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Hon. Judge Michael Simon
US District Court (District of Oregon)
1000 SW Third Av
Portland, OR 97204

In the matter of United States of America v. City of Portland
Case Number: 3:12-cv-02265-SI

Testimony of Portland Copwatch on US DOJ/City of Portland Settlement

Prepared by Dan Handelman
January 31, 2014

Judge Simon

INTRODUCTION/BACKGROUND

Portland Copwatch (PCW), a project of Peace and Justice Works, was founded in 1992 to promote police accountability through citizen action. Our all-volunteer organization works toward a Police Bureau free of corruption, brutality and racism. We have been students, teachers and critics of police policy, practices and training. One of our members has attended almost every publicly held police oversight body meeting since our founding. We were invited participants in the City's 2000 workgroup on the oversight process, the 2006 Racial Profiling Committee, and the 2010 Police Oversight Stakeholders Committee.

Our testimony addresses a number of issues related to the Settlement Agreement in *US v. City of Portland* that you are considering. To properly determine whether the Agreement is "fair, adequate and reasonable," we need to look at:

—what existed before the Department of Justice (DOJ) investigation began,
—what the DOJ wrote in their letter of findings,
—what our group (and others) asked to be included in that Agreement, and
—what the City has been implementing while the Agreement has been awaiting the court's review.

While we recognize that the parties to the lawsuit are asking that the court enter the Agreement into the record as it is currently written, we are urging you to either (A) direct the parties to make changes to the Agreement itself before it is finalized, or (B) order them, using the provision of the Agreement to make changes (paragraph 187), to enact a new "side agreement" fixing the most troublesome parts. Small changes have already been made to the Agreement. The Albina Ministerial Alliance (AMA) Coalition's "Collaborative Agreement" allows changes to the process for picking the members of the Community Oversight Advisory Board (COAB, paragraph 145). Changes made to the Independent Police Review Division (IPR) ordinance*-1 allow flexibility in the 180 day investigative timeline laid out as a mandatory threshhold in the Agreement (paragraph 121).*-2 So arguments that nothing can be changed are merely expressions of investment in the status quo.

We have heard for many years after the City makes inadequate tweaks to policies and ordinances, "let's wait a while and see how this works." We hope that the Court does not fall sway to this delay tactic, and instead will direct the parties to take the steps necessary to fix the Portland Police Bureau (PPB / Bureau) and its accountability system. As context for our analysis of the Agreement, we remind the court that the DOJ called Portland's oversight system "Byzantine" and "self-defeating" (Findings Letter p. 27).

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*-1- City Code 3.21.120 [G][8], adopted January 8, 2014

*-2- In fact, in October 2013, Police Chief Mike Reese testified before City Council that he believes the 180 day timeline is "aspirational."

We also note that in addition to forwarding comments to the DOJ after they released their findings letter (co-authored with the Albina Ministerial Alliance Coalition for Justice and Police Reform— Exhibit A-PCW), PCW met with the DOJ. At that meeting in November 2012, between two versions of the Agreement heard at City Council, they were unreceptive to many of these suggestions. However, in most cases it was unclear whether they disagreed with our proposals or whether they thought they would not be able to get the City to agree.

Our 22 years of advocacy on these issues puts us in a unique position to spot the weaknesses in the Agreement that will either prompt the City to take only minimal action or, worse, prevent the community from advocating for change during the time the Agreement is in place. That could mean waiting roughly five years to fix problems that pre-date the DOJ arriving on the scene.

Below we outline 11 basic areas of concern. While our comments are quite detailed, they by no means are comprehensive of all the issues that the Agreement could cover to improve the way the Portland Police interact with people in mental health crisis, and in general patrol the streets of our city.

1. APPEALING FINDINGS ON DEADLY FORCE INVESTIGATIONS

Summary: *People subjected to deadly force or their families should have the right to appeal administrative findings regarding whether the officer(s) engaged in misconduct.*

We'd like to start with a glaring and obvious way in which the Agreement does not remedy the pattern an practice of excessive force against people in actual or perceived mental health crisis as an example to set the stage for our testimony. A person with mental illness who is shot or killed by the Police has no ability to appeal the outcome of an administrative misconduct investigation. We find it hard to believe that anyone in this City, much less anyone in the mental health community, believes that it is "fair, adequate or reasonable." In paragraph 43, the DOJ Agreement locks that prohibition in place, meaning the community is stuck with it for five years.

To back up a little bit, Fred Bryant, the father of Keaton Otis, learned that the internal Police Review Board (PRB) had reviewed the incident in which his son was shot 23 times by Portland Police after a traffic stop and found there was no violation of policy. When Bryant, through an attorney, requested that IPR allow him to appeal those findings to the Citizen Review Committee (CRC), they refused. Never mind that City Code 3.20.140[G][1] states that "once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a citizen, the complainant or involved officer may have the opportunity to appeal the recommended findings to the [CRC]."

Let's back up a little bit further. In late 2009, a 12 year old African American girl engaged in a tussle with Portland Police was shot point blank in her leg by a lead pellet ("bean") bag gun. The incident led to outrage in the community and a fierce march of support by the Portland Police Association (PPA). The Bureau opened up its own investigation into that incident, which bypassed the girl being able to file her own complaint, and by the then-standing rules, she would not have been able to file an appeal on the findings because it was considered "Bureau-initiated." In 2010, new code was added that any incident involving a community member would be considered a community case.*-3 This would seem to mean that several people or their survivors (such as in the past, James Chasse, Keaton Otis, and a man who was shot in the head in 2007 but lived named Lesley Paul Stewart) should be able to appeal findings on their shootings/deaths cases. But for some reason, the City continues to separate shootings cases from all other cases. They argue that the person has a remedy through civil litigation. However, that would only result in the City paying out money to the person or their family, not in disciplinary action against the officers.

Although ideally, the Agreement would actively affirm the ability of persons to file appeals in deadly force cases, we ask that at least the portion of paragraph 43 indicating that there is no right to appeal those cases to the CRC be struck from the Agreement.

2. TASER USE AND THE DOJ AGREEMENT

<u>Summary</u>: *The Agreement leaves room for improper and excessive use of Tasers; the City's effort to enact the Agreement creates even more loopholes.*

The DOJ Agreement calls for the Police Bureau to rewrite its Taser policy as part of the overall effort to minimize force against people experiencing mental health crisis. Tasers are so-called "less lethal" weapons that immobilize a person using 50,000 volts of electricity in 5-second cycles delivered through unbent fish-hooks deployed from a hand-held plastic gun-like device.

The Agreement (in paragraph 68) allows a continuation in loopholes of the Taser directive, including that officers:

—can zap people more than two times but should "avoid" using more than three Taser cycles "unless exigent circumstances warrant use" (paragraph 68-f— though paragraph 58 defines more than two uses as a "serious use of force");

—can use Tasers on handcuffed subjects (paragraph 68-g);

—should not have multiple officers use Tasers on the same person "except where lethal force would be permitted" (paragraph 68-d);

—can use Tasers on handcuffed or otherwise restrained people "to prevent them from causing serious physical injury... or if lesser attempts of control have been ineffective" (paragraph 68-g)

—do not necessarily have to give verbal warnings (paragraph 68-b); and

—are prohibited from using Tasers on people in mental health crisis "except in exigent circumstances, and the only to avoid the use of a higher level of force" (paragraph 68-a).

There are a myriad of exceptions written into the DOJ Agreement to limiting the use of Tasers. When the Bureau revised its policy, supposedly to meet the new standards, in February 2013 (Exhibit B-PCW), it reflected many of these loopholes. In December 2013, the Bureau released a newly modified version, based on closed door discussions with the Portland Police Association (PPA)— the City's co-defendants in the lawsuit— which modified a prohibition

*-3- City Code 3.21.120 [G][5]

on the use of Tasers to threaten or coerce. The new directive allows threats or coercion "to manage a potential or actual physical confrontation" (Exhibit C-PCW).

A prevailing ruling in the Ninth Circuit Court of Appeals noted that Tasers are weapons that can cause substantial pain, so should be restricted for use only when an actual threat to safety exists. Neither the DOJ Agreement nor the Bureau's watered-down version seem to be in line with that ruling. The DOJ letter of findings noted: "The use of an ECW [Electronic Control Weapon] on a person could result in serious injuries when intense pain and loss of muscle control cause a sudden and uncontrolled fall. And, ECW use can result in death" (p. 14). The letter called upon the Bureau to reconcile its policy with the Ninth Circuit findings indicating a subject had to be engaged in "threatening conduct" (p. 16).

And although the Agreement asks that officers allow the subject to comply with commands before re-activating a Taser (paragraph 68-e), even the oversight mechanism built into the Agreement calls for consideration of exceptions to any rules (paragraph 74-b-iv). The person who will be monitoring implementation of the Agreement— the Compliance Officer/Community Liaison (COCL)— is asked to ensure officers "do not attempt to use [Tasers] to achieve pain compliance against subjects who are unable to respond rationally unless doing so is reasonably calculated to prevent the use of a higher level of force."

We should add here that PCW, the Citizen Review Committee*-4 and the Community and Police Relations Committee (which includes officers as voting members),*-5 have all recommended that the Bureau collect data on "laser dot only" use of the Tasers, but that has not happened and is not reflected in the Agreement. This information is important as it indicates if a threat was made. A community member, especially one in mental health crisis, might not know whether the red dot of light appearing on their chest is from a gun or a "less lethal" Taser.

The Agreement needs to be clearer and more firm to limit Taser use and be consistent with case law, and the City needs to close the loopholes which seem to be designed to let officers continue their practice of unchecked Taser use.

3. ACCOUNTABILITY— INDEPENDENT POLICE REVIEW DIVISION

Summary: The process for investigating most complaints of police misconduct still relies too heavily on the police to produce trust; timelines must allow for the process to be completed.

The IPR was created in 2001 as a civilian agency to handle complaints of police misconduct. At the time, IPR was given the authority to conduct independent investigations if the Bureau's Internal Affairs division (IA) were not meeting certain standards. The original ordinance had no provisions at all for shootings and deaths in custody, which was soon changed to allow annual external reviews of such cases.*-6 No provision in the ordinance prohibits investigation of shootings by IPR.

The DOJ Agreement calls for the City to "enable meaningful independent investigations by IPR, when IPR determines such independent investigation is necessary." On January 8, Council voted to create a process whereby the Police Bureau sends a representative to IPR interviews of officers, in order to compel the officer to testify.*-7 The IPR Director himself testified on October 18 that the then-existing system, which called for an Internal Affairs employee to direct the suspect officer to ask questions, was "crazy." Clearly, this new system is not terribly different, and from the community's standpoint, the IPR is still fully dependent on the Bureau to conduct its investigations.

*-4-Recommendation 2012.4, "Less-Lethal Force Recommendations," September 2012, http://www.portlandoregon.gov/auditor/index.cfm?c=5276&a=411871
*-5-Recommendation IV.C.a, "Use of Force Policy Review and Recommendations," July 2011, http://www.portlandoregon.gov/oehr/article/449453
*-6- City Code 3.21.100 [L]
*-7- City Code 3.21.220

To be clear, the IPR never conducted a single independent investigation until mid-2013, and when they did, it involved a high-ranking officer and his subordinate, but no community members.

The IPR's original intent was to meet the Agreement's "meaningful independent investigations" standard by simply writing in the ordinance that they could compel officer testimony, believing they, as an agent of the City, were capable of doing so. The City Attorney apparently gave contradictory advice sometime in November, leading to the changed and weakened new ordinance. Portland Copwatch began suggesting to the City that a fully independent review body could be established with sufficient powers by changing the City Charter back in 2006. We worked with the Charter Commission that year and in 2011-2012 to recommend such a change. The first time, the proposal ended up as a footnote.*-8 The second time, the City defunded the Commission before action could be taken.*-9 In December 2013 at the hearing to discuss the revised IPR ordinance, we suggested that Council put forward a Charter amendment to fix this problem. The response from one Commissioner was "what shy of a Charter change would you have us do?" We believe that given the seriousness of the constitutional issues found by the DOJ, the majority of Portlanders would support Council if they proposed making IPR independent through the Charter process. We believe that the intention to make such a change should be spelled out in the Agreement.

What the community has been asking for over at least the past 20 or so years is an agency that can conduct such investigations without the involvement of any Police Bureau employees other than the ones under suspicion of misconduct and witness officers. Neither the DOJ Agreement nor the way in which the City has chosen to implement this activity are fair, adequate or reasonable. IPR should be investigating, as called for by the City's 2010 Police Oversight Stakeholder Committee, incidents "including shootings, deaths in custody, and physical injury requiring hospitalization; racial profiling, illegal searches, conflicts of interest, or other 'high emotion in the community' issues."*-10 The Agreement should not leave it solely to IPR's discretion when to conduct investigations, but rather should include a similar list of criteria.

Also, the Agreement instructs that "the City shall complete all administrative investigations of officer misconduct within 180 days... including appeals, if any, to CRC" (paragraph 121). We note that when this language was proposed for the IPR ordinance, it could have meant that an investigation had to be terminated on the 180th day. In other words, an officer under suspicion of misconduct could have walked free if IA or IPR did not finish the investigation in a timely manner. Fortunately, as noted in the background section, the City did modify its language, which now only requires that "the Police Commissioner and the City Auditor shall be notified... in all cases where an administrative investigation exceeds 129 days."*-11 We want to underscore that this is one instance in which we support the City not going as far as the Agreement requires, but strongly recommend that the Agreement be modified to indicate that the removal of the "shall" language adequately remedies the issue of lengthy investigations. We discuss other needed changes to this section regarding the CRC in section 4.

4. ACCOUNTABILITY— CITIZEN REVIEW COMMITTEE

Summary: Make the CRC's standard for evaluating misconduct findings less deferential, give the volunteer members time to hold appeal hearings, and set their quorum at 6 of 11 members, not 5.

*-8- Charter Review Commission Report to City Council, January 2007, p. 58, http://efiles.portlandoregon.gov/webdrawer.dll/webdrawer/rec/4227063/view/2007 Jan 18_A City Government for Portlands Future, Charter Review Commission Report to City Council.PDF

*-9- Though no final report was filed, the testimony of JoAnn Hardesty reflects the focus on the issue and the City Council's lack of interest, on pg. 20 of the official Council minutes of December 21, 2011:
http://efiles.portlandoregon.gov/webdrawer/rec/4625248/view/City Auditor - City Recorder - Council Minutes - December 21, 2011 draft.PDF

*-10-Recommendation 1-B, Police Oversight Stakeholder Committee Final Report, September 2010, http://www.cdri.com/library/PoliceOversightStakeholderReport2010_V2.pdf

*-11- City Code 3.21.120 [G][8], with 30 days set aside for an appeal to be filed and 21 days to hold the appeal hearing.

The Citizen Review Committee hears appeals of complaints about police misconduct which have been investigated by Internal Affairs. They are able to recommend that the Bureau change a finding if they feel it is "not supported by the evidence."*-12 Unfortunately, the IPR ordinance and the DOJ Agreement (paragraph 61) define "supported by the evidence" using the "reasonable person" standard.*-13 Numerous times since their inception, the CRC has been frustrated by the deferential standard of review which requires them to decide whether a reasonable police commander could have decided what finding should be attached to an allegation, rather than weighing the evidence on its own merits. Review board expert Eileen Luna Firebaugh, in her 2008 report on the IPR, noted that the "reasonable person" standard is too complicated and that CRC should be able to make their recommendations to the Bureau based on a preponderance of the evidence.*-14

The City argues that changing the standard will turn the CRC from an "appeals body" into a "fact finding body." However, we have pointed out repeatedly that this is faulty logic. (A) The "lower court" in this case is either the IA investigation being read by an officer's supervisor or a Police Review Board made up of a majority of police employees, in neither case does the complainant get to speak directly to the fact finder; and (B) Even when CRC makes its recommendation to change a finding, first the Bureau can use a "conference committee" to try persuading them to change their minds,*-15 and if that is unsuccessful, the case goes to City Council for final disposition.*-16 Thus, Council is the fact finder in this analogy, not CRC.

We urge that the definition of the standard of review is either changed to a preponderance of evidence standard or at the very least, that paragraph 61 defining "supported by the evidence" in the Agreement be deleted.

The Agreement also creates an unrealistic timeline for the all-volunteer group to hold hearings—21 days (paragraph 121). Even though City Code only requires CRC to hold quarterly meetings,*-17 they have held monthly meetings since their inception. If, for example, a complainant were to file an appeal the day after a meeting, the CRC would have to assign its members to prepare a presentation, assign an Appeals Process Advisor to aid the appellant, read the case file, and hold the hearing all before the next regular meeting. Currently, the ordinance calls for a Case File Review (CFR) for the CRC to determine whether they have enough information in order to hold the appeal hearing,*-18 a valuable step that was just added in 2011. The CRC has been able to ask clarifying questions to make their appeal hearings much more streamlined and focused than before the CFR was created. With monthly meetings, CRC's timeline for holding most hearings after the appeal is filed is at or under 63 days. On December 18, Commissioner Steve Novick stated at City Council that the Council agrees the 21 day timeline is too short, but it was the DOJ which is refusing to budge on this point.*-19

Additionally, the Agreement states that the CRC's 21 day timeline must be part of the overall 180 day timeline to resolve complaints. Since the intake and investigation are all done by paid City employees, it seems unreasonable to include the volunteer community members in this accelerated timeline. We question whether anyone in the general community or the mental health community has called for CRC hearings to happen within three weeks. In fact, most appellants leave CRC nowadays feeling like the process was fair even if the outcome is not what they wanted. Therefore, we believe the CRC's timeline should be extended from 21 to 63 days, and that the appeal process no longer be included in the aspirational 180 day timeline.

*-12- City Code 3.21.160 [A][1]
*-13- City Code 3.21.020 [S]
*-14- Performance Review of the Independent Police Review Division, Eileen Luna Firebaugh, January 2008, page 119. http://www.portlandonline.com/auditor/index.cfm?c=44653&a=245276
*-15- City Code 3.21.160 [A][1][c][2]
*-16- City Code 3.21.160 [A][2]
*-17- City Code 3.21.090 [A][1]
*-18- City Code 3.21.050
*-19- *Portland Mercury* Blog, December 18, 2013, http://blogtown.portlandmercury.com/BlogtownPDX/archives/2013/12/18/even-after-changes-the-ppa-still-doesnt-like-proposed-police-oversight-reforms

Finally, the Agreement calls for the CRC to be expanded to 11 members (paragraph 134), which is something we have supported for years. And while Council has already made this change, they also adopted a controversial part of the Agreement, which sets the quorum for CRC to just 5 members. This could allow for a smaller faction of the Committee to meet and make decisions without the knowledge or consent of the majority of the group, creating unnecessary tension and confusion. In testimony to Council, we suggested that the City make the quorum 6 members, standard for a body of 11, and if their intention was to allow for CRC to break into smaller panels to help speed things up, allow CRC to delegate their authority by a 2/3 vote to such smaller panels (Exhibit D-PCW). The fact that this was incorporated into City Code before the court could determine if it was "fair, adequate and reasonable" is indicative of the City's practice of making changes without considering the consequences. We urge the court to direct changes be made to paragraph 134 and to the City Code to fix this problem before the predictable problems emerge.

5. ACCOUNTABILITY— POLICE REVIEW BOARD

Summary: Allow community members to attend Police Review Board hearings and improve transparency; clarify PRB's ability to require more investigation.

Generally confusing to the public, the City established the Police Review Board as a body internal to the Police Bureau in 2004, codifying and modifying it in City Code in 2010.*-20 PRBs consist of 5-7 members, depending whether they are to review "performance" cases (generally, cases with one finding that an officer was out of policy) or excessive/deadly force cases. In either scenario, Police Bureau employees make up a majority of the Committee: An Assistant Chief, the officer's commander, and 1-2 "peer" officers (3-4 members total) are joined by the a senior IPR staff person and 1-2 community members (2-3 members total).

In its letter of findings, the DOJ wrote, "Curiously, a complaining civilian, if one is involved in the incident being reviewed, is not permitted to attend PPB's presentation" (p. 32). Despite this finding, the Agreement does not include anything to allow the complainant (or his/her survivor) to attend these hearings. Even though community members may appeal PRB's findings (except, apparently, in deadly force cases as noted in section 1) to the Citizen Review Committee, they can't discuss what happened with the people making a decision on whether the officer was in or out of policy. CRC meetings are entirely open to the public. We would like eventually to see the PRB and CRC processes more fully integrated, and open to the public. A possible step toward that might be allowing the media into the PRB hearings with some caveats on what can be reported due to privacy laws. But at the very least, the community members involved in the incident should have a presence at these hearings.

Along those lines, the PRB hearings are considered completely confidential.*-21 The DOJ Agreement (paragraphs 131 a&b) attempts to build community confidence in this system and integrate the CRC into the PRB by asking CRC members to rotate onto the PRB in force cases.*-22 However, the Agreement's veil of confidentiality implies that CRC will not even be able to talk generally about their experience being part of the secretive body (paragraphs 131-c, d-iii, and e-v).

Meanwhile, the PRB and CRC are each given the authority under the Agreement to ask Internal Affairs or IPR to conduct more investigation on a misconduct claim in order to generate meaningful findings (paragraphs 132 and 136). But the language in both sections requires that the "investigating entity must make reasonable attempts to conduct the additional investigation within 10 business days or provide a written statement why additional time is needed." The language does not require that the investigation ever be completed, nor what PRB or CRC can do if the investigating body simply refuses to do what they are asked. This is particularly important as the Bureau has refused to do more investigation in at least three cases that went before the CRC in the past two years. The Agreement needs to make clear that when these bodies ask for more information, they shall be accommodated.

*-20- City Code 3.20.140
*-21- City Code 3.20.140 [C][1][a][1][c]
*-22- newly adopted City Code 3.20.140 [C][2]

We have not heard anyone express that the secretive and exclusive nature of the PRB is a "fair, adequate or reasonable" way to remedy misconduct imposed upon persons with mental health crisis, or for that matter, anyone in the community. We urge that the Agreement include provisions for community members to attend, that there be more transparency and that PRB's (and CRC's) request for more investigation must be fulfilled.

6. USE OF FORCE AND THE DOJ AGREEMENT

Summary: Policies should clearly limit the amount of force the PPB is allowed to use; violations should have serious consequences; officers should not have special rights when being investigated; and cops should not be left alone to investigate other cops.

Because the DOJ investigation found a pattern or practice of excessive force by the Bureau, looking at how the City has chosen to begin implementing the Agreement on this issue is illustrative of their overall efforts. It seems as if they are taking the court's question of whether remedies are "adequate" to mean "do they minimally conform to what the Agreement requires?"

In fact, the Agreement requires the force policy to include language about using "only the force reasonably necessary" and to "develop... the skills... to regularly resolve confrontations without resorting to force or [using] the least amount of force" (paragraphs 66 a&b). Yet when the Bureau released its revised Force policy on December 13, those words are no longer found in it *-23 even though they were in the existing Directive when the DOJ investigation began,*-24 and in the "final draft" released in February 2013 (Exhibit F-PCW). The new Directive talks about a commitment to train officers to "effectively resolve confrontations through the application of de-escalation tools and lower levels of force"*-25 as opposed to no force or "the least amount of force."

In revising the policy, the Bureau discusses the legal standard (Graham v. Connor, reasonable in the totality of the circumstances), but they removed the reference saying that by its administrative policies PPB Use of Force has to both meet the Graham standard and meet the City's higher standard. It now simply prohibits force that is "not objectively reasonable."*-26 It is discouraging that in the Force policy the City focused on the Constitutional standard, which may absolve officers of wrongdoing in a court case examining the legality of their behavior, but moved policy issues about their administrative expectations elsewhere.

The City removed and reworded the "develop skills over time" language, moving that phrase to its "Satisfactory Performance" directive*-27 while adding a sentence stating the Bureau "requires that members... apply effective force when necessary."*-28 This is different from other language which says officers should be capable of using force "when appropriate"*-29 and could mean that officers will be disciplined for failing to use force, a contrary notion to the principle of reducing PPB violence.

So even though the Agreement calls for police to de-escalate their use of violence as the resistance from the subject(s) decreases (paragraph 67-c) and encourages officers to "use disengagement and de-escalation techniques when possible," it seems that the Bureau is leaving loopholes for force to be used as it always has been— with impunity.

*-23- Directive 1010.00 December 2013, Exhibit E-PCW.
*-24- Directive 1010.20 2009 Manual of Policy and Procedures at http://www.portlandonline.com/shared/cfm/image.cfm?id=32482
*-25- Directive 1010.00 Sec. 4.9 December 2013
*-26- Directive 1010.00 Sec. 4.1 December 2013
*-27- Directive 315.30, December 2013, http://portlandoregon.gov/police/article/473676
*-28- Directive 315.30 Sec 2.3 December 2013
*-29- previous Directive 1010.20 and December 2013 Directive 315.30 Sec. 2.3.2

We have called repeatedly for the City to reinstitute some variation on the "continuum of force" that once was part of the Force Directive, at least to make clear the maximum force that can be used against certain kinds of threats.*-30 We feel that the community and the police would both benefit from the clarity that such a set of guidelines would provide.

Another example where the Agreement itself is not adequate to address the problems found by DOJ is in describing a discipline guide (paragraph 137), which reasonably calls for discipline to be "predictable and consistent" but doesn't call for terminating officers for egregious rights violations.

Another huge disappointment in how the City has so far been setting up to implement the Agreement is the many provisions they chose to leave in place in the Portland Police Association contract. While the Agreement defers to the "just cause" provisions of the contract (paragraph 131c), acknowledges that some changes may take time because of bargaining issues (paragraph 180), and asks the City to keep DOJ apprised of negotiations (paragraph 189), it does not include direction for removing contract provisions that are really public policy issues as opposed to workplace issues of fair wages, safety, or benefits. As such, the City left in a number of provisions that the DOJ (and the community) identified as problematic, such as the 48-hour rule allowing officers two days before being compelled to testify about alleged misconduct (PPA Contract*-31 and DOJ Findings Letter p. 31: "It is difficult to conceive of PPB officers permitting [a] civilian 48 hours before asking him or her questions").

The Agreement also does not call for strong changes to the policy on medical attention to people injured by police. It only vaguely touches on following protocols in the Taser section (paragraph 68-c), and for supervisors to ensure medical attention once they are on scene (paragraph 70-c), which may be too late. The DOJ Findings Letter suggested: "There should be a bright line rule that whenever an injury occurs or whenever a subject complains of an injury, EMS is summoned" (p. 37).

Furthermore, while the Agreement calls for all Use of Force complaints to be investigated, it allows dismissal if the IPR finds "clear and convincing evidence" to drop the case (paragraph 129). There is no provision for an appeal by the complainant to challenge this evidence. Under the Agreement, the investigation into Use of Force begins on the scene, when a supervisor is supposed to show up and conduct an investigation (paragraph 70 and PPB Directive 940.00). There is no analysis that the immediate supervisor is usually a Sergeant, who is in the same collective bargaining unit as the officer. We suggest that the City be directed to send a civilian investigator from IPR to the scene of Use of Force as well as, or instead of, the Sergeants.

7. MENTAL HEALTH PROVISIONS

Summary: While some aspects of the Agreement start to get at long-standing issues around police interactions with people in mental health crisis, both the design and implementation do not go far enough.

In its efforts to meet the goals of the Agreement prior to its entry into court, the City created a new "Behavioral Health Unit" (BHU)*-32 in the PPB, with a connected BHU advisory board (paragraphs 91-96). From what we have heard, the BHU advisory board, unlike its predecessor that was attached to the Crisis Intervention Team (CIT), has access to the actual training curricula and materials used by the Bureau (as implied in paragraph 98). Unfortunately, the BHU's work is being conducted entirely out of the public eye. Although it's not necessary to make every one of the BHU's activities a public meeting, the board decided when it first met— in February 2013— not to allow the general public at any meetings. While they produce a newsletter, perhaps in response to the Agreement's suggestion to highlight successes of the CIT program (paragraph 104), the ability for the community at large and particularly people with mental health experience to weigh in on policies and trainings is severely curtailed by the way the BHU has been implemented.

*-30- for example, in our "Comments on Revised Drafts of PPB Force and Taser Policies," March 18, 2013, Exhibit G-PCW.

*-31- Portland Police Association Labor Agreement, Section 61.2.1.3, http://portlandoregon.gov/bhr/article/10857 (2010 language unchanged in 2013 renewal)

*-32- As we are logging instances where the Agreement's terms have been changed, we note here that the BHU was supposed to be called the "Addictions and Behavioral Health Unit" or ABHU.

Furthermore, the Mobile Crisis Unit (MCU)*-33, which teams up specialized BHU officers with mental health professionals (paragraphs 106-111), only requires one team car in every precinct. Since each precinct covers roughly 1/3 of the City, and officers work three different shifts, this hardly makes a dent ensuring non-police professionals are there to help where a uniform might escalate a situation just by its presence. Worse, the City keeps using this unit to give "second chances" to officers involved in violent, controversial events. Prior to the Agreement's passage at Council, one of the first officers in the MCU was Chris Burley, who was involved in the shooting of Keaton Otis in 2010. Otis was a young African American man with mental health issues who ended up being shot by 23 bullets; at least one witness says Burley punched Otis in the face before the bullets started flying. After the Agreement passed at Council, the City assigned Officer Bret Burton to the MCU. Burton was one of the three officers who tackled and beat James Chasse, Jr. to death in 2006. One would think that the City and the DOJ could see that a person with mental health issues who knows these officers' names might not feel safe seeing their nametag when approached during a crisis.

One of the few areas in which the Agreement makes great strides in the right direction is the affirmation of a hybrid CIT model, which continues to train all officers in de-escalation and mental health issues (paragraphs 97-98), but adds skilled members being an "on call" Enhanced CIT Team (paragraphs 99-105). The caution we raised at the time the Agreement was proposed is something that still causes us concern: the existence of such Teams should not relieve non-ECIT members of their responsibility to de-escalate and use their own training to resolve situations without violence.*-34 In 2001, day laborer Jose Mejia Poot was shot when a second set of officers came to the mental hospital he was in, after the first set which included a CIT-trained officer had gone off duty. Since ECIT officers may not always be the first responders, the skills need to be emphasized to all officers. Nothing in the Agreement guarantees that is happening, and we have heard anecdotally that non-ECIT officers continue to fall short.

Although it happened before the ECIT was created, an incident from January 2013 reported in the last Police Review Board report resulted in "Sustained" findings against an officer for "unprofessional conduct" in making taunting comments to a person with mental health issues, ultimately escalating the situation into a physical fight.*-35 Since all officers were given the full 40 hour regular CIT training and the City was on notice about the treatment of people with mental illness, the only good thing to say about this scenario is that the officer was found out of policy.

The agreement wisely prohibits officers who have been found out of policy for force or other mistreatment of people with mental illnesses to be on the CIT Teams (paragraph 101). However, very few officers are ever disciplined for such actions.*-36 In the incident listed above, for example, the Use of Excessive Force was "Unproven" while other behavior was found out of policy. The two other officers involved in the death of James Chasse (Burton was a Multnomah County Deputy at the time) had their discipline overturned in arbitration (and it was for failing to bring Chasse to the hospital after tasering him, not for the use of force). Thus, the prohibition should be broadened based on other kinds of misconduct, and perhaps include cumulative complaints or "Unproven" (insufficient evidence) findings.

Finally, it is important to point out that the Agreement calls for "one or more" drop off/walk-in centers for people with mental illness to be established by "mid-2013" (paragraph 89). Since no such center has materialized, this is clearly another area in which the Agreement will need to be modified before the City and DOJ proceed with implementation.

In summary, we hope that the City will be instructed to make at least some of the BHU advisory meetings open to the public, will use policy to ensure non-specialized officers rely on their Crisis Intervention Training, and will think strategically and carefully about who is assigned to their specialty units on mental health.

*-33- The Mobile Crisis Unit is described in the Agreement as the Mobile Crisis Prevention Team (MCPT).

*-34- "Bringing a Plastic Mallet to Hammer in a Problem Nail," October 31, 2012, page 4, Exhibit H-PCW.

*-35- Police Review Board Report January 2014, pp. 24-25, http://portlandoregon.gov/police/55365

*-36- 0.65% of force complaints by civilians have been sustained since the initiation of IPR in 2002, "Independent Police Review Division's 2012 Annual Report Draws Attention Away from Shortcomings of System," Portland Copwatch, May 31, 2013, http://portlandcopwatch.org/iprannual2012analysis.html

8. TRAINING AND THE DOJ AGREEMENT

Summary: Training should include input from all of the community; changes to training should look at national and local past and present trends; trainers should be chosen carefully.

We support the AMA Coalition's ongoing concern that training of officers should include members of the community most likely to be subject to officer conduct, from the planning stages and including the actual training. Senior Bureau officials seem to be happy with the way that institutional racism training has been created, which involved members of the Community and Police Relations Committee in the design and implementation, going so far as to offer CPRC an award for its work. That collaborative process can prove a template for the Bureau to include community members at all levels of training. While the Agreement calls for the Training Division to consider public input (paragraph 79-f), it is not explicit whether it means input beyond the Training Advisory Council (TAC). As with our recommendations elsewhere, adding such specific requirements for the Bureau will remove ambiguity in the Agreement. When recruiting members to the TAC, the City required criminal background checks and adherence to a confidentiality statement, excluding many community members.

Similarly, the Agreement calls for the Bureau to incorporate changes based on "concerns reflected in court decisions" (paragraph 79-g), which should be clarified to include both higher court rulings and results of civil lawsuits against the City/Bureau. Also, when looking at "law enforcement trends" to improve training (paragraph 79-i), it should be a requirement to include the history of Portland Police to avoid re-introducing problematic tactics. For example, the carotid ("choke") hold is included in paragraph 38 as an example of lethal force, even though the Bureau banned those holds in 1985.

The exclusion criteria for trainers, like the ones for the CIT Team, rely too much on sustained force complaints (and only against people with mental illness—paragraph 83) since, as noted in section 7, very few force complaints are ever sustained. It also only calls to disqualify officers if a civil judgment has been rendered against the City because of the officer's use of force, while much of the time lawsuits in which the City does not prevail end in settlements. The Agreement broadly calls to ensure that trainers "do not have a history of using excessive force," so it seems that adding repeated complaints of excessive force and lawsuits that end in jury verdicts or settlements should also be included, at minimum. (It's interesting, too, that officers' history of generating lawsuits is not part of the CIT criteria.)

Along those lines, teaching officers how force could lead to civil liability (paragraph 84-a-iv) would be more meaningful if the lawsuit payouts in Portland came out of individual officers' pockets, the Bureau's budget, or, as is being considered in Minneapolis, mandatory individual insurance policies for each officer.

Again, we do have support for some concepts listed in the Agreement: training through role playing (paragraph 84-a-i), incorporating de-escalation into making arrests without force (paragraph 84-a-ii) and teaching tactics such as disengaging, waiting, and calling for appropriate backup units (not necessarily for more firepower—paragraph 84-a-iii).

In short, parts of the Agreement which are vague should be more clearly defined and strengthened before the City moves forward with its proposed changes, and there should be deeper community involvement in training than just the Training Advisory Council.

9. TRACKING POLICE CONTACTS / DEMOGRAPHIC INFORMATION

Summary: The Agreement calls for collection of demographic data about some police encounters, but it is not clear which encounters will be tracked or that changes will be made based on the data.

In its Letter of Findings (p. 41), the DOJ made a formal recommendation (#9) that the Bureau track every citizen contact as a way to build community trust. They also made an informal recommendation to create a policy around when officers initiate stops and when they expand a contact beyond "mere conversation" (Letter of Findings p. 40). The Agreement makes only a vague requirement for the Bureau to "document appropriate demographic data regarding the subjects of police encounters, including the race, age, sex and perceived mental health status of the individual" without defining which "encounters" are to be covered (paragraph 148).

Furthermore, and once again showing that the DOJ and the City will need to do some renegotiations to fix the Agreement, the same paragraph calls for the city to "report on its efforts to enhance data collection to the DOJ by no later than December 31, 2013." So far as we know from conversations with members of the Bureau, that has not happened.

Although the Agreement generally ignores the Findings letter's suggestions to improve race relations (pp. 38-40), it is good that this data collection is being done specifically to "contribute to the Community and Police Relations Committee's analysis of community concerns regarding discriminatory policing." Unfortunately, the CPRC received a draft of the 2011 stops data in July 2013 and has not even seen the draft data for 2012 as of late January 2014. Delays of two years and more in analyzing the data will not be beneficial, especially since CPRC is required to report to the Community Oversight Advisory Board on the progress of the City's Racial Profiling Plan (paragraph 146-d).

On December 19, the *Portland Tribune* ran a story about a new program being rolled out, ostensibly to get police officers out of their cars to engage in "community policing."*-37 The article quotes an officer who requested three young people get out of a car and submit to a "stop-and-pat down... His intent was to talk to the youths and he couldn't comfortably do that until he knew they weren't armed." So it seems that on the one hand the Bureau is minimally instituting the parameters of the Agreement, and on the other hand they are making a mockery of it. Our discussions with members of the Bureau and City staff about this program indicate they are not necessarily planning to track who it is that is being "stopped and patted down." Direction must be given through this Court process that the policies meant to improve community-police relations with people experiencing mental illness should be considered for across-the-board implementation, unless the City wants to end up back in court with new pattern and practice findings about race.

One of the programs that has in the past disproportionately targeted African Americans, the Service Coordination Team, is embedded into permanent City policy by the Agreement (paragraph 112). In 2008, statistics showed that 52% of the people subject to this program were African American in a city that is 6% black.*-38 While we applaud getting people into treatment rather than jail, we question whether such social service triage should be done by the police rather than appropriate agencies (similar to the remedies being proposed vis a vis mental health), and why money is available for people who have criminal records to get treatment, but not others who may seek it.

Other areas of the Agreement which discuss the collection of demographic data vary from falling short to seemingly useful:

—Crisis Intervention Team data collection is to include name, age, gender, and address but not race (paragraph 105-b).

—Outreach work to be done by the COAB is going to use the PPB's demographic data to tailor outreach and "community policing" (paragraph 147), which is a vague term that can be misused for programs like the "stop-and-pat-down" mentioned above.

*-37- "Pat downs likely to increase as cops take to the street," *Portland Tribune*, December 19, 2013, http://portlandtribune.com/pt/9-news/204752-pat-downs-likely-to-increase-as-cops-take-to-the-street

*-38- "Blacklisted: Does City's 'Livability' List Have Racial Imbalance?", *Portland Mercury*, April 24, 2008, http://www.portlandmercury.com/portland/blacklisted/content?oid=758819 . Portland Copwatch can supply the court with other, similar data indicating that African Americans get disproportionately targeted through other programs such as the Gun Exclusion Zones (86%), Illegal Drug Impact Areas (39%), having police firearms pointed at them (34%), use of force (29%), shootings/deaths (25%), pedestrian stops (23%) and traffic stops (12%) as well as being over-searched (four times as often) and found to have contraband only 80% as often as their white counterparts.

—The Compliance Officer/Community Liaison's semi-annual assessments are to include demographic data connected to use of force, force complaints, and sustained force complaints (paragraph 173-a-ii through iv). The Bureau posted some demographic data in early 2013, let the data slide for the second quarter, but then posted the demographic data again in the fall*-39 at the urging of Portland Copwatch.

The Bureau's demographic data on Use of Force over the summer shows that use of force against people with mental illness rose, and that the number of Taser implementations where people were shocked more than twice also rose. So while it is important that the data are released, it should be made clear that one reason for collecting such data is to follow the purpose of the Agreement, to use less force and fewer Taser strikes.

10. IMPLEMENTATION AND TRANSPARENCY

Summary: The Agreement as it has been implemented already undermines its stated principles of transparency.

As noted in several previous examples, the City and the Bureau have been putting in place various aspects of the Settlement Agreement prior to its entry into court, a time-marker known as the "Effective Date." While some aspects are only required to be in place after the Effective Date, it is telling in many ways what the City has and has not done to meet the DOJ's terms.

The Agreement calls for the Bureau to "collect and maintain all data and records necessary to facilitate and ensure transparency and wide public access to information related to PPB decision making and activities" (paragraph 159). In section 2 on Taser Use we outlined how the PPB made changes to its Taser and Force directives without community input, but rather in conjunction with closed-door meetings of the Police Association (this also affected section 6 on Use of Force). Furthermore, the Bureau scrubbed the previous drafts from its website, and did not publish a "redline" version of the new Directives to indicate what changes had been made, necessitating a line-by-line comparison to do analysis.

In section 7 we noted that the Behavioral Health Unit advisory board decided none of its meetings would be public, which puts it in contrast with the Agreement-generated Training Advisory Council (paragraph 87) and the Community Oversight Advisory Board (paragraph 154), whose meetings by definition are open to the public.

We also outlined how the City only implemented some of the proposed changes to two oversight bodies, but did not enact their powers to order more investigation, in section 5 on the Police Review Board. Similarly, three sections requiring sharing more information with complainants by putting information on the City's website, sharing documentation about the complaints, and tracking the case from start to finish (paragraphs 138-140) have not been implemented to our knowledge. The Bureau, which posted its own assessment of their progress in June 2013,*-40 says documents have made their way to complainants, but this should include basic information such as police reports which we believe are still not being shared.

Because there are no public reports about the Employee Information System, we also do not know whether the system has been used to identify "at risk employees" (paragraph 116), or whether the new "trigger" of three uses of force in one month refers to a calendar month or a 30 day period (paragraph 119). (We support the AMA Coalition's suggestion that the new criterion should be expanded to cover a 90 day period.)

The Agreement is not clear about a few of the required reports— the Professional Standards Division (PSD) Inspector reports to the Training Advisory Council (paragraph 86), the COCL's semi annual outcome assessments (paragraph 173), and the Chief's assessment of the effectiveness of new policies (paragraph 171), for example— will be public.

*-39- Portland Police Bureau Force Data Summaries, http://portlandoregon.gov/police/62708
*-40- Implementation Checklist, June 2013, http://portlandoregon.gov/police/451151

It is possible, of course, that the hiring of the COCL and appointment of the COAB could shed light on some of these issues, but it seems that in the spirit of the Agreement, what has already been done to attempt to remedy the excessive force used against people with mental illness should be made far more clear. What is really needed is firm clarity and direction from the court on what is expected for the City to do. The Bureau's self-published June "implementation checklist" does not include any documentation or verification for its claims of what has been done. Any adoption of the Agreement should clarify that as much information as possible should be shared with the public, and underscore the importance of taking the principles of transparency to heart and erring on the side of too much information rather than too little.

11. OVERSIGHT OF THE AGREEMENT / CONCLUSION

Summary: The Court should make clear what the terms of the Agreement mean so that determining "substantial compliance" can be done objectively by reviewing the Court record, not subjectively reading the Agreement.

The most important part of any legal contract, especially one affecting an entire governmental entity, is how it is enforced. As we have outlined elsewhere, the City has already varied from the terms of the Agreement in several ways:

—failing to create "walk-in/drop-in" centers for people with mental illness in the timeline set forth (section 7);
—failing to establish a process for collecting demographic data on police encounters in the timeline set forth (section 9);
—revising Bureau policies without doubling back to the community with a revised draft (sections 6 & 8);
—changing the names of two mental health related bodies (section 7);
—setting the 180 day timeline for investigations as "aspirational" instead of mandatory (section 4) [we agree with this change though it varies from the Agreement]; and
—agreeing to change the procedure to pick the Community Oversight Advisory Board (background section) [another change we support].

If the City and the DOJ continue to decide which items are mandatory and which items are just "guidelines," it leaves the community in a difficult position of not knowing what to expect from the process.

The City will soon set about to hire a Compliance Officer/Community Liaison to oversee the implementation. The COCL has tremendous responsibilities and abilities to collect and synthesize data (paragraphs 161-165 and others), but has no power before the federal court when recommending changes to the Agreement (paragraph 164), nor is it even clear whether the COCL will be able to address the court directly if his/her reports are used to prove or disprove compliance (paragraph 184). We hope the court will clearly lay out expectations on hearing from the COCL directly.

We also hope it will be clear that though the Agreement calls for the COCL to chair the COAB, he/she is not a voting member and is there to facilitate and ensure "efficient operation of the COAB" (paragraph 144).

We welcome the data on lawsuit payouts being included in the COCL's semi-annual reviews, but urge that term "settlement" be replaced with "settlement, judgment, and jury award" (paragraph 173-e-v). After the James Chasse settlement in 2010, very few lawsuit payouts have been brought up publicly to Council, likely because they are being entered as judgments and are thus not subject to Council review. (City law requires any payment over $5000 to be agreed to by a majority of Council.)*-41

It is commendable to have the police present their annual report in each of the City's precincts (paragraph 150), but there need to be civil rights or oversight organizations involved to augment any claims they make about force, "biased-free policing" and people's rights and responsibilities when stopped by police. Ideally, police would be interested in ensuring people know their rights (such as the rights to remain silent and ask for an attorney), but the reality is that they are trained to

*-41- City Code 3.15.020[F][4][b]

circumvent those rights to solve crimes and gather information. This is made clear in the above-mentioned *Portland Tribune* article on "stop-and-pat-downs" (section 9), in which the officers berate "white hipsters [who] frequently tell black guys 'You don't have to talk to the cops.'"

We earlier raised concerns about some of the questionable personnel decisions being made by the Bureau, such as the hiring of Officer Burton in the Mobile Crisis Unit (section 7). Similarly, the City has hired a controversial person previously involved in state mental health work to assist the Compliance Coordinator.*-42 The Mayor has chosen to replace his former liaison to the Police Bureau, a community activist with years of experience, with an active duty police officer.*-43 We hope that both the process and outcome of hiring the COCL and putting the COAB into place will have more thoughtful results.

Our organization has a long history of following police conduct and suggesting ways to improve both police behavior and oversight. We believe our presence on the COAB would be a great benefit to the implementation of this Settlement Agreement. However, if the COAB is going to be relegated to looking at the Agreement as the maximum expected change— a ceiling, rather than a floor— and if its job will be limited to interpreting the Agreement as it is written, our organization cannot in good conscience even apply to participate.

That is why we are asking the court to lay out expectations for "substantial compliance," direct the parties to negotiate a new side agreement under paragraph 187 to fix the problematic parts of the Agreement listed in our testimony, and give guidance to help make true steps toward a Bureau free from corruption, brutality and racism.

Thank you
Sincerely,
Dan Handelman
on behalf of
Portland Copwatch

ADDITIONAL MATERIALS

Materials referenced in our testimony:

Exhibit-A-PCW: PCW Comments to the DOJ after they released their findings letter (co-authored with the Albina Ministerial Alliance Coalition for Justice and Police Reform).

Exhibit-B-PCW: Bureau's "final draft" Taser policy, February 2013.

Exhibit-C-PCW: Bureau's revised Taser policy, December 2013.

Exhibit-D-PCW: PCW "Testimony on Amended Version of IPR and PRB Ordinance," January 8, 2014.

Exhibit-E-PCW: Bureau's revised Taser policy, December 2013.

Exhibit-F-PCW: Bureau's "final draft" Taser policy, February 2013.

Exhibit-G-PCW: PCW "Comments on Revised Drafts of PPB Force and Taser Policies," March 18, 2013.

Exhibit-H-PCW. "Bringing a Plastic Mallet to Hammer in a Problem Nail," PCW testimony to Council about DOJ Settlement Agreement, October 31, 2012.

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*-42- "Portland police hire former head of Oregon's Psychiatric Security Review Board who resigned under cloud," Oregonlive, December 19, 2013, http://www.oregonlive.com/portland/index.ssf/2013/12/portland_police_hire_former_he.html

*-43- "Hales Hires Police Officer as Policy Director Overseeing Police Bureau," *Portland Mercury* Blog, October 28, 2013, http://blogtown.portlandmercury.com/BlogtownPDX/archives/2013/10/28/hales-hires-police-officer-to-oversee-police-bureau

In addition, we have also attached the following:

Exhibit I-PCW: PCW emails to the US Dept of Justice with corrections to the Letter of Findings, September 16-17, 2012.

Exhibit J-PCW: Cover email from Exhibit-A-PCW to the US Dept of Justice from PCW and the AMA Coalition with additional comments.

Exhibit K-PCW: PCW email to US Dept of Justice with comments on the Settlement Agreement, October 28, 2012.

Exhibit-L-PCW: PCW email to US Dept of Justice regarding oversight system following meeting, November 6, 2012.

Exhibit-M-PCW: PCW email to the City Council/US Dept of Justice: "Department of Justice/City of Portland Revised Agreement: Changes Must Be Made to Improve Accountability of Portland Police," November 12, 2012. Includes an illustrative narrative of a Citizen Review Committee hearing hampered by current policies which are affirmed in the Agreement.

Exhibit-N-PCW: PCW email to US Dept of Justice about implementation of the Agreement after Complaint is filed, December 20, 2012.

Exhibit-O-PCW: PCW email to US Dept of Justice about lack of notification and transparency of Training Advisory Council, February 7, 2012.

NOTES:

(added February 1, 2014):

In our published testimony we had a few clerical errors:
pg 4, footnote 6, should be City Code 3.21.070 (L) [not 3.21.100]
pg 6, footnote 18, should be City Code 3.21.150 [not 3.21.050]
pg 13, footnote 40, the link should read
http://portlandoregon.gov/police/article/451151
(we left out the "/article").
However, it appears that sometime in the past two months, the PPB quietly uploaded a new implementation checklist dated December 17, 2013 (the one we refer to is from June 2013).
The new spreadsheet is at
http://portlandoregon.gov/police/article/452158
Although the concept is the same, we can provide the court with a copy of the June spreadsheet if needed.
pg 15, list of Additional Materials, Exhibits E and F refer to the Bureau's Force policies, not the Taser policies.

(added February 12, 2014):

On page 4 under section 3, the sentence that begins "The IPR Director himself" has the wrong date (should be October 23, says October 18) and then says that Internal Affairs had to direct the officer "to ask questions," but it should say "to answer questions."

Portland Copwatch regrets the errors.
