

Mental Health Alliance Written Testimony
August 24, 2021 Court Appearance before Judge Simon
August 24, 2021

Re: BHUAC's Lacks of Allowed Community Engagement is Not in Compliance with the Settlement Agreement

Dear Judge Simon,

An organizational member of the Mental Health Alliance (MHA)--Disability Rights Oregon (DRO)--has been a Member of the Portland Police Bureau (PPB) Crisis Intervention Team (CIT) Advisory Committees for the past 22 years and has been a Member of the Behavioral Health Unit Advisory Committee (BHUAC) from its inception.

Further, DRO staff provided trainings as part of former CIT curriculum as well as for current Portland Committee on Community Engaged Policing (PCCEP) Members. We strive to ensure that people with or perceived to be with mental illness, the named victims in this US DOJ investigation, are not subject to continued unnecessary or excessive uses of force.

The PPB's Behavioral Health Unit Advisory Committee (BHUAC) has failed to allow community engagement. A fundamental tenet of this Settlement Agreement is the inter-dependency of community trust with safety and constitutional policing. In particular, the parties to the Settlement Agreement made clear that:

The Parties further recognize that the ability of police officers to protect themselves and the community they serve is largely dependent on the quality of the relationship they have with that community. Public and officer safety, constitutional policing, and the community's trust in its police force are, thus, interdependent¹.

A primary goal for BHUAC is to facilitate PPB's successful interactions with mental health consumers.² The BHUAC has failed to adhere to "Nothing about us without us" in terms of people with or perceived with mental illness. Presently, the BHUAC posts its Agendas and Minutes for meetings³. Recently, they have hosted one public informational meeting as part of BHUAC's transparency and community engagement plan.⁴ We laud the efforts of the BHUAC, but note that these public meetings are separate from the BHUAC meetings and, therefore, do not allow any listening or being listened to on the present BHUAC topics. Moreover, the 1st out of a

¹ Settlement Agreement Introduction, p. 4

² See Settlement Agreement, paragraph #91, in part "In order to facilitate PPB's successful interactions with mental health consumers and improve public safety, within 60 days of the Effective Date, PPB shall develop an Addictions and Behavioral Health Unit ("ABHU") within the PPB.

³ DRO successfully advocated for this posting, as the BHUAC was not doing this in the 1st months.

⁴ See as Exhibit #1, Letter from BHUAC to MHA (12/27/19)

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total of 2 such meetings thus far appeared to not welcome or even entertain the public's request to be allowed to participate in the regular BHUAC meetings. The community interest in having BHUAC open to the public was not taken seriously—no real dialogue was allowed. For meaningful community engagement, there must be allowance for listening and being heard. The 2nd such meeting adhered to this same approach of BHU/AC being the speaker and anyone else being solely listeners.

The Behavioral Health Unit (BHU) appears to be doing effective work in its interactions with people with or perceived with mental illness; this strengthens the need for communication with the community. Given that this is relevant work that appears effective, the community should be able to find out about what's happening. BHU's website outlines the areas of service, including a now expanded Mental Health Response Team (5 units). This Division is critical and its work should be widely known. Additionally, the BHU could be strengthened through input by people in the community who are not represented by any Member of the BHUAC. By not allowing inclusion, the BHUAC does not add to community trust and resiliency.

As you are aware, the Mental Health Alliance (MHA) was granted amicus status to ensure that the rights, interests and voices of people with mental illness were heard in this matter. Given that the BHU is a PPB division specifically designed to serve people with or perceived with mental illness, inviting and welcoming people with mental illness to engage with the BHUAC is fundamental to creating a stronger and more resilient community. Members of the BHUAC cannot represent all the voices of people with or perceived with mental illness. Anyone who has spent time in the mental health community readily recognizes that individual voices are critical and that the generalized voice can be ineffective.

The MHA has advocated for inclusion and transparency in the BHUAC, including to the BHUAC Members as well as to the Mayor.⁴ There are inadequate opportunities for the BHU/ BHUAC to learn from community members as to the relevant policies. This point highlights an enormous concern about the BHUAC--huge missed opportunities to learn from the community. Without communication and without inclusion, it is impossible to build trust. When the voice of those with lived experience is not heard—true understanding and remedies are missed. With little to no engagement of the community, the overall community does not grow stronger.

Despite on-going efforts to have the BHUAC meetings open to the public, they are not. We have advocated for open meetings/ community engagement as a Member of the BHUAC to the BHUAC⁵; as Members of the MHA to the Mayor, the City Council, the PCCEP. Also, we have made this argument previously before you, Your Honor⁶. We continue to advocate for inclusion of people with mental illness to

⁴ See Exhibits #2 to #5.

⁵ See Exhibits #6 and #7.

⁶ See Exhibit #8

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be able to participate in the BHUAC, the PPB Division designed to serve as assist people with mental illness. Without being required to include the community that has been identified as being harmed in this Settlement Agreement, the PPB foregoes a critical opportunity for community trust building. Why is the door shut on the potential victims?

You have heard the arguments for and against coverage of the BHUAC under the Oregon Public Meeting Laws (OPML). I believe that it does and MHA has made this argument. However, even if somehow due to a technical exception, the BHUAC is not subject to the OPML—they still can do more than what the basement of the state law requires. Given the mandates of the Settlement Agreement before us today, to have PPB work to build trust with the community, the BHUAC should choose to do the right thing and open its doors to increased information exchanges. The BHUAC appears to be resorting to an alleged technical exception to the OPML as a defensive measure instead of focusing on the core tenet of the Settlement Agreement—building community trust and making opportunities to build bridges with the community.

The BHUAC meetings should be open to the public and allow more transparent community engagement because:

- Quality relationships and community trust are integral to safety and constitutional policing.
 - Community members having their voices Included is key for service and outcomes that are stronger and improved.
 - BHU Division is designed for people with mental illness and “Nothing about us without us” is important.
 - BHU appears to be doing good work and this should be public to optimize;
 - The Settlement Agreement’s key underpinning is the need to foster trust between PPB and people with mental illness--this is in accord with this intent;
 - Generally, members of the community who are invited to be part of the solution and whose ideas are heard, considered and acted upon feel they are being empowered and respected.
 - The burden of each member of the BHUAC somehow being the voice for all interested persons is unrealistic. Some individuals choose to be their own voice.
 - The community as a whole—PPB and others—will be strengthened and more resilient.
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- This comports with the Oregon Public Meeting Laws. Even if there is some technical exception, PPB should comply given the spirit of the Settlement Agreement to increase community trust.

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Your Honor, we acknowledge that It may be messier and harder to have BHUAC meetings that are open to the public. However, this is analogous to not allowing victims to appear at sentencing hearings in criminal justice court matters because it may produce some level of acrimony. Exclusion cannot be justified. People with and perceived with mental illness continue to be victims of the PPB shootings. Their voice is key for positive change.

MHA's remedy that we are requesting is that BHUAC be required to have open meetings to accord with the goals of the Settlement Agreement for gaining transparency and community trust. People with or perceived with mental illness must be included and be part of the process of positive change. The door to the BHUAC meetings is entirely shut to the community voices and we are asking you to open this door as a critical remedy to reduce the unconstitutional use of force by PPB against people with or perceived with mental illness. Also, please recognize that if you deem the BHUAC in compliance with the Settlement Agreement, then this lack of community engagement and transparency is an on-going agent for eroding community trust.

Thank you for your consideration.