a
6 Work Session, Council members have been hinting to the media
7 that they are dubious about the PAC's work.

8 While I may not agree with everything I read in their
9 proposal, I do think the City should adopt the code as it is
10 written and let the experiment play out. The system is
11 envisioned to be self-correcting, but more importantly it is
12 set up to be run by community members and not the police.

13 There are plenty of other issues that show the City
14 is not making enough progress. The COCL randomly picked 20
15 force cases to review and found that 25% of them were not
16 "tactically sound"-- and that's just a random sample! The
17 police claimed that because a person stopped struggling once
18 officers put their weight on them, it was not a use of force
19 against resistance because there was no resistance. Our
20 supposed transparent Bureau told officers they don't have to
21 give out business cards if they have privacy concerns. These
22 are public employees.

23 Similarly, as we noted at the last hearing, the PPB
24 unilaterally changed part of their deadly force policy to
25 withhold officer names in deadly force cases for 15 days

1 instead of the 24 hours written in the Bureau's current policy.
2 When officers from Portland and Clackamas County shot the same
3 suspect to death in April, the Clackamas officer was named in
4 48 hours with no negative repercussions, whereas it took 17
5 days for PPB to name their officers.

6 The Chief says the FBI told the Bureau to change the
7 policy. As we noted before, the Agreement requires all
8 policies to be subject to public comment, but this policy has
9 not been posted for review as it was changed by executive
10 order. The Agreement does not make provisions for executive
11 orders. Moreover, the people of Portland should have more say
12 in our policies than the FBI.

13 However, when it comes to privacy for the community,
14 since the last hearing the PPB bought \$80,000 worth of
15 surveillance drones. They are only supposed to be used for a
16 small number of incident types by a small unit, yet 16 officers
17 were trained on the devices. The body-worn camera pilot
18 program has conveniently not begun yet, so we can't ask that
19 the City compare how often they use footage to hold officers
20 accountable versus how often footage is used to prosecute
21 community members. We appreciate that your honor is a fan of
22 these cameras, but we hope such data will be part of the
23 reports back to the court to illustrate what may be the real
24 reason the Police Association claims to support the technology.
25 We also note that the new policy is better than we expected,

1 though weaker than we would have liked, as it requires officers
2 to make statements before viewing their footage after force
3 events. However, that restriction only applies to levels "I"
4 and "II" of force. The supervisor is supposed to record the
5 statements in those cases, but not in levels "III" or "IV."
6 Strangely, if they realize a low-level case is more serious,
7 they then have to record the statement. By then it is too
8 late.

9 Portland Copwatch hopes to have a more in-depth
10 analysis of the COCL's Q1 report out by mid-week and with the
11 court's permission we will share that with you to add to these
12 comments.

13 To summarize, we hope the City and Police will stop
14 their tactics of delaying, minimizing serious issues, and
15 trying to thwart efforts at accountability. And as always we
16 thank your honor for reminding everyone how important it is for
17 the community to be able to trust those hired to enforce the
18 law.

19 Thank you.

20 THE COURT: Thank you, Mr. Poris.

21 Thank you, Mr. Handelman.

22 The Court appreciates everything that Portland
23 Copwatch continues to do and for your contributions now.

24 Mr. Poris, in response to your comment, when you have
25 completed that report, feel free to email it in PDF to my

1 courtroom deputy, and then we will enter it into the official
2 court record here. I will read it when it comes in.

3 Thank you, Mr. Poris.

4 Let me now invite comments from the League of Women
5 Voters, Ms. Caroline Buppert. And I will note that the written
6 comments that I've received from the League of Women Voters has
7 been entered as Docket 374, and I have read them.

8 Ms. Buppert, I want the people listening in to be
9 able to hear you, so that means you will need to speak there.
10 Take Mr. Chavez' seat.

11 MS. BUPPERT: Thank you.

12 THE COURT: Welcome.

13 MS. BUPPERT: I'm Caroline Buppert. I'm the
14 president of the League of Women Voters. The league has been
15 studying policing in Portland since the 1960s and has been
16 engaged in issues related to law enforcement and police
17 oversight since that time. We appreciate the opportunity to
18 comment, once again, on the City's progress in meeting the
19 terms of the settlement agreement.

20 Regarding the Police Accountability Commission, the
21 League endorsed Ballot Measure 26-217 and supports the charter
22 amendment that was adopted by a significant majority in
23 November of 2020. It is our expectation that the new oversight
24 system the Police Accountability Commission is designing will
25 bring a greater degree of accountability and transparency to

1 Portland policing than the system that's currently in place.
2 Placing investigative and disciplinary authority in the hands
3 of a civilian staff and a community board should build greater
4 public trust.

5 In the end we may not agree with every aspect of the
6 Police Accountability Commission's final proposal, but we do
7 support the direction it's headed. The commission has
8 carefully followed the charter amendment's provisions and City
9 Council direction, incorporated effective and promising
10 practices from other jurisdictions and relied on research and
11 reports produced by the National Association for Civilian
12 Oversight of Law Enforcement and the U.S. Department of
13 Justice, among others.

14 We urge the Court, the Department of Justice, and the
15 City Council to carefully consider the final recommendation,
16 follow the will of the voters, and support creation of the new
17 oversight board and civilian agency.

18 Regarding Portland Street Response, the primary
19 reason for the DOJ's presence in Portland is the 2012 finding
20 that Portland Police Bureau officers used excessive force
21 against people with mental health conditions or in mental
22 health crises. The City's creation of the Portland Street
23 Response Program was meant to provide an alternative and more
24 humane approach to assisting people with mental health issues
25 in order to avoid encounters with the police, and the League

1 wholeheartedly supports that program.

2 Unfortunately, and in spite of positive assessments
3 conducted by PSU, the critical services PSR is able to provide
4 have been reduced and the budget has been threatened. The
5 League encourages the Court and the Department of Justice to
6 make it clear to the City that this program is essential to
7 addressing the problem the U.S. Department of Justice
8 identified when it conducted its original investigation.

9 Regarding contact surveys, the Compliance Officer
10 Community Liaison, COCL, makes a persuasive case for providing
11 contact surveys to community members following encounters with
12 the police. The police bureau and the City have devoted
13 considerable time, expense, and effort in implementing the
14 Department of Justice's and COCL's recommendations for
15 improving policing in Portland. Soliciting feedback on
16 individual experiences will provide a clearer picture the
17 impact these reforms are having on Portland residents.

18 Regarding PCCEP, League members attend many of the
19 PCCEP meetings and continue to appreciate the access to
20 information and police bureau leaders, the discussions related
21 to policies of community concern, and the welcoming atmosphere
22 PCCEP offers the public. We are encouraged by the improvements
23 implements over the past year. The PCCEP could improve its
24 service to the community by more actively informing the people
25 on its distribution list when key reports are issued and

1 placing all settlement-agreement-related documents on its
2 website. As always, we sincerely appreciate your willingness
3 to include the public in these hearings and for listening so
4 carefully to what everyone has to say.

5 Thank you.

6 THE COURT: Thank you, Ms. Buppert. I do, on behalf
7 of the Court, express the appreciation for the work of the
8 League of Women Voters. You have been with us for a number of
9 years and offering very insightful comments.

10 Thank you.

11 Also, let me now call on Lightning.

12 Lightning, sir, would you mind taking Mr. Chavez's
13 seat and speaking into the microphone so the folks listening in
14 can hear your observations as well.

15 Good afternoon, sir.

16 LIGHTNING: Good afternoon, Judge Simon.

17 Speaking on behalf of the Portland Street Response, I
18 really find it interesting that Multnomah County and the
19 Multnomah County Health Department have not stepped up with any
20 type of funding. They did pass that supportive housing
21 measure. It brings in approximately 200-plus million per year
22 for the next ten years. They had ample funds that they needed
23 to place in the last 30 days. I'll be doing an ask for
24 \$5 million to going to Portland Street Response from Multnomah
25 County.

1 Issue No. 2: On the body-worn camera, I am really
2 happy to see that policy pushed through and beginning to move
3 forward and going into the pilot program phase. I really like
4 Axon myself. I'm not speaking on behalf of them as a lobbyist
5 or anything. I think they do really good work. There is a new
6 conference that just came out called Axon Accelerate. I hope
7 everybody in this room will take a look at that conference and
8 understand the new technology, as we are speaking right now,
9 being developed to work alongside the body-worn camera Axon
10 Ecosystem.

11 They have new technology that they are putting
12 together right now that literally will monitor the policies put
13 into place by the police departments and automatically notify
14 them when certain people are not within the policy. They are
15 doing things with the community members on bringing community
16 members together, coming forward with the ideas, and, again,
17 presenting those to their engineers and creating new features
18 for the body-worn cameras. Again, if you go over this Axon
19 Accelerate 2023 conference, you will get the latest updates
20 from what they are doing.

21 Just real fast, on their -- basically their moonshot
22 idea from Axon is together we will cut gun-related deaths
23 between the police and the public by 50 percent in the next ten
24 years. We need to watch them very close, how they're trying to
25 do that, how they're trying to implement, from the Tasers to

1 the body-worn cameras to everything they're doing to have a
2 clear understanding. They are putting that out right now.
3 They are trying to accomplish that. And I hope that people
4 understand they take this very serious on what they're trying
5 to do.

6 Thank you.

7 THE COURT: Thank you, Lightning. I appreciate the
8 comments. I am going to follow up with a question for the
9 City, but I appreciate your comments both about
10 Multnomah County as well as the body-worn cameras. I
11 appreciate your continued participation.

12 Let me ask either Ms. Brown or Mr. Taylor, I know
13 that the Multnomah County political entity is not part of this
14 settlement agreement.

15 But is there anything you can share with all of us
16 regarding Multnomah County and the future success of Portland
17 Street Response?

18 MS. BROWN: Your Honor, I don't know that those
19 discussions have taken place yet that I'm aware of. It is
20 possible that they have, and we would need to speak with the
21 commissioner in charge, Commissioner Gonzalez, to follow up on
22 that. Since Lightning mentioned it, I will certainly follow
23 up.

24 THE COURT: I don't know whether it would be
25 productive or counter-productive, but feel free to say, if you

1 want to say, that the federal court supervising this settlement
2 would appreciate the views of Multnomah County in terms of how
3 they can partner with the City and the others involved in
4 making Portland Street Response a success for everyone, because
5 they do have a lot of responsibility for the mental health of
6 our citizens.

7 Thank you, Lightning, for that suggestion.

8 Ms. Brown, if you could put that on your agenda to
9 give me an update when we meet next.

10 MS. BROWN: Thank you. I will, Your Honor.

11 THE COURT: I believe our last public commenter is
12 Commissioner Hardesty.

13 Welcome, Commissioner.

14 By the way, Commissioner, if you also have any
15 insight in terms of Multnomah County's potential involvement,
16 or what could be done, I would sure appreciate hearing about
17 any background and expertise you can provide.

18 Welcome.

19 MS. HARDESTY: Thank you, Judge Simon. And I have
20 opinions, yes.

21 Let me start by saying that Portland Street Response
22 was envisioned as an addition to our first responder system.
23 So when someone calls 911, they can now ask for police, fire,
24 an ambulance, or Portland Street Response. That was always the
25 vision. As far as the funding for Portland Street Response,

1 Senator Ron Wyden and I worked very hard to get an agreement
2 with the federal government around Medicaid funding.

3 If the City would actually file the appropriate
4 paperwork, Portland Street Response would be reimbursed at
5 85 percent of the personnel costs for four years. That
6 agreement was in place before I left, and the only thing I can
7 imagine is my replacement does not share my same commitment to
8 Portland Street Response. Funding should never be an issue,
9 because the money never came from the police or from fire.

10 So if there is a will at city hall to fully fund
11 Portland Street Response, we have already created the avenue.
12 And Senator Ron Wyden was actually a great partner in getting
13 Medicare and Oregon Health Authority to agree to that proposal.
14 I am disappointed that we're sitting here today wondering how
15 we are going to fund Portland Street Response.

16 THE COURT: So is there an issue between the funding
17 being available if it is not part of the fire bureau? How does
18 that work? What's the problem?

19 MS. HARDESTY: Again, Portland Street Response
20 funding is not Portland Fire & Rescue funding. Portland Fire &
21 Rescue has their own budget. Portland Street Response never
22 took a penny out of Portland Fire & Rescue. It did take
23 15 million that were taken away from the police and used some
24 of those funds to actually do the start-up for Portland Street
25 Response. Because it is a medical first responder, it should

1 be eligible for Medicare reimbursement.

2 But the stickler was because it was a public entity,
3 it was the Portland Fire & Rescue, that there had to be some
4 additional paperwork and some advocacy at the federal level.
5 So all that was done over a year ago and all that was required
6 was for Portland Street Response to submit an application to
7 Oregon Health Authority in conjunction with getting reimbursed
8 for Medicare funding -- again, for four years.

9 I don't know of any other program at the City that
10 the federal government will give them a reimbursement at
11 85 percent for four years that we haven't taken advantage of.

12 THE COURT: Before we move on to another topic, I
13 want to make sure we have a dialogue going and I have a clear
14 understanding.

15 Ms. Brown, can you enlighten us on some of these
16 issues in terms of your understanding?

17 MS. BROWN: Your Honor, my understanding is that
18 there were some hoops that the City had to jump through with
19 both the meetings with Senator Wyden and with Oregon Health
20 Authority, and there were things that we don't have in place
21 that we would need.

22 This is a very vague understanding, but my
23 understanding was that one of the things is that when they
24 actually interact with a person, Medicaid generally requires
25 you to have a name, and Portland Street Response doesn't always

1 get a name. I understand that was one issue with getting to
2 that funding.

3 THE COURT: How are we going to get past that
4 problem?

5 MS. BROWN: What I understand from
6 Commissioner Gonzalez's office is they have been working with
7 Senator Wyden and Oregon Health Authority to try to figure out
8 how can they get past that.

9 THE COURT: Do we have a representative from
10 Commissioner Gonzalez's office here?

11 First of all, I forgot your name. I'm sorry.

12 MS. ZARPAK: Grace.

13 THE COURT: Grace. Can you give us some more insight
14 in where that is standing right now and how we are making
15 progress?

16 MS. ZARPAK: Unfortunately, I cannot. I don't
17 oversee that side of the bureau. My counterpart does, and he
18 is not here. I am taking all of this information back to my
19 office.

20 THE COURT: Would you be able to learn the answers to
21 that or get someone to get the answers and provide them to
22 Ms. Brown at the City Attorney's Office so she can then update
23 the Court in writing, perhaps in writing, Ms. Brown.

24 MS. ZARPAK: Yes. We will work together.

25 THE COURT: Update the Court with a supplemental

1 filing when you know the answer.

2 MS. BROWN: I will be happy to, Your Honor.

3 THE COURT: Back to you.

4 MS. HARDESTY: Do you have any more questions on
5 Portland Street Response?

6 THE COURT: At least not that have occurred to me
7 right now, but who knows when things will pop into my head.

8 MS. HARDESTY: I'm the same way, Judge. No problem.

9 I want to take a moment -- I actually did read the
10 87-page report that was of the protests for the summer of 2020.
11 I will say that the public rarely has enough opportunity to
12 digest this information, and I was shocked to learn that the
13 report was done in January, and it was not released until
14 Friday of last week. I see the City's head going, "No, no,
15 no," but that is what I just heard today.

16 THE COURT: It was on the City's website.

17 MS. BROWN: Your Honor, we contracted with IMLCC.
18 They had until June 9th to give us a first-draft report to both
19 the City and the Department of Justice. Then we had 60 days to
20 provide a response to them. Excuse me, I'm sorry. Our
21 response to them was due June 9th. We got theirs in April.
22 They reported in April; responded in June 9th; and then 60 days
23 later they needed to have their final report to us, which was
24 August 9th.

25 THE COURT: Right.

1 MS. BROWN: And we had to post that and the response
2 that we had given them between April and June. So that's
3 everything we filed. I think there was one extension request
4 made from February or March or April. I'm looking at
5 Mr. Hager. Yeah? I think initially it was due around February
6 or March. IMLCC needed more time, and we extended it a little
7 bit longer.

8 THE COURT: Their final report is dated August 9th, a
9 couple of days ago. So it is fine with me -- and I think
10 Commissioner Hardesty makes a fair point. It is fine with me
11 to continue this on the agenda so that the next time, if folks
12 want to comment on that report, we will make plenty of time
13 available for that.

14 MS. BROWN: Absolutely. We certainly posted it -- as
15 soon as we had it we posted it and then sent the link around
16 and put it on our trending topics, which is the way we get
17 things out to the public as best we can.

18 THE COURT: Thank you. Back to you, Commissioner.

19 MS. HARDESTY: Thank you, Judge Simon.

20 I will say the City continues to believe that the
21 whole world goes to its website to get information. I actually
22 got the report because I read a newspaper article that had the
23 report attached, because there was no way for me to know that
24 the City had a timeline that they would get a report that then
25 would be released to the public that they were seeking input

1 on. So the City has to learn. It's not my first place I go to
2 seek information.

3 THE COURT: Fair enough. By the way, I do note that
4 when the City filed its notice of the report with the Court at
5 Docket 372, which was a one-page filing or two-page filing,
6 they did say that is available and they provided a hyperlink to
7 that. Fair enough. We are all learning how to find
8 information.

9 MS. HARDESTY: I don't go to your website either,
10 Judge.

11 (Laughter.)

12 THE COURT: Well, fine. I'm shocked.

13 MS. HARDESTY: I was going to start a different way,
14 but now that we are in this, I want to talk about something
15 that I read in Nicholas Mitchell's report. It related to the
16 RRT, how they were trained, who they were accountable to, and
17 whether or not there was any supervision that would have
18 allowed them to do the job that they were hired to do.

19 I would like the City to think about the current
20 FIT -- the FIT card. What is it called? The Focus
21 Intervention Team now looks a lot like the RRT and kind of acts
22 like the Gang Violence Reduction Team that was in place prior
23 to that.

24 When I read how little training the people in charge
25 of RRT had, I had deja vu all over again, because the FIT team

1 is the exact same thing.

2 And are we going to wait 20 years to hear that FIT
3 is -- they're training themselves. There is no inside
4 evaluation about whether what they're doing works. They have a
5 community board, but the board doesn't answer to the community.
6 They answer to the police. So what we're doing -- so we create
7 these specialty units, but we allow the people who are a part
8 of the specialty units to be the ones that create the training
9 program and the curriculum and the people who participate.

10 I have seen this over and over again. It has now
11 happened with the FIT team. It also happens with any of the
12 specialty units. And so if there is no overall public safety
13 goal that we're attempting to reach, then we have a lot of
14 rogue units that are going around creating their own
15 Constitution and teaching the people involved in that things
16 that are not in the public's best interest.

17 I've said to this Court before: We learn most about
18 what's happening in the Police Bureau when we come in front of
19 you, and that was also true today, because as we continue to
20 get these outside experts to look at the inner workings of
21 Portland Police Bureau, these problems are not new problems.
22 These are problems that have been systemic for the whole
23 32-plus years I have been following policing in the City of
24 Portland. We can change the name. We can change the position.

25 I haven't met the new training dean, but I hope she

1 has the power to work her way through acceptance within the
2 police bureau. But if she doesn't have the support of the
3 mayor's office or the police chief and the deputy chief, then
4 she is just going to be another civilian employee that doesn't
5 last long in a bureau that really doesn't like change.

6 I take offense to Dr. Rosenbaum talking about a few
7 bad apples. Based on what we have seen from the police bureau
8 over the last 32 years, I don't know anyone with a straight
9 face could say, "We have a few bad apples." We don't know how
10 bad the barrel is. But what we do know is every time an
11 independent source looks at it, they identify things that good
12 management should have identified a long time ago.

13 And so I sit here today, you know, continuing to be
14 frustrated, because on the one hand, I keep being told we are
15 making progress, and yet it's only the people that are like
16 inside telling us what great progress we're making. And to the
17 DOJ, they have been doing this nine years. I have been doing
18 this 32 years. I was teasing Reverend Dr. Haynes that we all
19 had black hair when this started this process. Some of us had
20 more hair.

21 But the bottom line is this is a systemic issue. I
22 heard you, Judge, ask you about training versus culture.
23 Nothing that we heard from the DOJ or the City leaves me to
24 believe that any cultural shift has taken place within Portland
25 Police Bureau at all.

1 I mean, even the fact that they were fighting with
2 the DOJ about whether or not they should have fired 13 bullets
3 or not, or 15 bullets, or not, at a moving vehicle, when as
4 Reverend Dr. Haynes said, that policy was established a long,
5 long time ago, after Kendra James' death.

6 So I don't know the purpose of the DOJ -- and they
7 tell us, like we're doing good stuff, but not identifying the
8 flaws that they see within the system. They say it's not their
9 job to actually make recommendations; that they just kind of
10 watch and see. But I've got to tell you: We are exhausted
11 with the DOJ watching and listening and taking notes.

12 And, Judge Simon, you must be exhausted. It has been
13 nine years we have been coming in front of you. And every time
14 we come in front of you, when an independent source gives us
15 independent information, we find out a lot more than we didn't
16 know. So I'm frustrated.

17 I don't know if an outside monitor is going to make
18 the difference. I can tell you that we've had Rosenthal for
19 nine years.

20 THE COURT: Dr. Rosenbaum.

21 MS. HARDESTY: Dr. Rosenbaum for nine years.

22 Are we better? I honestly can't say whether we are
23 better or not. I can tell you that we have spent tens of
24 millions of dollars trying to fix a system that we have done
25 nothing to change the culture of. We still have a culture that

1 believes they're fine, as they understand policing, and that's
2 why the community gets upset. That's not the truth. The truth
3 is we want a police force that treats everyone with respect and
4 dignity, regardless of their social or economic status,
5 regardless of where they live, and regardless of whether they
6 are housed or not. And we don't have that. And I don't see a
7 path forward for us to have that without fundamentally changing
8 the culture of Portland Police Bureau. Nothing I have heard
9 today leaves me to believe that any cultural shift has taken
10 place.

11 And let me just say, Deputy Chief Mike Frome is in
12 the room. I have the highest degree for respect and regard for
13 Deputy Chief Frome. He and I worked very cooperatively
14 together. And so if anyone takes my comments as being someone
15 who just hates police, I have worked with 15 police
16 commissioners and 30 police chiefs. So if anyone is committed
17 to police reform, I'm a model for someone who is committed to
18 police reform.

19 But we need to be honest about where we are. And it
20 doesn't feel like we're being honest that we are in a place
21 where we're just trying to check a box so we can get the DOJ
22 out of town. But fundamentally, me and the people who live in
23 Portland will still have to live with a police force that
24 hasn't changed its culture at all.

25 Judge Simon, I don't know what you can do with that

1 cultural shift, but I really appreciate you asking the
2 question, because the answer to that is, "Absolutely not."
3 There is no culture shift. And I'm still terrified when
4 Deputy Chief Frome retires

5 THE COURT: Let me ask you this -- and I know that
6 Dr. Rodriguez has just started recently. Have you yet reached
7 out to ask her for a meeting?

8 MS. HARDESTY: I haven't. I haven't reached out and
9 asked a lot of people for meetings. But I will.

10 THE COURT: Will you please do that? I want to make
11 sure she hears directly from you some of your concerns.

12 MS. HARDESTY: I hope she will be successful. We
13 need her to be successful. But, Judge Simon, this community
14 has gone around and around and around over the last 32 years
15 looking for just transparent Constitutional policing for every
16 member of our community. I don't think that's too much to ask
17 for.

18 THE COURT: Thank you and thank you for all you're
19 doing.

20 MS. HARDESTY: Thank you, Judge.

21 THE COURT: All right. In a moment I'm going to turn
22 this back to both counsel for the plaintiff, the United States,
23 counsel for the defendant, the City, for any final comments or
24 reactions you have and for any observations of where we go next
25 and when we get there or when we go there.

1 Also, let me remind you that I think you've all --
2 counsel has asked my court to hold open for you, I believe it
3 was September 13th. If you still want it, you can have it. We
4 are holding it for you. If that's not the right time, just let
5 us know, and we will put it to other good use.

6 Let me turn it over first to the United States and
7 then to the City for any additional comments.

8 MR. HAGER: Thank you, Your Honor.

9 No additional rebuttal comments. I appreciate the
10 healthy discussion today. We do have the reserve date for
11 September. To the extent that's for a fairness hearing, or
12 not, I think will depend on a motion that we would be filing.
13 I don't know that that would be ripe by the time September
14 comes around. Any agreement would require the approval of the
15 assistant attorney general for civil rights as well as City
16 Council, so I think that might be ambitious to meet that for a
17 fairness hearing to discuss a potential monitor.

18 THE COURT: Let me interrupt up right there.

19 Then let me just take off September 13th. I'll put
20 it to other good use. I want to make sure we have enough time
21 for three things: If there is something presented to the Court
22 for a fairness hearing, obviously we need the sign-off from the
23 appropriate levels at the Department of Justice. We need the
24 appropriate levels of sign-off from the City and City Council.
25 But I also want to ensure that the amici, that the intervenors,

1 and that the public have enough time to digest and understand
2 what is being proposed so they can meaningfully comment,
3 especially at a fairness hearing, whether it is or is not fair.

4 So build that into your schedule. I don't want the
5 DOJ and the City to sign off on something, then you submit it
6 to the Court and say, "Okay, could we have a fairness hearing
7 next week?" I don't want that to happen. I want to make sure
8 that the intervenor and the amici generally have enough time to
9 provide meaningful comment and input.

10 MR. HAGER: That makes sense, Your Honor.

11 THE COURT: Anything else, Mr. Hager?

12 MR. HAGER: In terms of a next date, we haven't
13 discussed our calendars with the union or the amici or the
14 City, but I think we have been in a pattern of three or four
15 months, so that would put us in November. So if the Court has
16 available dates for us to consider, that might be a way to at
17 least narrow down our potentials, but obviously I would defer
18 to my colleagues and being able to discuss the Court's
19 availability with our availability.

20 THE COURT: Very good. I'll get back to you in a
21 moment.

22 Let me hear any further comments from the City.

23 MS. BROWN: Thank you, Your Honor.

24 I just want to, first of all, appreciate everybody's
25 comments today and certainly will take them under consideration

1 and get to you the information that you want and also try to
2 address those when we come back to you in a few months, to the
3 extent they are not already addressed in any filing we make.

4 I agree with the Department of Justice, as far as the
5 settlement agreement, a monitor, and looking at focusing the
6 issues. As you've heard today, the City is at 75 percent --
7 approximately -- of substantial compliance, and we are to
8 continue that and also focus on those areas where we have not
9 attained substantial compliance yet and really keep our focus
10 on those areas to ensure that we are making that forward
11 movement all across the board and particularly on those areas.

12 So beyond that, we look forward to engaging with the
13 Department of Justice, engaging with the PPA, engaging with the
14 AMAC, and the Mental Health Association to further that and
15 coming back to you with a monitor agreement that would work for
16 everybody.

17 Thank you, Judge.

18 THE COURT: Thank you.

19 Let me suggest this: I have right now scheduled a
20 firm date jury trial from November 6th through probably, it
21 looks like, November 17th, possibly going to the 20th.
22 Remember that Thanksgiving is Thursday, November 23rd.

23 Would either Monday before Thanksgiving,
24 November 20th, or the week after Thanksgiving, Monday, the
25 27th; Tuesday, the 28th; Wednesday, the 29th; Thursday, 30th --

1 Mary, I know we have a trial scheduled on 29th through 30th.
2 I'm not worried too much about that.

3 Would any of those dates possibly make sense to put
4 in for our next public hearing? If you want, I could go either
5 earlier, the end of October, or I could go later, some early
6 parts of December, possibly even the first week of December,
7 the 4th, 5th, 6th, or 7th -- Monday through Thursday.

8 What sounds better to you all?

9 MR. HAGER: Your Honor, I think we would appreciate
10 the opportunity to confer with counsel for the City and the
11 union and amici just to be able to kind of triangulate those
12 options. All of them personally work with my schedule.

13 THE COURT: Why don't the parties speak. Could you
14 do it relatively soon, perhaps even this week, to get something
15 on the calendar. The only thing I know right now, I'll ask you
16 not to do is I'm just not going to be available November 6th
17 through 20th. I'm not available, frankly, November 1st. I
18 have got to be in D.C. for some other matters. Basically
19 November 20th will not work for me. The last week of October
20 is fine. The week of Thanksgiving is fine. If you don't want
21 to do that, I will understand. Then, frankly, December, the
22 first half of December is relatively open, I believe, then I
23 have got some things coming up starting December 14th. So if
24 you all could work together, let my courtroom deputy know what
25 you all prefer. We will find something for you, and we will

1 set aside a full day for you. Obviously if you need me sooner
2 than that, I will move things for this hearing, but I do want
3 to get something on the calendar relatively soon.

4 Anything further from any of the amici or
5 intervenors?

6 MR. KARIA: Nothing from the Portland Police
7 Association.

8 THE COURT: All right.

9 Thank you for your continued hard work for this very
10 important project. This has been a very informative hearing,
11 at least from my perspective. I look forward to seeing you the
12 next time we meet.

13 (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

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