

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE CITY OF PORTLAND,

Defendant.

Case No. 3:12-cv-02265-SI

UNITED STATES, CITY OF PORTLAND &
PORTLAND POLICE ASSOCIATION'S
JOINT STATUS REPORT

INTRODUCTION

On July 5, 2017, the Court issued an order cancelling the Third Annual Status Conference set in this case for October 5, 2017, and directing the parties to file a status report, either jointly or separately, stating the following: “(1) what steps have been taken since the Second Annual Status Conference to bring the City of Portland into Compliance with the Settlement Agreement; and (2) the parties’ best estimate of when they expect the Ninth Circuit will rule on the City of Portland’s pending petition for a Writ of Mandamus.” (Docket No. 152). Plaintiff United States, intervener-defendant Portland Police Association (“PPA”), and defendant City of Portland (collectively “the parties”) have conferred and submit this joint status report.

1. Steps taken since Second Annual Status Conference & request to set Third Annual Status Conference

The parties are currently engaged in an ongoing mediation of the City’s pending petition for a writ of mandamus through the Ninth Circuit mediation program. During the course of that mediation, the parties have addressed a number of substantive Settlement Agreement compliance issues. The confidentiality requirements of the mediation program prevent the parties from describing their interactions in detail. As outlined below, however, the parties have taken

concrete steps toward identifying areas of the Settlement Agreement in which the City's progress toward substantial compliance had stalled, formulating specific plans and benchmarks for the City to meet to achieve substantial compliance, and setting a schedule for action by the City and evaluation by the United States. Specifically, since the Second Annual Status Conference, the City has taken the following steps to come into compliance:

- The City has revised its policies governing use of force;
- The City has coordinated with the Multnomah County District Attorney's Office, the PPA and the United States to revise protocols for reporting and investigating incidents involving the use of deadly force by police officers and in-custody deaths in light of applicable state and federal law, which the Multnomah County District Attorney's Office has determined is necessary to preserve its ability to conduct a full and thorough criminal inquiry into a use of deadly force;
- In the area of community-based mental-health services, the City has worked with partners to facilitate the development and opening of the Unity Center, a community walk-in mental-health treatment option, which is now operating;
- The City has convened and utilized the Training Advisory Council to make recommendations on officer training programs;
- The City has proposed revisions to the Police Bureau's accountability systems, including revising Police Bureau Directives to clarify administrative procedures, and revisions to City Code to help streamline the investigation process and ensure that all complaints are investigated either through a formal administrative investigation by Internal Affairs or the Independent Police Review or, for lower level complaints, through a supervisory investigation process;

- In the area of crisis intervention, the City is gathering data under Paragraph 105 of the Settlement Agreement to assess the efficacy of the crisis intervention program (CIT/ECIT);
- In the area of community engagement, the City has consulted with *amicus curiae* Albina Ministerial Alliance Coalition for Justice and Police Reform (“AMAC”), the community, the PPA, and the United States to design a more effective and durable plan for a community engagement advisory board. Based on that process, the City is preparing to establish a new commission to interface between the public and the PPB, to provide public input and recommendations regarding police performance in key focus areas, to facilitate better community engagement and outreach, and to ensure community-engaged policing both during and beyond the pendency of the Settlement Agreement.

In addition, the parties have shared substantive mediation documents with *amicus curiae* AMAC in advance of bringing AMAC into mediation with Ninth Circuit mediator Claudia Bernard and Senior Judge Edward Leavy on July 14, 2017.

Before the end of this year, the parties expect to be able to offer this Court a full substantive report detailing the schedule, specific steps taken, and steps that remain to be taken for substantial compliance with the Settlement Agreement, and accordingly ask this court to reset the Third Annual Status Conference to November 16, 2017, or any other time thereafter that is convenient to this court.¹ Counsel for plaintiff United States has conferred with Ms. Kristen Chambers, counsel for *amicus curiae* AMAC, about this request to so reset the Third Annual Status Conference, and has represented that the AMAC supports that request.

¹ Although the Ninth Circuit writ is still pending at this time, the City did not request a stay of district-court proceedings pending a decision on the writ, and a writ does not automatically result in a stay. The parties are also hopeful that the issues presented by the writ will be resolved through the mediation program without the need for action by the Ninth Circuit.

2. Parties' best estimate of when they expect the Ninth Circuit will rule on pending petition for a Writ of Mandamus

After the City filed its petition for writ of mandamus in this case, the United States requested that the Ninth Circuit refer the writ to the Circuit Court's mediation program. The Ninth Circuit granted that request, and action on the City's petition has been effectively stayed pending the final outcome of mediation. As a result, the parties are unable to state when or whether the Ninth Circuit will rule on the City's petition.

CONCLUSION

For the reasons stated above, the parties respectfully ask this court to set the Third Annual Status Conference to November 16, 2017, or any other time thereafter that is convenient to the court.

DATED: July 19, 2017.

Respectfully submitted,

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