



U.S. Department of Justice

Civil Rights Division

SHR:LLC:RJG:BDB:SDW:AB
DJ 207-61-1

Special Litigation Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530

July 1, 2016

Ellen Osoinach
Senior Deputy City Attorney
Office of the City Attorney
1221 S.W. 4th Ave., Suite #430
Portland, OR 97204
via email

RE: Provisional Approval of PPB Directive 850.20,
United States v. City of Portland, 3:12-cv-02265-SI

Dear Ms. Osoinach:

Pursuant to the Settlement Agreement (“Agreement”) in the above-captioned case, the DOJ monitoring team is pleased to provide provisional approval of Portland Police Bureau’s (PPB) promulgated revised Directive 850.20, *Police Response to Mental Health Crisis*. See Attachment. Our approval is contingent upon the collection of data agreed upon, pursuant to Paragraph 105(a)-(m) of the Agreement, regarding PPB’s response to calls involving mental health, and is subject to our reassessment of Directive 850.20 once PPB produces sufficient data for our analysis.

We greatly appreciate the Behavioral Health Unit’s (BHU) interest and willingness to engage with DOJ on the complexities underlying this policy, and our mutual interests to establish policies seeking to keep both members of the public and officers safe. We also greatly appreciate the work of the citizen volunteers and police advisory members who serve on the Community Oversight Advisory Board (COAB). The COAB provided timely comments and recommendations on the draft policy, which the DOJ and its expert consultant reviewed and considered in reaching this provisional approval.

Background

As we stated in our September 12, 2012 Findings Letter, we recognize that PPB officers are often first responders to incidents for which behavioral health or crisis resolution is intertwined with public safety issues. Unfortunately, PPB’s involvement plays out against a back drop of a weak community-based mental health system with far too few resources for persons with serious and persistent mental illness and persons in crisis. While we do not expect PPB officers to substitute for mental health providers, PPB policy must direct officers how to interact with persons with perceived or actual mental illness, or experiencing a mental health crisis, and how to engage with the community mental health system when appropriate, in order to minimize use of force against such individuals and promote public safety.

Within DOJ's role as monitor in this case, we are tasked with reviewing policy and approval of modified and newly added policies in accordance with the reforms agreed upon in our Agreement. *See* Settlement Agreement ¶ 169, Dkt. No. 4-1 (Dec. 17, 2012). We previously outlined our process for such review in our letter dated August 10, 2015. This process includes consultation with our expert, coordination with the COCL, and consideration of COAB recommendations and public comments. As further provided by our letter, DOJ employs a "trunk and branch" rubric to our policy review, such that the comments we provide to the "trunk" mental health policy, 850.20, should serve PPB in determining necessary revisions to the "branch" policies, including Directives 850.21, 850.22, and 850.25.

Provisional Approval Process

DOJ initially provided written comments on the City's proposed revised Directive 850.20 in May 2015, and the parties met to discuss DOJ's comments and concerns relating to the policy shortly thereafter. As a result of our questions and concerns, the City invited our consultant, Dr. Mark Munetz, to observe PPB's response to crisis calls and to gather further input on PPB's crisis intervention efforts in June 2015. In consultation with our expert, we provided technical assistance based on our assessment of that visit by letter, dated August 17, 2015. We incorporate here the guidance in that letter by reference. Specifically, that letter stated that the types of calls for which Enhanced Crisis Intervention Team (ECIT) officers are dispatched are too limited and that such limits did not comply with the core competencies under the Memphis Model. In November 2015, a representative of our monitoring team observed the ECIT training, and, consistent with our August letter, we informally provided additional feedback to the BHU and Training Division. Between December 5 and January 19, 2016, the Parties exchanged additional comments on revisions to the Directive. On March 9, the City provided a revised draft of Directive 850.20 for DOJ consideration. On April 5, DOJ provided additional comments to the City's revised draft. The Parties met and conferred on April 11 and agreed in principle on final changes to the policy. The City provided DOJ with the attached promulgated Directive 850.20 on May 11, 2016.

COAB Recommendations

Throughout this process DOJ consulted with our expert, Dr. Munetz, and conferred with Dr. Amy Watson of the COCL team. Dr. Munetz also met with the Mental Health and Crisis Response Subcommittee of the COAB, and DOJ reviewed and considered COAB's recommendations to PPB's mental health policies.

The COAB made four specific recommendations. First, COAB recommended that PPB train officers on trauma-informed care and cultural competency. PPB included trauma-informed care training at the November 2015 ECIT training.¹ We understand that PPB's upcoming in-service training will devote time to cultural competency; we recommend that PPB's staff, including the BHU and Training Division, discuss the COAB's cultural competency recommendation in advance of this upcoming training, in order to draw on COAB's resources and make any improvements that can be achieved. Second, COAB recommended that PPB

¹ PPB retained an outside consultant to teach this portion of the training.

increase the number of ECIT-trained officers to 40% of all officers. As stated in our August 17, 2015 technical assistance letter, DOJ concurs that PPB must increase the number of ECIT officers to meet the demand for calls for service. The data that PPB has agreed to collect, as discussed below, will assist in determining the appropriate number. While it may seem intuitive to increase the ECIT corps of officers as much as possible, we remain mindful that one of the core competencies of the Memphis Model is that the crisis-trained officers form a team. The Memphis Model envisions a select team of officers trained to handle these sensitive calls, who develop accelerated experience in identifying signs and symptoms of mental illness and appropriate responses as they respond regularly to such calls, and who gain rapport with mental health professionals. These considerations informed our August 2015 recommendation that PPB estimate initially that 30% of its officers will require ECIT training; in the absence of further data, we are reluctant to suggest that a higher ratio will be necessary. Third, COAB recommends that all officers receive *advanced* crisis intervention training (“more robust than the current 40 hours”). Fourth, COAB recommends that PPB establish outcome measures to determine the effectiveness of training. In our view, PPB should consider these recommendations in revising its training policies and training curricula, but such recommendations need not be added to Directive 850.20.

Conclusion

DOJ’s provisional approval of this policy is conditioned upon the City’s agreement to the following:

- (1) PPB will collect agreed-upon data on the dispatch of all officers to mental health related calls pursuant to paragraph 105(a) – (m). Furthermore, we agreed that the data to be collected in (k) – (l) is interpreted as follows:
 - a. Paragraph 105(k), whether a mental health professional responded to the scene. The pertinent data to be collected is whether a mental health professional actually responds to the scene, rather than advising officers by phone or otherwise.
 - b. Paragraph 105(l), whether a mental health professional had contact with the subject on scene.
- (2) The protocol for the types of calls for which an ECIT officer will be dispatched, shall be revised to include when a subject is threatening or attempting suicide; and
- (3) Once PPB has collected the data, it will provide DOJ its analysis of such data as well as the underlying raw data, and DOJ will make an independent assessment as to whether or not the dispatch protocols, or other provisions of the policy must be further revised to come into compliance with the Agreement.

Pursuant to paragraph 170 of the Agreement, we require that PPB post this letter, the promulgated provisionally approved Directive 850.20, and the forms attached as appendices to that Directive to PPB's website.

Sincerely,

BILLY J. WILLIAMS
United States Attorney
District of Oregon

/s/ Laura Coon
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Attachment (as noted)

cc: Rosenbaum & Watson, LLC, COCL
Ashlee Albies, Counsel for AMAC
Anil Karia, Counsel for PPA
via email