

22 August 2017

Commissioner Eudaly, Mayor, Commissioners ~

I respond to Agenda Item 946, [Amendments to Settlement Agreement in USA v City of Portland](#), to resolve unconstitutional use of force in policing. (One hour scheduled, on 190 pages, a time allotment that is to

also address an entirely different matter on police use of force.) Aware that, on 3 August introduction of the Plan for Portland Commission on Community-Engaged Policing, Council delayed public participation by two hours (resulting in a third of community members signed up to testify having fatigued out of the process) and having received no auto-reply from any of your offices on my testimony in that matter, I am sure this 'input' on vital need for community engagement is merely pro-forma effort. In this communication, as courtesy, I reproduce my 19 August post, [Sheltering White Supremacy in Portland Policing](#).

I copy DoJ CRD investigators and the Court, sadly noting violation of SA 170. As you prepare for this hearing, pertinent documents have been sliding on and off the City's website without notice. There has been no means for providing intelligently informed consent of the governed. Artificially constrained deadline for 'input,' and return to reliance on perpetrators' unreformed communication style, they conspire to subvert the rule of law.

"I've received dozens of emails from people who don't support the amendment," said Commissioner Eudaly, on 3 August. At issue was the Mayor of Portland, Oregon's initial plan to change who gets to oversee implementation of a [2012 Federal plea deal to reform unconstitutional policing](#). Following predecessors' obstructionism, his [Portland Committee on Community-Engaged Policing](#) (PCEP) intends [on 24 August](#) to legitimately circumvent direct community influence. The Mayor would prefer to choose who oversees compliance with intended police reform, and have his small band meet half the time in secret. To reduce the scope of public involvement, he must eliminate a Community Oversight Advisory Board (COAB) enshrined in an Obama-era agreement.

Eudaly asked, "Are we somehow eliminating tracking analysis and review of racial profiling data through any of these amendments?"

Race is only mentioned twice in the pre-Trump plea deal. SA 148 provides Portland Police Bureau (PPB) "shall continue to require that officers document appropriate demographic data regarding the subjects of police encounters," including the subject's race. PPB is "to consider *enhancements* to its data collection efforts" (italics mine) and report quarterly. Of course, the bureau, operating as unresponsive to external influence, has not fulfilled the 2012 obligation.

Mayor Wheeler's Senior Policy Advisor Nicole A. Grant finessed community concerns Eudaly found "compelling." In March 2017, while the Mayor was in backroom negotiations with law enforcement, a [Racial Equity Plan](#) (REP) rolled out of the Police Bureau. Note that SA 159 requires PPB to "maintain all data and records necessary to facilitate and ensure transparency and wide public access to information related to PPB decision making and activities ..." Elsewhere the records are required to be posted across web sites.

Transparent process, with opportunity for community engagement, was to replace cozy backroom dealings. And prevent Council from releasing hundreds of previously undisclosed pages of documents on a Friday, for passage the following Wednesday. Volunteers in community-based organizations have never been effective in accelerated turn-around times: often, study groups must get Board approval to take official positions. SA 170 requires "The Chief shall post on PPB's website final drafts of all new or revised policies that are proposed specific to force, training, community-based mental health services, crisis intervention, employee information system, officer accountability, and community engagement, to allow the public an opportunity for notice and comment, prior to finalizing such policies." Of course, only REP's final iteration appeared, and without fanfare.

A Community Liaison (COCL) was to alert the public of opportunity for civic engagement in the draft stage. To conduct Town Halls within accessible time frames, and then usher expressed concerns for deliberation by a community-based oversight body, meeting in public. COAB would then make recommendations to office-holders and police command staff. *Prior* to finalizing such policies.

In a Trump-era renegotiation of plea deal terms, these covenants are to be set aside. Strong-man leadership is to replace broad-based community engagement.

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Cops' REP was developed under the auspices of the City's Office of Equity and Human Rights. Despite years of extrajudicial killings, OEHR has never advocated PPB co-workers be held accountable for any conduct. Their primary mission is to address an equity spectrum in City procurement and hiring. They offer facilitation and training in jargon. "Bureaus had autonomy to focus their work," declares their [2016 report](#).

Decision to bury SA 148 on the penultimate page in cops' REP circumvents provisions calling for transparency and opportunity for community engagement. Further, OEHR's [Racial Equity Toolkit](#), purportedly employed to frame cops' racism, is not police specific. An incisive and growing [body of work](#) from police scientists has been designed to eliminate PPB's shame and detain policies (stop 'n frisk) and conclude race-based disparities in use of force. It is perpetuation of small-minded provincialism to make assessment using a toolkit designed to also accommodate racism in the water bureau. Eudaly undoubtedly fell for it.

Another result of keeping community participation at bay is that identifying racial disparities in [traffic stop data](#) is a concern in the REP section primarily devoted to recruitment, hiring and retention of police officers. Gone is 'enhancement' language.

It would have been my 'input,' should the City's Chicago-based COCL contractor have alerted locals of opportunity to influence police policy, to ask why data collection *required improvement*. DoJ's Civil Rights Division investigators never explicitly declared goals, but I suspect that – in subsequent investigation – they'd want evidence to discern whether race-based disparities in law enforcement warrant subsequent Federal intervention. The City of Portland is never going to voluntarily produce evidence of culpability; but at least racial justice advocates would have data describing the dodge.

To give Eudaly's concern deeper context, cops have been collecting 'stops data' since the turn of the century. They began making annual reports three years in retrospect. No outside agency influences design of data collection: we are spoon fed cops' analysis of their own conduct. (In the Chief Reese era, PPB hired Dr. Brian Renauer, and PSU's Criminal Justice Policy Research Institute, to see whether changing benchmarks would improve racial disparity outcomes in reporting. It did not.)

For Eudaly to be concerned, as to whether cops *measure* their performance, is to miss the larger point:

WE WANT RACIAL PROFILING ELIMINATED!

If you are African American, you are twice as likely as Whites, per census data, to be stopped by Portland, Oregon police. Cops tell us they can't see who is behind the wheel. So we insisted they measure pedestrian stops. African American pedestrians are *four* times as likely to be stopped. And cops are hiding results: they won't demographically break down interventions for "mere conversation." Prime target for this practice: Black, male youth. Once detained, African American drivers and pedestrians are then twice as likely to be searched. The kicker? Blacks who've been stopped and searched are less likely to have warrants, weapons or drugs than Whites: this biased 'hit rate' then feeds into County law enforcement's racially disproportionate fines, sentencing and plea deals. (See the \$25,000,000 disparity [here](#).) City policy primes our school-to-prison pipeline. The entire scheme is a poverty assurance mechanism.

The Obama-era plea deal mentioned race at SA 146d: the perpetrators' Human Rights Commission (HRC) was to finally implement Chief Sizer's 2009 Police Plan to Address Racial Profiling. Eudaly sat stone-faced as she and others were further finessed. (The Feds hoped to bring City Commissioners to task in 2012: local authority – including still-serving Fritz and Saltzman – never called for a first annual review of the 2009 Plan.) The Mayor's aide revealed HRC's police-centric Community Police Relations Committee (CPRC) simply "disbanded." The body, responsible for Federally mandated police reform, unilaterally quit operation ... without taking required action on racial profiling. (See sidenote, below.)

The City does not want to change police behavior. Eudaly is concerned that their conduct is *measured*, however. The thing is, year-after-year reporting ... that racial profiling goes on unabated ... merely telegraphs to the world that, "This is the way we police in the nation's Whitest city of its size."

The term “racial profiling” is to be excised in the Trump-era plea deal. The Mayor’s plan, to use a puppet body to echo the City Attorney and report the City has complied with provisions, only requires PCCEP to “learn about” the cops’ REP in orientation: there is no mandate to stop racist practice. When you get that far into the weeds, you’ll discover “Develop strategies to address disparities,” is to come in REP’s ‘Year Two.’ In 2020 or 2021, whoever still wants racial justice will be able to assess whether planning – that was supposed to begin a decade earlier – has even *begun*. No date is envisaged, by which officer conduct is to actually change.

I must concur with Gregory Robert McKelvey’s assertion: [Ted Wheeler has been secretly working with Jeff Sessions’ Department of Justice to dismantle Portland’s police accountability process](#). The intention is to leave White supremacy intact in PPB culture, until its proponents depart from office.

Pointedly, community awareness has advanced broadly since the parties ignored the community’s proposed fixes to the plea deal at 2012 adoption.

Mayor Hales in 2014 erased disciplinary action; suspension for public tribute to five, Nazi-era German soldiers; from PPB Kapitän Mark Kruger’s personnel record. Purging records of Nazi affiliation is stark reminder of a plan which parallels our intended police reform. Kruger was promoted to offer command staff training; he is regularly dispatched to participate in public convening addressing police accountability. [Demand for Kruger’s resignation](#) mounts in the wake of City police and transit [collusion](#) with White supremacist uprising in Portland.

If the Mayor is sincere in his enthusiasm for PCCEP, his band of appointees need not come at the expense of leveraging “the ideas, talent, experience, and expertise of THE COMMUNITY” (SA 141). A Trump-era plea deal, to delay the very introduction of racial profiling remedy, and to keep perpetrators as shepherds of that planning process - as well as purportedly improving data collection - is unconscionable.

I counter-propose the Mayor task PCCEP with removing Kruger from influence. That, as Police Commissioner, he re-purpose anti-'gang' (anti-Black) suppression; to conduct gang tattoo and broad behavioral analysis *of serving officers*. Unearth bureau Oath Keepers, Ku Klux Klan adherents, and those of the Constitutional Sheriffs and Peace Officers Association. **Set COAB in place as a well-resourced, sincerely pursued initiative; follow on with PCCEP initiative to gut PPB of White supremacist influence.**

Best,

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Sidenote: while the Mayor on 3 August falsely portrayed COAB dysfunction (items 40-51, [here](#)), as if it justified Commissioner’s refusal to appoint replacement members, or allow the community to select their five representatives; no such analysis was given to our Human Rights Commission’s (read ‘cops’) refusal to convene CPRC. They were just allowed to shun their responsibilities. By Mayoral order, citizen appointments to HRC have been silent throughout the most viable local civil rights initiative to take place in two generations. No matter how many City boards the perpetrators throw into PCCEP member-selection processes, there is no historical evidence that political appointees will contravene local politicians responsible for their influence.