

August 12, 2016

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Mayor Charlie Hales

Commissioner Nick Fish

Commissioner Amanda Fritz

Commissioner Steve Novick

Commissioner Dan Saltzman

Tracy Reeve, City Attorney

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Re: Settlement Agreement in *United States of America v. City of Portland*,  
Case No. 3:12-cv-02265-SI

We, the 6 individuals named below, make the following two recommendations to the U.S. Department of Justice (DOJ) and the City of Portland. We comprise 6 of the 8 remaining members of the Community Oversight Advisory Board (COAB). Unfortunately, the actions of the City of Portland and the Compliance Officer and Community Liaison (COCL) described below have prevented the COAB from conducting a public meeting to consider the two recommendations.

A. The DOJ should find the City of Portland to be in noncompliance with the Settlement Agreement.

Recommendation:

The DOJ should find the City of Portland to be in noncompliance with the Settlement Agreement in each of the following respects and for the following reasons:

1. Settlement Agreement - Paragraphs 142 and 145. COAB selection

Currently the COAB has only 8 voting members, consisting of only one of the required 5 appointees by the City Council, only 3 of the required 5 appointees from Portland's Human Rights Commission and Portland's Commission on Disability, and only 4 of the 5 appointees from the community at-large.

The City is in noncompliance with the Settlement Agreement by not filling the 7 vacancies on the COAB.

2. Settlement Agreement - Paragraph 145; Collaborative Agreement with the AMAC - Paragraph 11. COAB selection

For COAB's community at-large members, the City has not clarified or established a process for the selection of alternates to fill community at-large vacancies on the COAB. The lack of such a process was raised by the DOJ in its 9/10/2015 Compliance Status Assessment Report, page 81.

By not having such a process in place, the City is in noncompliance with the Settlement Agreement and the Collaborative Agreement with the AMAC.

3. Settlement Agreement - Paragraph 152. COAB meetings with the Chief, the Police Commissioner and others

The Settlement Agreement states "[t]he COAB, shall meet at least twice per year with the Chief, the Police Commissioner, PPB Precinct Commanders, PPB Neighborhood Response Teams, and a representative of the Office of Neighborhood Involvement Crime Prevention to assess and solicit comment on PPB'S activities in regards to community outreach, engagement, and problem-solving policing." The lack of such meetings was raised by the DOJ in its 9/10/2015 Compliance Status Assessment Report, page 85, wherein it noted: "PPB states that it was planning its first such meeting for this fall. PPB 2015 Q2 compliance report, Item 152." Neither the PPB's planned meeting for the fall of 2015 nor any of the required twice annual meetings have been held.

The City is in noncompliance with the Settlement Agreement by not ensuring that the named individuals meet at least twice per year with the COAB.

B. The contract between the City of Portland and the Compliance Officer Community Liaison should be terminated.

Recommendation:

The contract between the City of Portland and the Compliance Officer and Community Liaison (COCL) should be terminated.

Under the Settlement Agreement, the "COCL will chair the COAB, preside over COAB meetings, take and count votes, and perform such other activities as are necessary for the efficient operation of the COAB." Settlement Agreement, paragraph. 144.

Under the “Standard of Care” provision in the contract between the City of Portland and the COCL, the COCL “shall perform all services under this contract using that care, skill, and diligence that would ordinarily be used by similar professionals in this community in similar circumstances.” Contract with Rosenbaum and Watson, LLP, “Terms and Conditions,” paragraph 1. Also under the contract, “[t]he City may terminate the [COCL]’s appointment for cause if the City determines that the [COCL] or any members of [COCL]’s team has engaged in any misconduct or ethical violations.”

In the last two months, the COCL has repeatedly interfered with the COAB’s ability to conduct public meetings, to meaningfully engage with the community at-large and to carry out its responsibilities as authorized in the Settlement Agreement, paragraph 141, as follows:

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 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.

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.

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.

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.

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.

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.

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

### C. Conclusion

We trust that our critical recommendations and the reasons in support of them will be taken seriously.

Thank you.

Sincerely,

Catherine Gardner	Myrlaviani Rivier	Tom Steenson
Jimi Johnson	Rochelle Silver	Philip Wolfe

cc: Hon. Michael Simon, U.S. District Court Judge, District of Oregon  
Dr. T. Allen Bethel, Albina Ministerial Alliance Coalition for Justice and Police Reform  
Debbie Aiona, League of Women Voters of Portland  
Dan Handleman, Portland Copwatch  
Jason Renaud, Mental Health Association of Portland  
Jan Friedman, Disability Rights Oregon  
Kristen Chambers, National Lawyers Guild  
Jo Ann Hardesty, National Association for the Advancement of Colored People  
Dennis Rosenbaum, Compliance Officer and Community Liaison