



Office of the Compliance Officer and Community Liaison (COCL)

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August 15, 2016

Re: **Response to August 12 letter**

In a letter dated August 12, 2016, sent by Tom Steenson to representatives of the DOJ and the City, including the Mayor and City Commissioners, as well as community stakeholders, numerous accusations are outlined. The COCL's response can be found in bold letters below. We only respond to the section directed at the COCL, and identify the many inaccuracies or distortions of the facts in the August 12 letter. While we are reluctant to be pulled into an argument that detracts from the important work of assessing the Portland Police Bureau's compliance with the Settlement Agreement, we feel these inaccurate accusations cannot stand uncorrected.

1. In June 2016, several COAB members became concerned about the COCL's recruitment and intent to hire another person to be the "local" COCL, replacing Kathleen Saadat, to chair the COAB. Instead, those members were interested in having the COAB select its chair from its membership. To formalize such a recommendation to the parties to the Settlement Agreement, those members asked the COCL to schedule an emergency public COAB meeting. The COCL refused to do.

As outlined in a June 27, 2016 memo, there were numerous barriers to adding an emergency meeting to the COAB schedule: The Executive Committee had not met to work with COCL to set an agenda, as required by the COAB bylaws; the COCL was not available to chair the meeting at the last minute, as required by the Settlement Agreement; and significant safety and security issues in relation to full COAB meetings were under discussion with the City but had not yet been resolved. Further, there was a regularly scheduled COAB meeting within two weeks, where the issues COAB members wished to discuss could be addressed in a timely manner.



As a result of being refused the right to meet, 9 of the remaining 10 COAB members at the time, signed an Open Letter dated July 4, 2016 which stated:

“We, the individuals named below, oppose the Compliance Officer and Community Liaison (COCL) hiring yet another local person to be the Chair of the Community Oversight Advisory Board (COAB). In the interest of self-governance and independence from the Department of Justice (DOJ), the City and the COCL, we are convinced after what has happened over the past year and a half that the Chair of the COAB needs to be the Chair of the COAB, the Settlement Agreement needs to be modified by the DOJ and the City to give the COAB the authority to select its own Chair from its members.

We believe this change in how the COAB operates is crucial to building community trust in the COAB and in allowing the COAB to successfully fulfill its responsibilities under the Settlement Agreement between the DOJ and the City.”

Subsequent to signing the letter and after refusing the request for the emergency meeting, the COCL criticized the members of the COAB for signing the Open Letter suggesting they did so in violation of the public meetings law.

The COCL takes very seriously the professionalism and legitimacy of the COAB; both are necessary to bring credibility to the group’s important work. We remain concerned that a quorum of COAB members discussed and signed the referenced letter outside of the public eye. The COCL has never opposed the concept of a chair from within the COAB membership, but our actions must fall within the scope of Public Meetings Law and the Settlement Agreement until the Agreement has been legally modified.

2. For the regularly scheduled COAB Executive Committee meeting on July 6, 2016, the COCL decided unilaterally that the members of the Executive Committee and the COCL would be separated from the community at-large. The Chair of the Executive Committee opposed such a separation, but to no avail. The phone conference and logistics during the meeting to which the community at-large were subjected in their separate room were terrible. The separation created an “us” versus “them” mentality between the COAB and the community at-large. It was very difficult and sometimes impossible to hear and understand the speakers on the phone, or even be able to identify who was speaking. Some community members were also denied an opportunity to offer public comments, in part because the COCL ended the meeting early.



At the time of the July 6 Executive Committee meeting, the group was down to three of its original five members; attendance of all three is required for quorum and to take any actions. The COCL heard clearly from at least one member that a physically separate meeting was necessary to ensure personal safety, following a June 17 Executive Committee meeting that adjourned within approximately 20 minutes due to disruptions so severe the group could not conduct business. Members of the Executive Committee were followed out of the building at that meeting, and yelled at by members of the public. One member made it clear that without a physical separation they were unlikely to attend, which jeopardized quorum.

With advice from the City Attorney's office to ensure compliance with Public Meetings Law, a physically separated meeting was set up, with telephonic access for all three Executive Committee members and a meeting room set up for members of the public to participate remotely. Going into the meeting, the Executive Committee had no chair; Philip Wolfe was voted in during the meeting. To our knowledge, he did not object to this meeting set up in advance of the meeting, and in fact expressed support for the opportunity to have a productive meeting.

Public comment was taken throughout this meeting and the meeting did not end early; the newly appointed Chair ended it after business was conducted and another twenty minutes of open public comment. The main interruption to public comment was a commenter in the public room who refused to cooperate with the Executive Committee Chair's request to wrap up his comments, as he had exceeded his time limit. However, additional members of the public were able to comment after that disruption.

3. The COCL again decided unilaterally to separate the COAB and the COCL from the community at-large for the regularly scheduled July 14, 2016 COAB meeting. The Chair of the Executive Committee again opposed such a meeting format. After a hue and cry from members of the COAB as well as members of the community at-large, the COCL relented and allowed the meeting to take place without any separation of those attending the meeting.

During the July 6 Executive Committee meeting, the three members discussed a physically separated July 14 COAB meeting, and—while frustrated that tensions and threats had reached a level that such a set up was the best option for the COAB to conduct businesses—did not object to the proposal.



4. The COCL cancelled the regularly scheduled July 18, 2016 meeting of the Data Systems, Use of Force, Compliance Subcommittee despite the objections of the chair of the subcommittee and other COAB members.

Responsibility for this cancellation rests with the Chair of the Data Systems, Use of Force, and Compliance Subcommittee. The DSUFCS chair submitted an agenda to the COAB support staff at 2:43 pm on Friday, July 15, for a meeting he planned to have on Monday evening, disregarding posted timelines that ask chairs to submit agendas well in advance to allow staff time to post with adequate notice to the public. COAB support staff often accommodate changes to the chairs' timeline when notified that an agenda or other material will be submitted late; however, no such notice was provided in this situation. Since they were not anticipating any submissions that afternoon, COAB staff had left the office for the week, due to the long hours required by two evening meetings that week. The earliest COAB staff would have been able to post the agenda and meeting notice would have been the morning of the meeting when they returned to the office, an unacceptably short period of notice.

5. The chair of the Executive Committee requested time, following the COCL's Town Hall scheduled for July 28, 2016, for the COAB to meet. The COCL denied the request. After another round of hue and cry, the COCL relented and allowed the COAB to meet after the Town Hall concluded.

The Settlement Agreement calls for the COCL to hold a quarterly town hall, which was scheduled for July 28. COAB meetings are not required to follow the town hall, and in this instance COCL knew in advance that there would not be a quorum of COAB members in attendance, precluding the group from conducting business. However, the COCL heard from members that they wished to have an informal discussion of issues, and added time to the agenda for informal COAB discussion.

6. The COCL has informed the COAB that it cancelled the regularly scheduled August 11, 2016 COAB meeting because it allegedly had determined there was a lack of a quorum, i.e., not all 8 of the remaining COAB members could attend the meeting. However, neither the COAB By-laws nor the Oregon public meetings law require a quorum for a public body, such as the COAB, to meet.



With pending subcommittee recommendations that require a quorum for COAB to vote, COCL queried the group to determine whether a quorum would be present as part of agenda preparation. Only six of eight remaining members of COAB responded affirmatively that they would be in attendance; one member had a conflict, and one member did not respond. Attendance of all eight members was required to conduct business. The COCL was advised by the City Attorney’s office that it is the City’s usual practice to cancel public meetings when there is not a quorum. Thus, following this advice we postponed the meeting until a quorum could be established.

The COCL has engaged in misconduct as described above and its contract with the City of Portland should be terminated.

The COCL’s performance to date should be judged by the Parties to the Settlement Agreement who are independent of the COCL and are, therefore, expected to have an unbiased view of the COCL-COAB relationship. We would like the reader to understand that the Settlement Agreement assigned the COCL the difficult task of ensuring the “efficient operation of the COAB” (Par. 143) and the authority to remove members for “misconduct” (Par. 144). The COCL has been forced repeatedly to deal with issues surrounding the conduct of persons submitting this request to the Parties, including lengthy investigations and the provision of verbal and written warnings to those whose behavior was deemed unacceptable for a member of this public body. The COCL also requested a separation from the COAB on July 11, 2016, and in doing so, listed a wide range of observed behaviors that it considered unacceptable in public discourse. Our commitment to community engagement and building partnerships has been demonstrated repeatedly over the years, and in Portland, we are required to follow policies and procedures that ensures everyone has a voice in this reform effort.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis P. Rosenbaum'.

Dennis P. Rosenbaum, PhD

A handwritten signature in black ink, appearing to read 'Amy Watson'.

Amy Watson, PhD

For Rosenbaum & Watson, LLP
Compliance Officer and Community Liaison
Portland, Oregon