



League of Women Voters of Portland

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DATE: August 18, 2021

TO: Honorable District Judge Michael Simon

FROM: Debbie Kaye, president
Debbie Aiona, Action Committee chair

RE: Status Conference: United States of America v.
City of Portland Case No. 3:12-cv-02265-SI

The League of Women Voters of Portland is a non-partisan political organization that promotes informed and active participation in government. Our members have actively monitored the city's police bureau and oversight system for decades, with a focus on public participation, transparency, policy development, and accountability. We regularly attend Portland Committee on Citizen-Engaged Policing (PCCEP), Citizen Review Committee (CRC) and other police related meetings and stay up to date on the city's progress in meeting the terms of the Settlement Agreement between the U.S. Department of Justice (DOJ) and the City of Portland.

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The years of consistent involvement from the Compliance Officer and U.S. DOJ have brought a level of transparency, public involvement, and critical behind-the-scenes oversight never seen before. The League values the scrutiny the Settlement Agreement requires and, given the recent assessments, agrees that more work is needed to bring the Portland Police Bureau (PPB) up to the standards the agreement requires and the community expects.

Two areas of concern not covered by DOJ's nine proposed remedies include:

- The deficiencies in the Police Review Board process and operations, and
- The disparate treatment of communities of color during traffic stops and in use of force incidents.

The DOJ should make the case for and propose remedies to the court on these issues.

Police Review Board

The Police Review Board (PRB) advises the chief on serious misconduct cases, including those involving use of force. It is internal to the PPB. The public, press, and involved community members are not allowed to attend. The DOJ submitted a letter to the city in March citing concerns about the misapplication of force directives, the failure to enforce the satisfactory performance directive, and poor guidance and advice given to a PRB civilian volunteer by legal and administrative staff.

Additionally, the OIR Group, consultants the city engages to review closed investigations of police shootings and deaths in custody, identified PRB shortcomings. They pointed to insufficient training for PRB members, a lack of attention and follow up to Training Division recommendations, and a failure to carefully review pre-shooting tactical decisions and determine findings on whether officers' actions were consistent with training and policy. ([Report to City of Portland: Portland Police Bureau Officer-Involved Shootings Sixth Report](#), January 2019, pp. 96-99) The OIR Group also stated in its report that "... its current makeup, orientation, or structure does not appear to be serving as effective an independent check on officer performance or systemic improvement as initially envisioned." (OIR Group Sixth Report, p. 3)

In light of the serious concerns raised by both the DOJ and OIR Group, the League recommends that the DOJ include required improvements to the PRB in its remedies. This is particularly necessary because the PRB's work takes place behind closed doors and the public and press are unable to monitor and comment on its process.

Disparate Treatment

Another issue not addressed in the DOJ's proposed remedies is disparate treatment both in traffic stops and use of force.

On the [traffic stops](#) front, the PPB recently made some adjustments regarding how and when officers initiate traffic stops and will require them to inform drivers of their rights to decline a search. Those are steps in the right direction, but more scrutiny and oversight should be provided in order to ensure these policies are being implemented and that they are getting the desired results.

Furthermore, the PPB's quarterly [Use of Force Reports](#) show that African Americans are subjected to force at disproportionately higher rates than their numbers in the population. Thanks in part to the DOJ presence, we have more information about the problem, but have yet to see a plan to remedy it.

DOJ's Proposed Remedies

The League supports a number of the DOJ's proposed remedies with an emphasis on those addressing public participation, transparency, policy development, and accountability. We have no opinion on the others.

Community Engagement

PPB Annual Report: According to the Compliance Officer report and DOJ assessment, in 2020 the PPB did not meet the spirit or the specific requirements of Paragraph 150. It calls for the PPB to draft an annual report, share it with PCCEP for feedback, schedule community meetings in the three precincts where specific topics of public concern are to be covered and discussed, and present the report at a City Council session.

This year, PPB presented the draft report to the full PCCEP in June and heard comments from both the PCCEP members and the public. For the most part they were not responsive to community requests for the inclusion of more information on and a thorough discussion of the items called out in the Settlement Agreement:

- Use of force,
- PPB's policies and laws governing pedestrian stops, stops and detentions, and
- Biased-free policing, including a civilian's responsibilities and freedoms in such encounters.

PPB distributed an announcement for the precinct meetings through the PCCEP and posted it on their website, Facebook, and Twitter. This is an improvement over their "poor" efforts with 2020 announcements, as noted by the Compliance Officer and DOJ. However, next year they should consider also making use of email lists associated with the many other committees involved with the PPB.

The community meetings took place the week of August 16, and Chief Lovell presented information on the topics required by the Settlement Agreement. Regrettably, the PPB scheduled the City Council presentation before the precinct meetings were completed. The Settlement Agreement may not specify the order in which these events should occur, but the League believes that following the spirit of Paragraph 150 as well as the Compliance Officer's advice in its 2021 [Quarterly Report: Quarter 1 Updates and Analysis](#) (p. 65), would have supported holding the precinct meetings first and the City Council session afterwards. This would have given the PPB time to reflect on and share what they heard from the public.

We also recommend that PPB consider holding more frequent precinct-based community meetings as a way to further engage the public. Quarterly meetings would give them the opportunity to share updated force data and other reports, educate the public about rights and responsibilities, and build trust and understanding through meaningful

dialogue. In addition, we believe that the City Council should hear oral testimony from the public on the PPB Annual Report, so the commissioners are more aware of the community's thoughts about police services and police-community relations in Portland.

PCCEP: The League agrees with the Compliance Officer that the PCCEP functions fairly well overall. Because League members have a long-standing interest in these issues, we find the full board and subcommittee meetings to be an excellent source of current information and a welcoming place to submit comments and engage with receptive community leaders. Staff from the PPB, city attorney's and mayor's offices are almost always in attendance and available to respond to information requests. The PCCEP website could be better organized and more user friendly, however. For example, it would be easier to find information on the board agenda/minutes section if they were listed in chronological order.

Accountability

Community Police Oversight Board: As supporters of the charter amendment setting the stage for a new and empowered police oversight system in Portland, we share the DOJ's and Compliance Officer's concern about the transition between the Independent Police Review and the new oversight board. It is imperative that an effective civilian agency continues to have a key role in the city's police oversight system with no gaps in service. Therefore, we concur with the DOJ's remedy calling for amending the Settlement Agreement so that it includes a plan for an orderly transition to the new board.

One action that could be taken now to improve the Citizen Review Committee's role in appeal hearings would be for City Council to change the CRC's standard of review from the deferential "reasonable person" standard to "preponderance of the evidence." Given the time it will take to design the new system, adopt code language, appoint a board, and hire staff, it likely will be some time before our new system is up and running. Therefore, a new standard would be an improvement to our current system.

Other Remedies

Independent expert assessment of the city's response to crowd control events in 2020: The League agrees that the PPB and public would benefit from an independent review of PPB's response to the 2020 protests with recommendations. We have found the OIR Group reports on police shootings to be of tremendous value and urge the city to engage an equally competent contractor to do the work.

Needs assessment for crowd control training: In light of the deficiencies in crowd control training documented in the Compliance Officer's 2021 [Quarterly Report: Quarter 1 Updates and Analysis](#) (pp. 20–34), conducting a needs assessment to identify which skills to cover and how to present them should improve the quality of the training and increase its effectiveness.

Ensure PPB's budget covers officers' annual required training without relying on overtime: Using overtime to cover training leaves it vulnerable to budget shortfalls and has an impact on the time officers are available to carry out their other responsibilities. Training should be part of each officer's duties for the year.

Civilian head of the Training Division: As regular observers of the PPB's Training Advisory Council, the League agrees that the division would benefit from the consistent leadership a civilian leader would bring. We also believe that a professional with experience in adult learning techniques would be an asset to the division.

Hold accountable the Rapid Response Team lieutenants and above who approved force without adequate justification during the 2020 protests: The League agrees that higher-ranking officers who approved force without adequate justification should be held accountable.

Conclusion

The League supports the DOJ-proposed remedies discussed in this letter. We also want to emphasize the importance of additional DOJ intervention in addressing the Police Review Board deficiencies and the disparate treatment of African Americans in police uses of force, traffic stops, and searches. Both of these issues are of critical importance and deserve the DOJ's attention.

Over a year ago, the DOJ and Compliance Officer found the city to be in substantial compliance with the Settlement Agreement. The PPB's inability to sustain the reforms it adopted leaves us where we are today, with ongoing federal oversight. This state of affairs undermines the public's and our confidence in the PPB's commitment to those reforms. It leads us to question whether the PPB will be able to maintain their compliance with the requirements of the Settlement Agreement without the DOJ's intervention and oversight.

We hope that with continued DOJ guidance and public support, the PPB will eventually internalize the reforms, engage in constitutional policing, and earn the community's trust and cooperation. As the city designs its new community police oversight system, the League recommends that it consider including personnel who will function as independent overseers of the PPB's continued performance in the areas outlined in the agreement. In this way, we expect that over time the principles in the agreement will become fully accepted by Portland police officers and their leaders as the standards that guide their interactions with our community.