

**ANOTHER MIXED BAG, MORE SURPRISES: COMPLIANCE OFFICER'S ASSESSMENT OF DOJ AGREEMENT PROGRESS APRIL, 2017**  
an analysis by Portland Copwatch April 24, 2017

In early April, the Compliance Officer/Community Liaison (COCL) posted its draft assessment for the second half of 2016 looking at Portland's compliance with the US Department of Justice (DOJ) Settlement Agreement ("Agreement"). That Agreement focuses on excessive police force against Portlanders. Portland Copwatch (PCW) was struck by a number of concerning pieces of information, while once again supporting much of what the COCL has to say while disagreeing with some of it. The COCL 3rd/4th Quarter 2016 Draft Compliance Report ("Report") contains a newly useful Executive Summary section giving broad outlines of progress/non-progress, but continues to lack clarity regarding specific persons involved in decision-making, the substance of some documents listed in short-hand, or how often the COCL has been making the same recommendations to the Portland Police Bureau (PPB) to no effect (in some cases, it has been two years). Because the structure of the Community Oversight Advisory Board (COAB) required the group to report to the COCL, tensions mounted leading to the City summarily dismissing the few volunteer members who remained. The paid COCL team, in the meantime, is now reallocating money to do data systems analysis (paragraphs 158/159) and suggesting the Bureau continue doing work on community-related issues despite the Board's demise (146\* and 147/148, for example). While we agree that progress should not stop, the Settlement Agreement specifically calls for the COAB to have an active role in forming the Community Engagement and Outreach Plan, and such a plan should not be created by the police acting alone. Surprising information includes details about the investigations into a December 2016 shooting and a 2011 excessive force case that was finally closed that same month. Because the reports are becoming more "cut and paste" as time moves forward, PCW is analyzing this report based on what stood out rather than using our past analyses as templates. The draft Report can be found at <http://www.cocl-coab.org/news/q3-q4-2016-draft-cocl-compliance-report-released>. For clarity, we have listed the referenced paragraphs of the Agreement in parentheses.

Another general observation: As PCW has noted before, the Behavioral Health Unit Advisory Committee (BHUAC), which does not hold public meetings, has made multiple recommendations across various aspects of the Settlement Agreement. They not only received feedback, but it is noted repeatedly (95, 96, 98, 101, 102, 104, 108, 109, 113, 114), that their input was incorporated by the PPB as well as the Bureau of Emergency Communications (BOEC). While the COCL makes a fantastic observation about how the closed-door hearings that were held to discuss the future of Portland's officer accountability system "did not meet the spirit of the Settlement Agreement" (121), it's frustrating that they conversely support BHUAC's refusal to hold public meetings— or at least to

ask for broader community input when they make suggestions (94). More efforts should be made to force the BHUAC to act more like the COAB was envisioned. If not, any of their recommendations which run contrary to broader community concerns will be cemented by COCL and DOJ approval and institutional momentum with no public scrutiny.

One last thematic note: The COCL says in various places that it is better to do quality work than to move too quickly (156, for instance), claims they are working with the DOJ and PPB as fast as they can to finalize policies (which were supposed to be in place within the first 180 days of the Agreement, or by early 2015), and casually mentions they just gave over a plan on how to audit trainings in December (almost 2.5 years into the Agreement-85), but calls the length of time getting changes made to the oversight system "harrowing." They suggest that the City, "Independent" Police Review (IPR) and Internal Affairs just re-work the whole system since there will never be a consensus (121). That, we say, is extremely antithetical to the spirit of the Agreement.

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**Surprise, Surprise: Things We Didn't Know And/Or Find Hard to Believe**

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We like to think that we at Portland Copwatch are tuned into what's happening with police accountability issues. Whether through direct observation, a variety of sources including the media, our participation in the Albina Ministerial Alliance Coalition for Justice and Police Reform (AMAC), or some other fashion, we tend to find out about accountability related issues at the PPB. We had several media outlets and community members asking us what we knew when Chief Marshman was placed on paid leave in March— but our insight isn't detailed enough to have helped.

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So it's amazing that we're learning some things in the COCL's report for the first time.

—The PPB's annual report for 2015, which wasn't posted on line until October 2016, was the subject of community meetings held at the Bureau's three precincts sometime between July and September 2016 (150). It seems very odd that we never saw invitations to these meetings, that community members were asked to attend when the report wasn't available for their review, and that it's likely they happened while COAB was on recess from August 19 to October 18. Luckily, we did not miss the as-yet-unscheduled City Council meeting to discuss the report as required by the Agreement. The COCL urges the Bureau to hold that meeting as soon as possible before it is no longer meaningful. (They also, in one of many times reminding the PPB to "own" the changes under the Agreement, asked they not refer to it as the "DOJ Annual Progress Report.")

—The Training Division finally provided a four-hour equity class to line officers during In-Service Training which has been on hold since Sergeants were trained in late 2013. Apparently, community members were invited to talk to officers about historic tensions and inequities. This concept was something AMAC has been asking the Bureau to do for years—we wonder why the Coalition was not invited to participate in the trainings (Executive Summary, 80 and 84). The COCL, which observed the training, writes that it was good to hear from people of color and "those from lower socioeconomic categories," which may indicate more training is needed regarding language use.

\_\_\_That said, the COCL made some important suggestions about Training: Scenarios should reinforce the idea that not all community members pose a danger to officers (Executive Summary); include having an officer do something like use derogatory or escalating language to emphasize peer intervention; practice communication— fairness, respect and compassion; and to focus on improving community/police relations and avoiding use of force (84).

\_\_\_Additionally, the COCL sat in on the In-Service for supervisors and found that one 45 minute class was over in 10 minutes, and in another class a trainer suggested not asking too many questions so people could go to lunch early. A trainer also told the class "tensing up, thrashing around and wiggling did not impress our monitor as justification for strikes," a derogatory remark toward the DOJ. The COCL also reported positive signs: trainers encouraging proper Force reporting was not to make DOJ happy but to make a quality report, saying equity training was for a commitment to treat all people fairly, and agreeing with DOJ's assessment about an incident that was out of policy. The Bureau is also looking to clearly define verbal vs. force de-escalation, which we think would be very clear if officers used different words to describe calming a situation down vs. not using as much violence against a community member (84).

\_\_\_The COCL uses undefined terms about a "Box Drill" (apparently, a scenario where an officer closes his/her eyes inside an enclosure, then opens them to see what "threats" may exist) and use of an "AED" (Automated External Defibrillator). Regarding use of AEDs and CPR training, the Bureau said 5% of officers needed more follow-up. (80)

—In the shooting of Steven Liffel in December, one witness officer was from the Gresham Police Department, so the PPB could not issue a Communications Restriction Order (CRO) telling them not to talk to other cops about what happened. While the COCL suggests crafting a non-binding statement to help preserve the "integrity of the investigation" (125), we have been raising concerns about officers from multiple jurisdictions using force and deadly force for years, and think it needs a much deeper discussion.

\_\_\_The officer who shot Liffel declined (as all previous officers have) to give an on scene walk through, even though the COCL has asked several times for PPB to explain to officers how that can build community trust (127).

\_\_\_In the last Report, the COCL said it is OK for CROs not to be issued for 4-6 hours after a shooting, so long as officers are separated "immediately." However, the new Report defines "immediately" as after medical units are allowed into the crime scene (125). While it is true that is when the police deem the scene "secure," they also have been known to delay medical response, and could use that caveat to get their stories straight.

\_\_\_Of the 11 officers who witnessed the Liffel shooting, the COCL could only find two who did briefings, one of whom actually did a walk through of the scene. They say the Bureau is still not consistent in saying who is a witness officer, indicating that one cop near Liffel saw much of the interaction, but was taking shelter at the exact moment of the gunshot, so wasn't considered a "witness" (126).

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—Even though the Agreement says to investigate all Use of Force complaints, two were dismissed. In one case, the Bureau says a police car video recorder didn't support the evidence. The IPR conferred with them and agreed; the COCL did not check the video, meaning their acceptance of this particular claim is not supported by evidence, only anecdotes. In the other case, an officer self-reported not having physical contact with the complainant and the PPB and IPR agreed again. To their credit, the COCL asked that case to be re-opened and given a finding, even if it is "exonerated" (129).

—The three officers who beat Jason Cox in June 2011 finally had their administrative investigation come to an end. Cox was awarded a \$562,000 judgment after surveillance video showed officers lied about the incident. One officer had an allegation sustained, with a recommendation for 1-2 weeks suspension without pay— but by the time the investigation was over, was no longer working for the PPB. [Side note: This case never went before the Citizen Review Committee (CRC). All of the delays were due to the civil suit and the Bureau refusing to take up the investigation until DOJ and COCL put pressure on them to follow the terms of the Agreement.] The other two officers had "not sustained" findings. The COCL suggested the Bureau examine Satisfactory Performance issues since the officers seemed unaware about certain aspects of Taser use (133).

—We have been pushing the Bureau for years to stop referring to Tasers (which is a brand name) as "Electronic Control Weapons," because that implies they are used for "control" and diminishes that they give 50,000 volt shocks causing pain and muscle seizures (and, in some 700 cases since 2001, death). The Bureau decided to change the name to Conductive Energy Weapon (CEW), which is a more neutral and appropriate term, due to expert opinion and community input (68).

—The COCL observed training with CEWs, including a video from the manufacturer (Taser, Inc.— now called Axon— which continues to deny the dangers of their weapons even after settling lawsuits following deaths), and made a point not to comment about "proper arcing." It's not clear if this refers to when officers zap the Taser in mid-air to threaten civilians, but a police expert making sure policy and training focus on de-escalation should at least have some thoughts on this. Some officers following training to fire the Tasers' probes into the "belly" got the unbent fish-hooks caught in the target's face area. The COCL also reports that one trainer disparaged the current and future versions of the Taser policy, saying there never had been an issue until the DOJ came in asking for Taser use to be considered a higher level of force (84).

—The COCL says officers in a scenario where they had to face the wall, then turn around and decide how to respond to a person behind them, were correct to fire their weapons at a person they saw pointing a gun at them. Perhaps the COCL has not heard of former West Virginia officer Stephen Mader, who saw a man coming at him with a gun but was able to take him into custody without using deadly force using his military training to assess the threat. (Unfortunately, Officer Mader was fired for failing to fire his weapon—Pittsburgh Post-Gazette 9/10/16.) In the next scenario, half the officers drew weapons on a person holding their hands in their pockets, while others engaged in conversation. The COCL asks the Bureau to conduct more trainings with community members who are harmless. They write, "Maintaining a heightened sense of danger is not a flawed strategy, so long as this internal state and not externally displayed in a manner that leads to unnecessary force events," calling for more scenarios with de-escalation and communication (84).

—The Agreement requires the COAB to hold two public hearings about the Bureau's Community Engagement and Outreach (CEO) Plan. They held one in April 2015 which didn't go well, and never organized another. COAB did, however, hold a "workshop" on community engagement at one of their regular meetings. The COCL now is making a revisionist claim that the workshop was, in fact, the second forum (146).\*

—According to the report, the area of the Agreement with the least progress is in use of the Employee Information System (EIS-116/117). In an attached Technical Assistance (TA) memo, the COCL essentially gives up on trying to get the Bureau to use the EIS to predict problem officers, saying that focus caused endless debates with the police. Compliance with reviewing data and supervisors checking on officers new to their command went down from over 80% to 60 and 65%, respectively. The Bureau blamed the shake-up when Chief O'Dea resigned and Chief Marshman took over— which is odd since Marshman was the Compliance Coordinator for the Agreement and should have ensured those systems were still operational. To their credit, the Bureau got compliance back up to 89% after the COCL called attention to the drop.

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\_\_\_\_ In the TA memo, the COCL mentions that New Orleans has a peer intervention program where other cops step in if an officer is about to engage in problematic behavior. The COCL claims that they witnessed members of the PPB Gang unit doing this during a ride along— though we strongly suspect that wasn't a systemic response, but rather officers realizing to be on their best behavior while being observed. Incidentally, the COCL also did a ride along with the Enhanced Crisis Intervention Team (ECIT-99).

—The Use of Force Policy (Directive 1010), which has been put out at least three times for public review, is being rewritten to incorporate all relevant policies around specific weapons (such as Tasers and pepper spray) and reporting requirements (After Action Reports— formerly known as “940s” because of the policy number). The COCL report lists the policies by number (940, 1020, 1025, 1030, 1035, 1040, 1050, 1051 and 1090), but doesn't list what they are about (Executive Summary).

—In Force Audits, the COCL is asking the Bureau not to only see if the reports made are complete, but to assess the reasonableness of the use of force (Executive Summary). It's a bit troubling that both weren't already being done.

—A team reviewing policies (Directives) involves multiple Bureau personnel including legal counsel, the DOJ and the COCL (66/67). The COAB, which made over 50 recommendations about policies, was not invited, even though when they were still active in November they asked to be included.

\_\_\_\_ Although the COCL previously made requests for the Bureau to put out “redline” versions of policies so the public could see what is being changed, that recommendation is now missing. For what it's worth, the Bureau did a fairly thorough job explaining changes made to the Directive on officers interacting at airports in early April, but only after it was finalized.

—Two officers were temporarily barred from participating in the ECIT because they have pending cases, presumably about allegations of use of force. The Report says one was not sustained, and the other is pending. The COCL wisely repeats their recommendation for the Bureau to put into policy that ECIT and officers with the Behavioral Health Response Team (BHRT) who have sustained findings on force (or negative interactions with persons in mental health crisis) should automatically be disqualified (101 and 108).

\_\_\_\_ The ECIT training now includes more cultural diversity; it's not clear how they are achieving this laudable goal (102).

\_\_\_\_ For some reason, even though officers are supposed to fill in a special form (the “Mental Health Mask”) when they have an interaction involving someone who is or may be in crisis, they do not have to do so if they aren't also writing a “general offense” report. (105)

—The COCL found the training at BOEC lacking. They did not include subject matter experts or mental health consumers in delivering training, using videos rather than live people, and ran scenarios for operators sitting at a table rather than in a more accurate setting (114).

\_\_\_\_ The Report says BOEC employees fear legal liability if they transfer a call to the Multnomah County Crisis Call Center or call in ECIT and either one turns out to be the wrong choice (114).

—In one case where an officer faced criminal charges, Internal Affairs wasn't notified until the day after the criminal investigation concluded in mid-August (122).

—In an administrative investigation, the Bureau told investigators who failed to find all witnesses or identify all allegations “be sure to do a complete investigation.” The COCL notes that is not specific enough. In another case which we believe went before the Citizen Review Committee, they put the wrong Directive in the packet for the supervisor deciding whether the officer violated policy. The Internal Affairs Lieutenant told the COCL it was confusing having so many versions of Directives and they would make “strides” not to have that happen again (123).

\_\_\_\_ In one case, an officer was listed as being on leave of service for 27 days, which COCL says shouldn't count against the overall 180 day timeline to finish investigations. However, that case took 57 days too long to complete, and other documents said the leave lasted either 12 or 41 days (123).

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\_\_\_\_ We don't remember hearing this even though we attend CRC meetings every month where Internal Affairs reports in, but apparently PPB hired three more IA investigators (123). We continue to believe that added resources should go to IPR so they can do more "meaningful independent investigations" as envisioned by the Agreement.

—One of the most important issues to community members has been interviewing officers right away after shootings/deaths incidents. Discussions on giving officers legal warning that they can be disciplined for not being part of an investigation (even though their compelled testimony means they can't be prosecuted, the "Garrity Warning") were "punted" to 2017. Another of the endless discussions, this one involves the City, the PPB, the DOJ and the District Attorney (124).

\_\_\_\_ The COCL remarks about the removal of the "48 hour rule" from the Police Association contract, but rightly adds that 48 hour delay in asking questions should not be informally reinstated by simply waiting to interview the officers anyway (124 and Executive Summary).

—There were seven investigations into possible retaliation by PPB officers in 2016. The Directive on Retaliation (310.20) still hasn't been finalized, and the last draft didn't include language from the Agreement to protect community members, officers, and those who cooperate with an investigation. The City pointed the COCL to two Human Resources rules (2.02 and 11.03) but they are specific to sexual harassment and discrimination, and/or do not cover civilians (130). (However, PCW will note that one of the few changes we had no criticisms about in the revised IPR ordinance does prohibit Retaliation as defined in the Agreement. chapter 3.21.110[D].)

—Because the Police Review Board (PRB) never meets in public, and IPR has stopped inviting the public to trainings, we were unaware that the Board's members do not receive ongoing training about Bureau policies and protocols. They are invited to come to trainings for new members, but it is not required (131). It seems that if they are judging whether officers are in policy and recommending discipline only once or twice a year, they should be given annual refresher trainings.

\_\_\_\_ That said, where the Bureau says they update PRB members on recent policies and how they differ from old ones, we hope that they aren't confusing matters by informing the Board about policies that were not in place at the time of the incident they are reviewing occurred. (131)

—The COCL and DOJ have noted that the PPB's discipline guide doesn't contemplate what happens to officers with multiple minor infractions; the Report asks that be added to the guide— which still hasn't been approved by DOJ, two and a half years into the Agreement (137).

—As part of the CEO Plan, COAB worked with the consulting firm DHM to plan focus groups who would give input toward the community survey on policing. In the three days before COAB was put on recess (August 15-18), DHM held those groups "in collaboration" with the COAB's Community Engagement and Outreach Plan Subcommittee (which by that time only had one member). Six groups were held— houseless, LGBTQ, youth, and three for people with mental illness (one in each precinct). The actual report was not posted or circulated until April 18, after PCW inquired where it was. The COCL reports the groups seem uncomfortable with the state of policing, asking for improvements to recruit and train officers, and expansion of community involvement. They found PPB "adequate" at policing but not with regard to respect or communication (146).\*

—With regard to the COCL's redirecting funds (presumably the two months of COAB recess and three months since COAB was disbanded) toward data systems analysis, they say they are looking into more about data collection, especially to ensure people in mental health crisis and people of color are treated with respect (158/159).

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### **Things the Bureau and/or COCL Got (at least partially) Right**

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We noted above that the COCL remarked on multiple areas where the BHUAC gave input to the Bureau and it was used. They also mentioned in several places that COAB's recommendations were "considered and incorporated as appropriate" (66/67-Use of Force, 68-Tasers, 69-Use of Force Reports). They noted that COAB felt their input wasn't appreciated or responded to (Executive Summary). However, they do not mention whether other input from the community was considered as part of the Directives review process, even though such engagement is explicitly called for in the Agreement (170).

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Here are some other places where the COCL and/or the Bureau were mostly on the right track.

—After Action Reports are now being required for officers using “de minimus force.” This is very welcome as PCW has noted repeatedly that even an “escort hold” where a cop grabs a person’s arm to get them from one place to another would be considered harassment or assault if a civilian did it to the officer. The solution to make the process less time consuming was to define force in four categories: I: Deadly force. II: Enduring pain, and/or impaired body part(s). III: Non enduring pain. IV: “De minimus”— control holds with “no pain.” The serious cases go all the way up to the Assistant Chief while lower levels only go to the Sergeant or Lieutenant (70).

—The COCL conceded in the last report that supervisors who refused to use a Use of Force checklist outlined in the Agreement could not be forced to do so, since it is not explicit in the Agreement or policy. The new form for reporting on Use of Force is an interactive document which the supervisor can’t file without filling out fully. Since the form has text fields and not just checkboxes, this is a great step forward (72).

—As noted above, the COCL repeatedly reminds the Bureau to take ownership of changes. In particular, regarding audits of Use of Force incidents, they suggest not pointing to the DOJ limiting force used to what’s “reasonably calculated to maintain control” since less than 20% of officers polled think the Agreement will improve the Bureau (74/75/77).

\_\_\_ Shockingly, only 70% of force reports by officers were consistent with the types of force supervisors identified. Only 80% included documentation of seeking witnesses— which the COCL notes is up from the previous 53%, but still not satisfactory. Five officers failed to complete Force Reports— and even after that was discovered only four filled them out (74/75/77).

—East Precinct had an unusually high number of Force incidents on Tuesdays during the 6 PM to midnight shift, according to a quarterly force report. The COCL notes there was no analysis of why this might be. Also, in Q4 pointing guns jumped from about 48% of all use of force to 57%. The COCL also suggests that areas/shifts where there is a low number of force incidents can be used to apply ideas elsewhere (76).

\_\_\_ While the COCL makes good comments about identifying trends using the Use of Force Reports, they state: “Despite community beliefs, PPB does not have so many out of policy force events that trends would be identifiable at all.” The community is quite aware there are practically no force events that are found out of policy, because policies and supervisors give far too much latitude for officers to exact violence on the streets (76).

—Of 817 officers who took a test on when to call dispatch for ECIT officers to come to a mental health crisis scene, an admirable 814 got the answers correct (103).

—The COCL suggests that training for the BHRT should include Portland-specific information such as (Street Roots) resource guides (109). Extra points to the team from Chicago for making a Portland-centric suggestion!

—The COCL continues to push the City to add into Code the Police Review Board’s authority to require further investigation into misconduct as it is only in the Directive (336.00) at this time (132). PCW would add that the PRB code was going to be revisited in September along with changes to IPR, but all of the proposed changes were dropped for unknown reasons; spelling out this power was not one of the proposals.

—The Report notes again that the Chief, Mayor and other officials were supposed to meet with COAB two times a year, and that never happened (though the Mayor came in Q1 2017, almost at the two year mark of COAB’s existence). The COCL says there were valid reasons for some of the individual meeting cancellations, but overall it looks bad that the meetings never happened. As a reminder, DOJ found the City out of compliance on this paragraph, even though the COCL still gives it a “minimal compliance” rating (152).\*

—The COCL calls (again) upon IPR to conduct a survey of complainants, something PCW has pushed for since IPR stopped conducting such surveys in 2011 (Executive Summary and 138/139/140).

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—As suggested by PCW at the last Report, the COCL requests the Bureau provide documentation not just that new hires read and signed the Agreement, but for all employees (as required by 190).

—Also as suggested (repeatedly) by PCW, the COCL included summaries of paragraphs they did not assess, mostly referring to functions of the COCL, the DOJ, and enforcement.

—Their glossary now contains the Citizen Review Committee, spelled correctly.

### Places the COCL Should Do Better

We have often disagreed with the COCL's interpretations of the Agreement and ratings for the Bureau. Frequently, we find it hard to see how the academics' supposedly scientific approach is even being applied. Aside from the multiple comments made in previous sections, here are some other examples:

—Describing why the COAB fell apart, the Report cites issues between the COCL, the Parties (DOJ, City, AMAC and Portland Police Association), COAB members and the community as “hindrances” to their ability to function. They add, “Some [COAB members] felt distrustful toward the COCL as Chair” (Executive Summary). This is a whitewashing as the COCL actively discouraged the COAB from taking on certain tasks, forced certain agenda items on them, and entertained complaints about Board members made by a police officer (among other things). The COCL is relatively neutral, though, in awaiting a new proposal for COAB 2.0 (141-145).

—Regarding the selection of trainers, while the Report accurately reflects that the Bureau only has to “take into account” civil judgments regarding use of force, they ask the PPB to use a “common sense standard” when doing so (83). The academic team should have a more concrete suggestion, such as, “if the officer was found liable in an excessive or deadly force case, do not let them train other officers.”

—The COCL does a fairly good job summarizing the various iterations of proposed changes to the IPR, including that the initial proposal was to hold appeals behind closed doors. They also note that a major overhaul is needed, not just minor tweaks (don't “put band-aids on a bullet wound”), and agree that having just 11 members on CRC is not sustainable if there is a new backlog of appeals for them to hear. However, as we have noted before, the COCL has not actually attended CRC meetings or hearings and makes some inappropriate statements. First, that the CRC “doubled its efforts” after the Director said there was a nine month delay on appeals in September, clearing out their backlog (121). In fact, CRC met two times in January, February, March and June 2016 (before September), but only held two meetings twice (in October and January) after the Director's pronouncement. We submit that IPR was exaggerating the backlog for dramatic effect to try to force their changes through Council.

—Also with regard to CRC, the COCL's copy-and-paste text about the qualifications of the 11 member group continues to use the double negative “we have no reason to believe the CRC members are not neutral [and] unbiased” (134). It seems that scientists would be more likely to examine CRC members' comments and action and declare “CRC members are, in our opinion, neutral and unbiased.”

—It's not clear why the COCL has changed the rating on whether the CRC is able to send cases back to the Bureau for more investigation and get results in 10 days from Substantial to Partial, and now back again (135/136). If it is because there were no requests in the 6 months under review, that again is not a scientific analysis— the absence of over-long follow up investigations because there were none conducted does not make the Bureau in compliance.

—The COCL, at our urging, listed the state laws IPR hides behind when failing to report information that might be useful to complainants or the public: ORS 192.501 and ORS 181A.830 (cited in the final Q1/Q2 report). That said, the COCL is fine with the City Attorney's criteria for releasing information publicly— only for high ranking officers and misconduct of a serious nature (138/139/140). We contend that because police officers have the unique ability to touch, harm or kill civilians, they are not ordinary employees, and that all misconduct involving interactions with community members are “in the public interest” (as per the state law's guidelines).

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—While we agree that the Inspector’s presentations of Use of Force data to the Training Advisory Council (TAC) have been too shallow, we can’t support suggesting that same Bureau member help the TAC examine long term trends, as the COCL did (86). The TAC should be holding the Bureau accountable.

\_\_\_The COCL also dropped a previous recommendation for the City to outline what topics of “public safety concern” might cause TAC to go into executive session, and fails to acknowledge that TAC has an email list to invite the public to its meetings (87).

—While the COCL acknowledges that the City does not have control over what outside agencies do around mental health, there is not a meaningful critique of the much ballyhooed Unity Center which just opened, which doesn’t really match the “drop off/walk-in center” envisioned by the Agreement (90).

—In discussing the BHUAC’s decisions to keep their meetings from being public, the COCL cites the Committee’s claim that they will be unable to discuss “sensitive topics,” conceding that they are “satisfied” BHUAC putting its minutes on line is a good “compromise” (94). This is not an acceptable way for one of the main concerns raised by the DOJ’s lawsuit (officer interaction with people experiencing mental health issues) to be improved through the lens of Community Engagement. BHUAC must find a way to open part of their meetings to the public and/or hold special sessions (while COAB is not functioning) to ask for community input before they make recommendations. At this point, they also need to go back and explain all the recommendations they already made to be sure they have community support. While the Report outlines various topics of review (cultural diversity at ECIT, BHU outreach, BOEC Triage/training, the state plan and the COAB) there is no indication what the substance of the recommendations were (95, 96, 98).

\_\_\_The COCL dropped the suggestion for BHUAC to use an email alert for those interested in knowing about their activities (94). BHUAC looked at ways the ECIT is highlighting its work but made no recommendations, including, not surprisingly, that ECIT could send information out over such an email list (104).

—In taking the Bureau to task for separating their “five core disciplines” (patrol tactics, etc.) across 11 categories outlined by the Agreement, they did not take up PCW’s suggestion to add a sixth discipline of communication (79).

—It is not clear whether the COCL looked at the Learning Management System software the Bureau has purchased and is now getting customized; if the software is not appropriate for the PPB/ the Agreement/ the COCL’s expectations, it was far too late to fix it now (81).

—The COCL continues to find the Service Coordination Team (which takes people who have been arrested multiple times and forces them into treatment) in compliance with the Agreement, even though they are finally including the fact that SCT’s graduation rate is just 20% (112).

—We continue to disagree with the COCL that the City Attorney’s advice to COAB has been accurate and supportive. Technically, it fulfills the terms of the Agreement if the City Attorney continues advising a future Board (154/155), but PCW would like to see an independent counsel in place, especially if COAB is not tethered to the COCL or Oregon Public Meetings laws.

—The COCL has, in the past, pointed fingers at “activists,” the COAB, and others, but is vague in casting blame for why so few Bureau policies have been finalized in over 2 years. The Report says it is not always the fault of the City and the PPB, because there are “many stakeholders” (156). Is the COCL casting blame on the Portland Police Association? We would probably agree with that. Are they blaming the community and/or the AMAC? We hope not— if you conduct a power analysis of the various “stakeholders” you’ll find the paid and elected folks bear a lot more responsibility for delays than the volunteers can possibly have caused.

—In reporting that City players “have been unable to meet some requests” for documents, the COCL does not give any examples. If there are problems fulfilling the terms of the Agreement (166), the public needs to know!

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### Miscellaneous:

Here are some other miscellaneous bits of information that didn't fit into the above categories.

—As noted above, the Report would be improved by naming more participants, including the Professional Standards Captain, IA Lieutenant, and the staff of the COCL team. It is an interesting development that the Bureau's Compliance Coordinator (Mike Marshman) became Chief, leading the former Inspector (Mike Krantz) to move up to Compliance Coordinator (165).

—By our count, 7 sections were upgraded by the COCL this time (versus 14 last time): Paragraph 124 went from minimal to partial compliance (on scene statements in deadly force cases), and these paragraphs went from partial to substantial: 90 (about Community Care Organizations), 98 (40 hours of CIT training plus refreshers), 102 (training ECIT), 103 (ECIT on patrol until dispatched), 104 (highlight ECIT's work), and 135/136 (CRC requesting further investigation—discussed above).

—The BHU is involved in a Behavioral Health Coordinating Team that meets bimonthly, and includes Multnomah County, Cascadia Behavioral Health, law enforcement, unnamed “core groups of partners” and lawyers to be sure they don't discuss protected information (92/93).

\_\_\_The Mental Health Mask is being redesigned because defense attorneys realized their content can be released in discovery on criminal cases (92/93).

—In Seattle, Albuquerque and Phoenix, they have officers brainstorm what is “problematic behavior” based on their street experience (Appendix B). We hope this isn't along the lines of, “They turned me in for misconduct!”/ “They didn't join in when I kicked that guy in the head.”

\_\_\_The COCL suggests a few variables to check for problematic behavior including: how often an officer uses “resist arrest charges,” noting it can be used to cover up unwarranted use of force by the cop; and whether their ratio of finding contraband to how many searches they conduct is lower than other officers (an indicator they are over-searching). PCW strongly agrees. (These are also in Appendix B so we included them here.)

\_\_\_On the other hand, the COCL says to consider officers may use more force if they are with “gang or tactical units” which deal with “less compliant individuals.” Is that based on science? (Appendix B)

\_\_\_The COCL suggests creating yet another committee—but made up of only police: a Performance Review Committee to approve mentoring plans and make sure officers follow the plans (Appendix B). We suggest some version of the Police Review Board.

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### Conclusion

PCW continues to appreciate that the COCL is sharing inside information, occasionally pushing back on what appears to be a stubborn Police Bureau, and incorporating some of the community feedback they receive on their reports. As we've noted before, the COCL's responses to our (and others') comments is a good model for the Bureau, and, as indicated above, the first finalized Directive including the seedlings of such a feedback loop has finally been released. We continue to be concerned about lack of input into policies that directly affect the communities which DOJ revealed are unfairly targeted by police actions, and hope that the COCL will strive to ensure the voices of the public are heard behind closed doors.

\*-Note: in the original posted document, paragraph 146 was mis-identified as paragraph 136 in on pages 1, 3 and 5, and paragraph 152 (p. 6) was listed as “partial compliance” where the COCL team changed that to “minimal compliance” after community pushback in a previous report. PCW regrets the errors.