

## **Compliance Officer Outcomes Report: Force Down, Crisis Teams Called, “Progress” Made—For Wrong Reasons an analysis by Portland Copwatch November 29, 2016**

On November 3, the Compliance Officer/Community Liaison (COCL) released its semi-annual Report to gauge outcomes of changes made by the Portland Police Bureau (PPB) to comply with its Settlement Agreement with the US Department of Justice (DOJ). The overall impression that Portland Copwatch (PCW) found in reading the Report is that the progress being made is the result of backlash against the Agreement rather than the implementation of its terms, which is pretty messed up. For example, many officers are disengaging with people in mental health crisis— not because it’s a useful de-escalation tactic, but because the City Attorney has informed them it’s easier to defend non-action than actions with negative consequences (p. 14). They call in the Enhanced Crisis Intervention Team (ECIT) sometimes because it’s required, but generally to make their reports look good, or to “cover their ass [sic]” (p. 49). A survey of officers conducted by the COCL shows 82% don’t think the Settlement Agreement improves the Bureau, and 92% think it distracts officers from doing their jobs (p. 73). But, the COCL says, the bright side is that they set up calls for the ECIT to handle that they otherwise would try to handle themselves (p. 74). The drop in Use of Force we’ve heard so much about is partly because officers are not willing to go out in the field due to low morale: the survey shows officers say they are less likely to stop people (99.7%) and less likely to use force (98.9%)— especially against people with mental illness (99.2%)— “with all the criticism directed at the police” (pp. 72-73).

The report can be found at

<http://cocl-coab.org/sites/default/files/COCL%20November%202016%20Outcomes%20Assessment.pdf>

This last point needs to be addressed, in that the Chicago-based COCL, whose lush \$250,000 a year contract\*-1 doesn’t require the team to reside in Portland nor to work full time, often exhibits pro-police bias. The question asked to officers about the national movement sparked by multiple shootings of African American civilians should be “with the national push for police accountability.” But by framing the people’s call for justice as “criticism of police” the team shows their own point of view. Dr. Dennis Rosenbaum of the COCL team reveals he is chair of the “Division of Policing of the American Society of Criminologists” (p. 58). In the October 2015 Report, Rosenbaum also referred to work he does with the National Police Research Platform. In the new Report, there is a reference to a study showing that Portland’s use of force has gone down, cited as being by “Cawthrey [sic] et al in press,”\*-2 not mentioning that said study was co-authored by COCL team member Geoffrey Alpert. (Unsurprisingly, a summary of that study indicates all data and reductions in force were assigned to police actions, with no mention of protests against police brutality or community organizing as catalysts for change.) It’s a wonder they have any time at all to work on Portland’s efforts. On page 57, the COCL writes: “Given the nature of police work and authority

we have invested in police, some force is appropriate and justified.” The COCL also (a) focuses more on the use of an Employee Information System (EIS— pp. 31-34) than the outcomes of investigations into misconduct (pp. 35-41, with 7 charts), (b) goes into extreme detail about the Force Audit system they helped set up (pp. 52-55), and (c) expresses in several places that there is not enough information to report back (pp. 1, 11, 45 for example).\*-3 It comes to mind that if the PPB doesn’t successfully meet DOJ’s requirements, the COCL’s job could last longer than the proposed 5 years.

The COCL also casually argues that one reason the Bureau has not made progress with its Community Engagement and Outreach plan is the disintegration of the Community Oversight Advisory Board (COAB), failing to mention that the COCL helped lead to those troubles when they petitioned the DOJ to end their responsibility chairing the Board. However, they do state that there were “promising contributions from COAB” (p. 63).

All that said, there is much helpful information in the survey, troubling information about the Bureau, other analyses which cause concern, and a number of technical issues— some of which continue despite efforts made to correct previous problems.

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## HELPFUL INFORMATION

Good information in the Report includes reflections of community (and Bureau) concerns which the COCL could have tried to ignore. The Report addresses the issue of the off-duty shooting involving former Chief Larry O'Dea, how it raises serious concerns about the accountability process, and how it may have led to much of the low morale reflected in the officer survey (p. 4). Interestingly, the survey received 66% more responses this year than last (565 officers and civilian employees in 2016, but only 340 in 2015) even though the COCL stopped taking responses after three weeks once O'Dea resigned in June.

The Report also calls attention to the behind-closed-doors meetings used by the City to negotiate the Portland Police Association (PPA) contract and proposed changes to the Independent Police Review Division (IPR). Urging the City to engage the community earlier in the process in the future, the COCL notes that the "Accountability Focus Group" led to a proposal that met with opposition "as a result" of being outside public eye. The COCL also rightly points out that while there was no legal requirement to hold the PPA negotiations in public, some such meetings happened in 2010 and 2013. They note this led to (probably) unintended consequences, such as less enthusiasm for the elimination of the "48 hour rule" than, perhaps, the City was expecting (pp. 64-65).

The COCL also:

- states that one of the main principles in police training is that it must reflect Bureau policy, an issue raised by PCW and the COAB (p. 4);

- asks for the Bureau to use Force Audits to review whether officers' uses of force were actually or questionably out of policy (but says the Force Inspector should only push to change a finding if the original analysis was "flawed"—pp. 54 & 58);

- calls once more for the Bureau to take community input on what should be in quarterly force reports (p. 6); and

- suggests figuring out how officers on the street know who the "bad apples" are and use those criteria to flag potential problem cops in the EIS (p. 32).

Continuing a theme from the October semi-annual Compliance Assessment Report, the COCL says that the current thresholds to flag problem officers in the EIS are insufficient. A prime example is that only officers who use force in 20% or more of their arrests in 6 months are currently flagged, when the average force per arrest rate is just 2%. The COCL suggests changing the "trip rate" to 5% (pp. 29-30). Furthermore, the COCL notes that because the EIS administrator uses his/her "judgment" to forward identified officers to supervisors, it's not clear that there is equal treatment for equal circumstances (pp. 30-31). The Report similarly notes not all supervisors handle flagged officers the same way, asking them to document their decision making (p. 34). The COCL also suggests broadening the types of discipline (not just 10 hours or more off) and lawsuit payouts (not just over \$5000) that might be considered "adverse events" (pp. 32 & 34).

While in general, the COCL reports far too little information about the IPR (see below), it was interesting to learn that IPR has gone from declining 67% of complaints to "only" declining 54% (p. 41).

## CONCERNING ISSUES AT THE BUREAU

The Report reveals a lot of information about statistics and attitudes of the Bureau that indicate Portland still has a long way to go to have a just and fair law enforcement system.

For example:

- Only 6 officers were responsible for 7.7% of all uses of force— more than 1 in 14, and only three supervisors came to investigate force by their subordinates in 9.7% of all events— roughly 1 in 10 (p. 32). The COCL suggests this may be because these officers are more "productive."

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—Police used force in 20 of 285 encounters when people with mental health issues were armed, a rate of 6.7%, which is much higher than the rate of 1-2%, though there is no figure given for the rate of armed persons who are not in crisis (p. 13).

—The Bureau uses yelling “Stop and get on the ground!” as an example of de-escalation (p. 12). The last report gave the example of “do what I say and I won’t tase you.” There seems to be confusion because the Agreement refers to de-escalation as reducing force as resistance goes down (“force de-escalation”) while Crisis Intervention training rightly focuses on moving a situation from agitated to calm (“verbal de-escalation”). It may be wise to always use the modifiers “force” or “verbal” to be clear what is meant by de-escalation (though “verbal” de-escalation can also involve body language and other physical movements to lower tension).

—In a related issue, 40% of officers say they get no guidance on de-escalation (p. 59). Also, those who say they get no guidance on use of Tasers is up 11.9% from 19.1 to 30.0%, and Supervisors who say they don’t get enough training on what to do in Force cases is up from 34.4 to 48.1% (+13.7%).

—There has been no real change in the over-representation of African Americans, who make up 6% of Portland’s population, in identified mental health calls (16% — p. 12) or those referred to the Behavioral Health Response Team/BHRT (15-25%, p. 19). The COCL reports there is no demographic data to show how people of different races were sent to BHRT (p. 24).

—Officers’ attitudes about race have worsened, with only 12.6% thinking some racial/ethnic populations are treated differently from others, more than a 10% drop— which correlates with how many think that “stop and frisk” tactics have gotten a bad rap— 72%, up 11% (pp. 66-67).

—Similar attitudes exist about people with mental illness— only 18.8% of cops think that community is mistreated, down 7.5%, which correlates to the idea that “some people only understand violence,” up from 52.0 to 59.5%.

—The “Mental Health Mask,” initiated early in 2016, initially captured 133,283 interactions, but due to officers cancelling out calls, 41,348 calls were left off. Of the remaining 91,935 contacts, police reported 9629 had mental health issues, or 10.5%. The reasons officers gave for thinking there was an issue included writing “1234,” which is their code for a person with mental illness (p. 11)

—48% of officers, up from about 32% last year, think the Enhanced Crisis Intervention Team diverts officers from more important activities (p 17). Only 33% think civilian oversight is good for the Bureau, down from 46% (p 43).

—Though only 4.5% of officers felt the Chief inspired them to do good work, 55.1% of them thought their immediate supervisor brought such positive encouragement (p .70). 79% say they are never asked for input, up from 39% in 2015, a 40% difference. Most troubling: 82% of officers think the Settlement Agreement isn’t improving the PPB, and 90% think it is a distraction (p. 7).

Regarding officers’ low morale referenced here and above, it may be in part because the rank-and-file now have to enter data into the regional database (RegJIN) which used to be a function of the Records division. They complain it takes hours to enter and extract data (p. 55). The COCL suggests this might be fixed with training. There may be other solutions such as bolstering civilian records employees to help line officers with data entry, or simplifying the database. (The Portland Mercury did an expose on RegJIN in their November 23 issue.)

One last curious bit of information about the Bureau— not having enough money to conduct a “partnership survey” in fiscal year 2015/2016, they decided to divert the funds to Latino community outreach... but never used the funds (p. 64).

## **ISSUES WITH THE COCL’S ANALYSIS**

In addition to the issues PCW identified in the introduction of this analysis, we also found other concerns with what or how the COCL presented the Report.

—After noting that officers do not consider de-escalation in a call involving a weapon or a threat even if mental illness is a factor, the COCL notes: “Many officers believe they are unfairly cast as the responsible party for mental health care simply because they are the first responders to mental health crisis situations.” The COCL agrees that county and state resources not adequate, allowing the police to distract from the simple fact that if there were adequate

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resources, it's highly unlikely that doctors, EMTs or social workers would be using force on the same people the police encounter (p. 13).

—The COCL admits that there are times officers' use of force may be "justifiable but concerning," claiming that such incidents are a small percentage of all force incidents. However, there are no data to back up that claim, as the COCL notes later on the same page (58).

—Saying that the rate of force in Portland is equivalent to the national average, the COCL declares that the Bureau has managed the rate, but maybe not the constitutional standards described in the Agreement (p. 58). It seems the first issue can't be cleared for compliance without the second.

—The COCL also spends considerable time (on p. 56) wondering whether the rate of force should be looked at as how many times per day it is used (twice a day, as PCW noted in our last analysis), per calls for service (2 per 1000, or 3.5 per 1000 eliminating calls without human interactions), or per arrest/custody (2.3 per 100). PCW has often said that if you have a restaurant with 1000 people eating there and 2 of them end up with food poisoning, you have a problem you need to address.

—Saying they can't compare data from the old system (PPDS) and the new one (RegJIN), the COCL skirts the issue of whether there has been any change in force data since last year (p. 56). While the systems may be incompatible, that doesn't mean some basic data can't be compared to show the community (and the DOJ) what, if anything, has changed. They also say they can't determine whether training matches policy since the DOJ has been slow to approve new policies—PCW would argue that they can audit current training to see if it matches current policy (p. 45).

—The COCL takes the Bureau to task for how it presents data, but then makes the same maneuver in its own analysis. Reporting on tests given, the Report says that four of 16 officers changed their answers to the wrong ones after being trained. But the COCL notes that there were actually 6 officers who newly answered incorrectly, while two flipped to correct—so the number 4 is misleading (p. 47). But the COCL reports just 73.3% of officers support Crisis Intervention as a priority of the Bureau, down 5 points from 78.6%. However, the officers who "strongly support" CI training is down 9.5% from 47.6 to 38.1%... it's the ones who "somewhat support" CI (up 4 points) that bring that dip back up (p. 15).

—As noted above, the COCL's presentation of IPR statistics is confusing and a step back from the April 2016 report. There are no specific data for how many allegations were found out of policy ("Sustained"), just a badly conceived graph that includes resolved and dismissed allegations (p. 41). Since the dismissal rate is over 50% and all of the possible findings ("Not Sustained," "Sustained," "Exonerated" and "Unfounded") represent less than 10% of all outcomes, they should be separated out. (However, it is of interest that it appears more allegations were "Sustained" than "Exonerated," meaning found within policy.) Also, IPR puts out (increasingly smaller) annual reports, so the COCL could report on long-term trends of the oversight system, but is only using data starting in August 2015 (p. 36). The COCL also conflates the number of complaints (423) with the number of allegations (974) when reporting how many came through IPR versus Internal Affairs (p. 36).\*-4

—A similarly meaningless chart shows how many graduates of the Service Coordination Team (SCT) program (which forces people arrested repeatedly on drug charges into rehab, rather than providing service to those who seek it) were later successfully employed. Nearly every other chart in the Report is based on percentages, but this one is based on raw numbers, and ironically shows 3 people who did not complete SCT got jobs in April—the same number as those who graduated (p. 27). As noted in the Compliance Report analysis, we continue to wonder why the SCT is looked at as a success when the graduation rate is 20% (overall 17.6% in 3 years—pp. 3 & 25).

—The over 300 point Force Audit system has been knocked down to just 113 questions (136 if a Taser is used), which will help audits go faster (p. 53). However, at the same time, audits are now being limited to just 20% of Force incidents and all Taser incidents (p. 55). It's curious that all uses of deadly force are not part of the audit system. Side note: in the last Outcomes report, the COCL listed a number of case studies, this time there were none.

—Also related to the Force Audits, supervisors no longer have to repeat recommendations made by their subordinates to save time, to avoid "regurgitating" findings. The COCL says the Commander will be held accountable for shortcomings, but how can that be if it's not clear whether they overlooked information? (p. 54) Similarly, one item removed from the questions on the audit has to do with whether each kind of possible force used was entered in the officer's Force Report (p. 52). Unless there's a box explaining which type of force was missing, any trends on officers' failure to report will be unable to be tracked.

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—A few off-putting words showed up in this Report. One referred to people with mental health issues who continue from one month to the next “on the BHRT workload”— shouldn’t it just say “who are current clients of BHRT” (p. 22)? (Side note: that number dropped from over 30 to under 20, implying that more people have received the help needed.) In the section on the Mental Health Mask, one question to identify mental health issues has to do with “abnormal behavior/appearance” (p. 9). In “keeping it weird” Portland, that is an inappropriate criterion to use.

—Finally, while PCW has taken a neutral stance on the use of police body cameras, it is odd that the only survey question posed as “for” or “against” without choices of “moderately for/against” or “neutral” was the new question about body cameras. Surveyed officers were 78.4% in favor of body cameras (p. 62), likely because the main use for them will be to prosecute community members rather than to hold officers accountable.

## **TECHNICAL ISSUES/CONFUSING LANGUAGE**

To their credit, the COCL team has fixed a few problems Portland Copwatch has noted in past analyses— they identify Directives by name and number, have added the Citizen Review Committee to the glossary, and included a list of persons who fill positions referred to in the Report.

However, there are still a few abbreviations, references or words that aren’t explained, or at least aren’t explained when they first appear, including:

- BERS (p. 18) which appears to stand for BHU Electronic Referral System (p. 51-table);
- ”USR” and “NIBRS” data codes, which need to be analyzed by “Cognos Software” (p. 55); and
- ”cohorts” who are part of the analysis of PPB training (pp. 4 & 46).

Also, the list of personnel includes current (but not former) Assistant Chiefs (without their Branch assignments listed), the Compliance Coordinator and Force Inspector’s names (Steve Jones and Mike Krantz), but not their ranks, and the current Training Division head Bob Day without his rank (Captain) or his predecessor Brian Parman’s name.

Finally, for the record, previous reports have had the specific release dates on them, but this one only says “November, 2016.”

## **CONCLUSION**

As noted above, there are many ways in which Portland would benefit from having a COCL who actually lives in the City and works full time on ensuring compliance with the DOJ Agreement. We’ve noted before that the Chicago team has not yet attended a single Citizen Review Committee appeal hearing in the nearly 2 years they’ve been on the job, yet they are charged with examining the outcomes of the oversight system and determining whether there is a “competent system of accountability.” We continue to appreciate having the information that is otherwise either unavailable to the public or scattered in so many places it would take hours or days to compile. We hope that the COCL will remember that while the Bureau as an institution needs to change and buy into the change, the community needs to be supportive of the direction they are headed and the policies they adopt.

## **FOOTNOTES:**

- \*1- not to mention a \$75,000 travel account
- \*2- The author’s name is actually Cawthray.
- \*3- The COCL refers to what are now two years’ worth of data as “baselines” even though the baselines should have been set at the outset of the effort (pp. 1, 16).
- \*4- The COCL has admitted to PCW there were numerous errors in the report that need correction; this re-emphasizes our call for the Outcome Reports to be presented as drafts seeking input before they are finalized.