

Consult Hardesty

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18 June 2014

Damon Isiah Turner, Chair

cc: Members of the Community Police Relations Committee, Human Rights Commission, Portland City Council, US Attorney for Oregon, DoJ Civil Rights Division

Re: **Plan to Address Racial Profiling – Updates, 18 June 2014**

We remain willing to contribute community member's perspectives to the deeper considerations you anticipate giving the 2009 Police Plan to Address Racial Profiling at your July meeting.

For a year or more, you've had posted to the [CPRC website](#) a precursor plan. We suggest you update it with the legislative language City Council passed by ordinance. You'll see it's prefaced with the phrase 'Updated August 2009.'

With regard to the June 2014 CPRC Agenda item:

- Receive updates to the Plan to Address Racial Profiling

It's perhaps a misstatement. Updates to the actual Plan should probably pass through the body that legislated it (City Council). Perhaps you meant to receive updates on the plan's implementation.

By way of introduction, our Primary Partner, Jo Ann Hardesty co-chaired the broad, community process which led to the Plan's formation. Roger David - then a volunteer strategy analyst with Oregon Action - helped usher Chief Sizer's Plan through its introduction at City Council. We both testified at its passage. We have no doubt that our testimony, before Department of Justice trial lawyers during their 2011-2012 investigation of illegal use of force by Portland Police, contributed to inclusion of Item 146 d. in [USA v. City of Portland](#). If accepted by our Federal District Court, this provision will direct a Community Oversight Advisory Board to solicit CPRC input on your work to date ... to finally 'implement' a City Council directive from 2009.

We are reminded that Dan Handleman of Portland Copwatch observed in [January 2011](#) that CPRC had yet to begin review of Strategies 2 through 5. We are aware of no Plan implementation beyond police hiring provisions. We encourage you to review the other, likely more effective strategies in depth. We are prepared to organize broad, community-oriented perspectives, if your deeper considerations will include Plan objectives "Reach out to the community" or "build crucial ties and mutual understanding." (See Plan Strategy 3: 'Reach Out to the Community to Build Mutual Trust and Understanding,' page 20.)

We hope you will consider deeply that failure to carry out this work proved to be an obstruction of justice. In February of this year, Chief Charles Gruber, adviser to Federal investigators and partly responsible for ferreting out 14th Amendment violations by Portland Police, testified:

"If you look at a use of force, and you look at a pattern of uses of force, you may very well see whether or not there was any kind of data that allowed one to measure whether or not there was racial profiling or whether or not there could have been better community engagement and whether or not there should have been a different tool used." As a result of the Agreement, "There will be all kinds of data and opportunities for the parties, especially the City, and the leaders for the City,

to look and see whether or not there was any activity on the part of the department that would point or give them a pointer or identify outliers that may contribute to other types of constitutional violations.” (See [public testimony](#), page 59.)

Failure of the CPRC to implement Plan Strategy 4: 'Collect and analyze the right data on police stops,' resulted in [2012 Findings](#) that could not ascertain the degree to which Portland Police engage in racial discrimination. According to U.S. Attorney Amanda Marshall, in a 2012 meeting with Consult Hardesty, DoJ investigators did not have access to the 'right data.'

The consequences of your failure to date have been disturbing to all who seek fair and equitable application of justice. They have been tragic for persons of color who find themselves victims of bias-based policing while in Portland.

Item 148 in the proposed Agreement gives you guidelines you need now consider deeply:

“PPB shall continue to require that officers document 'appropriate' (our emphasis) demographic data, regarding the subjects of police encounters, including the race, age, sex and perceived mental health status of the subject, and provide such information to the CPRC to contribute to their analysis of community concerns regarding discriminatory policing.”

Regardless of the outcome of the City's plea deal to avoid trial in *USA v. City of Portland*, this is actionable advice from law enforcement professionals with much experience. We **strongly** encourage you to give deepest consideration to demographic data collection strategies ... methodologies which will allow Federal authorities to bring suit if warranted. Without your leadership, the Police Bureau will be likely remain unable to stem the patterns and practices indicated in the three-year old pedestrian and driver [stop data](#), recently released. Should the illegal practice remain - despite your best efforts - an orderly pursuit of justice will require access to the improved data you've been tasked with collecting.

To that end, we suggest you include the U.S. Attorney in your considerations. She knows software protocols which will provide data sets that meet 'intent' provisions ... which only apply to the constitutionally protected class of race. We also suggest you include former Chief Sizer, architect of the Plan. Her vision has been so long in abeyance while under your responsibility, CPRC members might find it refreshing to appreciate this advocate for the Plan's design. Even if you have not established relationships with the DoJ's Civil Rights Division, it would be wise to now call on them, for professional advice in what is undoubtedly a complex matter.

We enter uncommon times. For their failures to offer protections that should have been afforded vulnerable populations, the Portland Police Bureau adopts new missions among their victims. While we believe mental health needs assessment and delivery of care should rightfully be accorded health care practitioners, authorities have decreed this to be a new police endeavor. With your support, PPB has given itself responsibility for assessing and then managing reports on community perceptions regarding their conduct. Following revelations of performance deficiencies, in a time of anticipated oversight, we suggest it is now prudent for CPRC to also shoulder concerns which the broader community has long advanced.

We have stated elsewhere our concerns that CPRC is unlikely able to take the lead on any initiative that police are reluctant to engage in. Failure to provide annual reviews of the 2009 Plan (Strategy 4.1 and in enacting language, wherein Mayor Adams called for 'dashboard metrics.') is merely one indicator that the police-centric body is stymied, when integrating with, and then responding to, a greater community. We also submit that unwillingness, by either the CPRC or Portland's Human Rights Commission, to foster community response to testimony requests from the nation's highest levels of law enforcement, is *also* indicative of a failure to engage meaningfully with the public in a time of profound need. CPRC's silence, during what has been the greatest civil rights initiative in a generation of Portlanders, remains profound.

Page 11 of the Police Plan to Address Racial Profiling calls your attention to the 2006 [Listening Sessions Report: a Community and Police Partnership to Eliminate Racial Profiling](#). In any 'deep consideration,' it would seem wise to both consult the Report *and* re-invigorate the partnership that inspired the Plan. In addition to Mayor Potter and co-chairs Sizer and Jo Ann (Bowman) Hardesty, the extraordinary public assembly forms a unique pool of institutional knowledge which persists, despite historical exclusion from previous CPRC deliberations. Also cited are community organizations. [Oregon Action](#) and the [Center for Intercultural Organizing](#) remain extant. The Federation of Community Organizations now takes action as the [Alliance for a Just Society](#). Given sufficient notice and trust-building efforts, they may be able to help inform the work you set about beginning.

The 2010 [Final Report by the Police Oversight Stakeholder Committee](#), established by City ordinance, also contains a list of individuals who have sought to “increase community faith that the oversight system is independent, fair, appropriate, [and] worthwhile.” Some community elements have grown ever more sophisticated in their understanding of racial profiling since these Stakeholders assembled. The [Albina Ministerial Alliance Coalition for Justice and Police Reform](#) has brought together member organizations which offer additional, diverse community perspective on tackling injustice. Coordinating with the AMA Coalition, you'll easily connect with member organizations who now possess deep understanding of the tasks you anticipate, including the Mental Health Association of Portland, Oregon chapters of the League of Women Voters, Urban League, National Lawyers Guild, the American Civil Liberties Union and others. Frankly, however, you'll likely have to offer roles that are likely to lead to the cultural changes Sizer envisioned:

- Improved mutual trust and communication between police officers and communities of color (Strategy 3) and, helping officers understand the community context in which they will work (Strategy 2).

See the **Appendix** for an extensive list of community participants, whose work led to the Plan you're about to consider.

If CPRC has truly overcome its reluctance to address racial profiling, it should come as some comfort that you can muster broad community support to overcome police reluctance to end discrimination. We suggest you engage these people meaningfully, *within* the planning process and not as mere recipients of decisions made by a small subset of volunteers committed to ensure human rights have the City's respect.

The Plan to Address Racial Profiling has been an orphan in a City known for long-term planning. It has no City advocate there. We suggest deep consideration be given to integrating this Plan with the East Portland Action Plan, as well as a myriad of other City planning agencies. Anchoring these goals, of more just policing, within that vast planning structure will help ensure your work carries on after the current CPRC regime initiates it.

As you explore the failures of Portland Police to collect the appropriate data, we also expect you to take on the abysmal reporting of this data. Standard, three-year delays in reporting are unconscionable. Cherry-picking six month periods for analysis do not serve community needs, or accepted practices. We encourage deep consideration be given to data analysis. We believe standardized reporting of raw data, for academic review to be a fair and reasonable request. The People will pay for its collection; it seems just that we have access to it.

Given that Portland Police already have a contractual relationship with Portland State University's Criminal Justice Policy Research Institute, to shape public opinion of police conduct, we suggest you reach further afield, to others with studied perspectives. [Dr. Karen Gibson](#) combines unique training in urban planning and racial inequality. We offer [James Parks](#), Chair of PCC's Criminal Justice Department,

as one who combines academic rigor with knowledge of local conditions. Engaging with unaffiliated intellectuals will help improve the plan's eventual implementation. With PPB counterpart, Sgt. Greg Stewart of PPB's Crime Analysis Unit consulting, you should also be able to implement effective tools.

We've done an analysis of the Police Bureau's [2014 CJPRI Response to Data Collection](#) and warn you that it cannot be taken at face value as guiding principles for collection efforts. In fact, we assert that, to blindly adopt PPB leadership in this matter, will actually divert you from the mission the Plan has laid out. We have many concerns, and will at this time testify that - by aggregating racial demographics in this fashion - you will actually generate less useful data. We encourage deep consideration be given to inviting local members professional organizations who are less vested in outcomes, and can be trusted by community members to design collection and analysis tools that meet the Plan's intent.

It will help build trust among those who suffer emotionally, to see that you are reaching into broad community in a concerted effort to address the police bureau's denigrating and shameful conduct.

We'll post this letter on our website. Deeply interested parties can have a version with active hyperlinks. Email us and we will reply with the link. If we can in any other way be of assistance as you begin this important work, please do not hesitate to ask.

Best regards,

Jo Ann Hardesty, Principal Partner

Roger David Hardesty, Minority Partner

-Appendix-

Members of the 2006 Listening Sessions Workgroup:

Clayborn Collins, Chair, Listening Sessions Planning Committee
Billy Robinson, Member, Oregon Action
Jamie Partridge, Community Activist
Roscoe Shepard, Member, Oregon Action
Ruth Alice Anderson, President, Oregon Action
Alejandro Queral, Executive Director, Northwest Constitutional Rights Center
Jason Dahl, Associate Director, Northwest Constitutional Rights Center
Andrea Gough, PSU Intern
Doo Jay Chung, PSU Intern
Sean Kolmer, PSU Intern
Shirley Minor, Community Activist
Kayse Jama, Founder, Center for Intercultural Organizing
Stephanie D. Stephens, Board Member, Center for Intercultural Organizing
Yong Gun Lee, Intern, Center for Intercultural Organizing
Claudia Paz, Intern, Center for Intercultural Organizing
Dan Handelman, Director, Portland Cop Watch
David Rogers, Associate Director, Western Prison Project
Erin Fair, UO Intern, Northwest Federation of Community Organizations (NWFCO)
Ari Alberg, City Corps Project Crew Leader, Open Meadow Alternative Schools
Shalini Dass, Student, Open Meadow
Brooke Alban, Student, Open Meadow
Jameka Lathan, Student, Open Meadow
Khino Brackeen, Student, Open Meadow
Lynnae Berg, Assistant Chief, Portland Police Bureau
Lt. Dana Lewis, Training Officer, Portland Police Bureau

Non-compensated, 2010 Police Oversight Stakeholders

American Civil Liberties Union of Oregon (ACLU): Andrea Meyer.
Albina Ministerial Alliance (AMA): Dr. LeRoy Haynes, Jr.
Basic Rights Oregon: Jeana Frazzini.
(I'm) Everyday People: Moses Rosen, Rev. Renee Ward
Latino Network: Carmen Rubio. Maria Serrano, alternate.
Center for Intercultural Organizing: Kayse Jama. Andrew Riley, alternate.
League of Women Voters of Portland: Debbie Aiona.
National Alliance on Mental Illness (NAMI): Sylvia Zingeser.
Portland National Lawyers Guild: Ashlee Albies. Mark Kramer, alternate.
Native American Youth & Family Center (NAYA): Donita Sue Fry.
Oregon Action: Sally Joughin. Ron Williams, alternate.
Portland Copwatch: Dan Handelman.
Sisters of the Road: Chani Geigle-Teller.
Truth and Justice for All (TAJFA): A.L. "Skipper" Osborne.
T.J. Browning, Commissioner appointee.
Dorothy Elmore, Commissioner appointee.
James Kahan, Commissioner appointee.
Gregory Willeford