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To: "Mary Austad" <[Mary\\_Austad@ord.uscourts.gov](mailto:Mary_Austad@ord.uscourts.gov)>  
Sent: Monday, October 10, 2016 8:14:56 AM  
Subject: Letter to Michael Simon in reference to US DOJ v. City of Portland

Dear Judge Simon,

This letter is in reference to *US DOJ v. City of Portland*.

Since 2003, the Mental Health Association of Portland has been working to bring issues of institutional harm affecting people with mental illness to the attention of the community. After the death of James Chasse in 2006, we reported continuously about the internal and external actions taken by the state, the county and the city, by private attorneys and advocates, by family members and protesters in the streets. We co-hosted **Chasse's memorial. We called for the termination of the officers who killed Chasse**, and for expanded CIT. We made an award-winning documentary film about **Chasse's life and death**. In the years since, we have continued to spotlight the deaths of Oregonians with mental illness at the hands of police, and to amplify the voices of those with mental illness or addictions.

In February 2014, we testified at the Fairness Hearing that the settlement agreement being offered did not represent the interests of those harmed - or at high risk of being harmed - by police uses of force, namely those with addictions or mental illness. The agreement was unsustainable; it had been turned into a wish list for the mayor and chief of police, and had as little as possible to do with citizens with mental illness and addictions. We testified this absence - of the very people most at risk of being harmed by police - rendered the agreement inadequate, unreasonable and unfair. Our testimony went without response or action; it has since proven accurate.

Nevertheless, our supporters were engaged at several points in the hiring process for the Compliance Officer/Community Liaison (COCL). We observed - from the drafting of **the contract announcement to the "divorce" petition by Chicago**-based contractor - that voices of people harmed by misuse of force or most at risk were removed from consideration; sometimes, the people themselves were removed from the room.

After more than a year, the settlement agreement has not reduced the use of lethal force against people with mental illness and addictions. We know this because our extended recordkeeping gives us the ability to calculate a per-year average of shootings and fatalities, and since the settlement agreement was put in place, the average has not dropped.

The police have offered data showing some reduction in force. We believe any claimed

progress likely happened not because of the agreement, but in spite of it. There are **larger, cultural and national forces altering behavior, which aren't accounted for.** By the time we see it, the data will have been collected by police officers, shuffled by staff, reviewed by the discredited Chicago-based contractor, and ignored by the city.

**Unless there's true culture change within the police bureau, and unless we reduce the** acuity of high-risk individuals, some use of force may be inevitable. Multnomah County and Health Share Oregon spend millions on mental health and addiction services, but there is little or no data to show those services are effective at reducing either symptomatology or uses of force. Until all parts of the system are held accountable, harm to our people will continue.

#### **Here's what we know.**

- Systems do not fix themselves.
- The problem does not need to be part of the solution.
- **Disputes can't be resolved, reforms will never happen, and communities cannot heal** when all efforts to do so exclude the persons most affected.

Municipalities can't resolve systemic or social problems when they exclude those most **affected by the problem's disposition. Exclusion is self-evident** to the people who are excluded, and usually denied or defended by those already at the table. As advocates for people with mental illness, we're used to this, but nevertheless we question these exclusions and ask for appropriate inclusion. The City of Portland had this discussion with the African American community in the 1970s and the LGBTQ community in the 1990s. Both times, the discussions led to a commitment to monthly meetings between police and members of the minority group, with the goals of developing relationships and improving communication.

The key message from the breakdown and disintegration of the Community Oversight Advisory Board (COAB) is that the City doesn't yet have relationships with the recovery community or know how to communicate with us. If the City is interested in learning how to communicate with our community, we can advise them of agencies and individuals who provide training.

#### **Here's what you should consider:**

*Neither the parties, the amici, nor the COCL and COAB represent persons with mental illness who have been harmed by police use of force.*

You may have the impression the AMA Coalition represents the interest of people with **mental illness. Not so. Our organization is a "member" of the group, not part of the** vestry, the executive council, or privy to any decision-making processes of the Coalition. No other mental health advocates are active in the Coalition. Furthermore,

**neither the City's Human Rights Commission or the subsidiary Commission on Disability** are functioning, and even when they were, they did not represent the interests of people with mental illness. Both groups have excluded people with mental illness from appointments and participation.

Indeed, the COCL team, along with its city-hired staff, systematically excluded persons with mental illness - people the DOJ identified as the chief recipients of harm from police actions. The COCL contractor was selected by the mayor - against the recommendation of our organization, its supporters, and pretty much everyone else - and the contractor proceeded to stifle and silence people with mental illness, ignoring our concerns, not providing reasonable and requested accommodations, arranging for one to be arrested, threatening another, generating a hostile atmosphere, and insulting us all in comments published in the daily paper.

Now, we suspect the City and the DOJ will bring a proposal to the status conference to amend the settlement agreement, changing how oversight is done. Either directly or by inference, they will blame people with mental illness for not participating, when actually they tried - and got insults and exclusions in return. Their proposal will use words like **"unsafe" or "disruptions" or "unmanageable" to describe our behavior. These words are** fear-based exaggerations held true by the powerful - the language of prejudice. We may **be called "unstable," "angry" or "mad." That's the one thing they'll** get right; we are mad. **We're mad as hell, because cops killed our friends.**

In their proposal, the parties will be right in saying oversight failed due to the structure of **the agreement, which they designed and managed. But they'll go a little further.** They will assert the only way to accomplish the goals of the agreement is to limit the oversight duties to a single expert - a monitor - to report on progress to the community.

No doubt a monitor could be more efficient. No doubt they could be more professional, **with a nice suit and careful decorum. No doubt they'd be well versed in the legal issues,** savvy when engaging the media, and have clean, non-conflicted hands.

But a monitor would represent the interests of the parties and not the persons harmed, not persons with mental illness. A monitor would further limit the community and voices **of people with mental illness and that's both wrong and shortsighted.**

**It's the voice of those persons** - the harmed persons - and their allies that performs three essential actions.

First and foremost, their equal participation, regardless of how crazy they sound, gives credibility to the process. This is a reconciliation, not just a checklist or set of logical rules. There has been harm and trust has been broken, and those must be reconciled and repaired.

Second, within those voices is the actual solution to the problem of misuse of force. The **solution exists, but it's not within the settlement agreement or any part of law. It exists to**

be discerned and discovered and used.

Third, the discussion of *US DOJ v. City of Portland* is the first time people with mental illness have been purposefully included in a public policy conversation by the City of **Portland. It's no surprise there is anger and shouting - we've waited a long time.** The COCL contractor and the city-hired staff should have known anger and shouting would happen when they pushed moderate, knowledgeable and thoughtful voices out of the room. Shouting begins many authentic reconciliation discussions.

Our voices, loud or soft, are vital, individual and so fragile. All over the nation, police administrators are counting the fatal interchanges between cops and people with mental illness, result of decades of undertraining cops and underfunding public healthcare. At the apex, each death forms a banal statistic from which we learn almost nothing. Our fragile voices can tell you how those apices were reached - the hours, days, weeks when crisis could have been averted. Our fragile voices are valuable. They should not be stifled.

The discussion on misuse of police force should continue, and the voices of those harmed by the police should be kept front and center, protected by the settlement **agreement. We've closely watched police officers when they listen to our words and even our shouts, both at the top and on the street corner. They are listening. They were deaf to it for decades but our police administrators now understand the problem. They are not distracted by our behavior or our volume. They're listening for that solution.** They want to know how to make the wrong a right. If you shut the door on our voices it will take longer and be more painful for that solution to be heard.

We've published a number of articles on the settlement agreement and police accountability. Those opinions have not changed. You can read them here - <http://www.mentalhealthportland.org/recent-projects/>

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