

City of Portland

Portland Committee on Community-Engaged Policing (PCCEP)

Full PCCEP Committee – PCCEP Codification, Project Planning

Meeting Notes

September 20, 2023, 6:00-8:30 PM

Members in Attendance:

Pastor Robin Wisner (Co-Chair), Celeste Carey (Co-Chair), Byron Vaughn, Nathan Castle, & Leslie Martinez

Guests:

Jared Hager, USDOJ; Stephanie Howard, Director of Community Safety (Office of the Mayor); Sameer Kanal, PAC Project Manager; Sarah Ames, Dep. City Atty; Jeff Bell, PPB; Mary Claire Buckley, PPB; Dan Handelman, former PAC Member (and current member of Portland CopWatch);

Timestamps for the corresponding video are noted in bold, underlined text.

NOTE: A sampling of the questions and comments for each agenda item is presented below. Questions and comments are presented in summarized form, not as literal quotes.

- Call to Order **0:0:01**
- Introductions **0:5:33**
- Community Agreements **0:9:40**
- Discussion Guidelines **0:10:17**
- Meeting Overview **0:10:48**
- Updates **0:11:28**
 - PPB Chief Chuck Lovell stepping down **0:11:34**
 - Pastor Robin Wisner, PCCEP Co-Chair: I do want to give great appreciation to Chuck Lovell for his long service to the community in PPB and for navigating difficult times as Chief. He has been very connected in our community - the African American community especially. I have great respect for his replacement, Bob Day. **[NOTE: Following Chief Lovell's announcement, Mayor Wheeler appointed Bob Day as interim chief of police. Chief Day had retired from PPB in 2019 after serving as deputy chief of police. He is expected to serve as interim chief until June 2025.]**
 - Stephanie Howard, Mayor's Office: [Chat Comment] I think there will be good opportunities to continue to work with Chuck. He will be leading community engagement for PPB.
 - Five New PCCEP Members to Be Appointed **0:15:12**
 - The appointments are scheduled for the morning of Wed. 9/27 at the City

- Council meeting.
 - Fri., Oct. 6 – A private social event is being planned to introduce the new members to the rest of the committee.
 - Sat., Oct. 14 – There will be a new member orientation. Continuing members are welcome and encouraged to participate.
- Report on Co-Chairs' Meeting with Mayor Wheeler and PPA President Aaron Schmutz
0:16:10
 - Celeste Carey, PCCEP Co-Chair: We want to thank Mayor Wheeler for arranging a meeting with Aaron Schmutz, who is the sergeant with the PPB and the current chair of the PPA (Portland Police Association) - the police union. It was a good meeting. We got a chance to meet each other in an official capacity. Aaron's looking forward to this opportunity for us to get a chance to know each other and for us to understand not only deeper workings of the Police Bureau, but the perspective and workings of the union with regard to some of the challenges we've had with police accountability. So we're really excited that this is going to mark the beginning of a chance to sit down and talk and then move forward toward some truth and reconciliation. It was a very agreeable conversation. When I say agreeable, I don't mean to say that we avoided issues. We were pretty blunt. But it was respectful. And while we can have an amicable conversation, when you are a public official, there are times when you're confronted with people in public meetings using language that may be raw or seem hostile, even with some profanity. It's important to recognize that a lot of that can be coming from hurt, frustration, confusion, and feeling of being dismissed. It is not about a total disregard of police. It's an expression of feeling that comes from a conversation that, from the public's viewpoint, has seemed one-sided. We also talked about the opportunities to work with the police union on future recommendations coming from PCCEP and to get an understanding of how directives from the City are adopted and passed with union approval. Finally, the PPA also agreed to start attending future meetings with PCCEP. We think that is a big step forward because it gives us all the chance to talk to each other, get to know each other, become familiar with each other's needs and processes.
 - Robin Wisner, PCCEP Co-Chair: What I took from the meeting was wanting to recognize the difference from the past and going forward into where we want to be. We can agree to disagree, but at the same time, give the community its due and hear strongly what the people are saying and really care about. I applaud Mayor Wheeler and Stephanie Howard for helping with this meeting. The words that I took from the meeting were: love, healing, transparency, truth, and reconciliation.
 - Stephanie Howard, Mayor's Office: I just really want to appreciate both of you [to Pastor Wisner and Celeste], for asking the hard questions and for being open to building a relationship. I think there's a real opportunity here to create some meaningful engagement that will serve us all really well.

- Byron Vaughn, PCCEP Member: So the PPA was in complete agreement?
 - PCCEP Staff: My perspective was that there was a mutual understanding that there is a need for much better communication between the community and the police union. Was there straightforward agreement about harm done or the need for truth and reconciliation? I did not hear things that way. I think there are different perspectives. But there was certainly agreement around the fact that there needs to be more constructive dialogue and better ways to come to solutions that work for everybody.
 - Celeste Carey, PCCEP Co-Chair: There is still work to be done. We need to establish a common vocabulary so that when we talk in terms of recognizing harm done, everybody knows what we mean. The apologies made were adequate. And, people still feel raw or even suspicious and are longing for truth and honesty and empathy. So, we're still in the first stages. I won't say we hit a strike. I won't say we hit a home run, but I will definitely say we're on first base.
- Police Accountability Commission (PAC) presenting code package to City Council in special session on Thursday **0:30:55**
 - [Slide] What is the Police Accountability Commission (PAC)?
 - **[NOTE: The following is taken from the City webpage [PAC Community Info Session \(PAC Community Info Session | Portland.gov\)](#): “The PAC is a group of volunteer community members working to implement the Real Police Accountability ballot measure, approved by Portland voters in 2020. 82% of Portlanders voted in favor of creating a new community police oversight board, and the City Council set up this commission to work with the community to develop the details of the new system. The PAC is NOT the current oversight board. The PAC is in the process of creating a policy around what the new police oversight board will look like and what powers and duties they will have, and how the new complaint system will work. The PAC is NOT part of the Portland Police Bureau.”]**
 - Sameer Kanal, PAC Project Manager: I am the Advisory Boards and Commissions (ABC) manager for the Community Safety Division and I'm also the project manager for the Police Accountability Commission. I'm going to give a very quick overview of the proposal that the PAC will be presenting tomorrow at City Council. In a very broad strokes overview of what the PAC is proposing, and which will be presented tomorrow, is a new community board for police accountability, which is the oversight board that was approved by the voters in November 2020. That board will oversee a staff entity called the Office for Community-Based Police Accountability, which is a bureau of city government. That staff is led by a bureau director who can hire intake staff, investigators, administrative staff and the other staff necessary to do the work of the oversight system. It can do five basic things:

- 1) Mandatory things that are investigated, as well as investigate any complaint alleging police misconduct that affects a member of the public.
 - 2) Panels of the board would independently determine findings and if needed corrective action. This is an employment-based discipline process that's not related to either civil lawsuits or criminal charges against officers. Those are different. And they'd be making those decisions based on the results of files prepared by staff of investigators.
 - 3) The new board also has the ability to make policy recommendations that reflect community concerns and those go to the police chief, and if necessary, they would also go to City Council.
 - 4) Transparent reporting of data, balanced with confidentiality for personal information.
 - 5) PAC's meetings, same of the meetings of most public bodies, would be open to the public. The actions of the panels where they consider individual cases will be open to the public when in compliance with state law to do so.
- Sameer Kanal, PAC Project Manager (Cont.): This is a brief summary. The details are in the PAC's 500+-page report.
 - Leslie Martinez, PCCEP Member: Has PPA looked at this? A lot of times when we propose things like this, they sound great and then they hit a wall. Does this align with the bargaining agreement?
 - Dan Handelman, Former PAC Member, Current Member Portland CopWatch: I'll speak as a former member of the PAC. The Settlement Agreement and the ballot measure say that this can be instituted only when it's been negotiated with the PPA. But there's also things written in that the City Charter, the city's constitution, that basically say this board hires their director, this board investigates deadly force and other kinds of misconduct cases, and this board imposes discipline. So I think the things that are negotiable are things that are a little bit more in the granular areas.
 - Stephanie Howard, Mayor's Office: I'd like to give a little information about where this is procedurally, so people understand the different inflection and decision points for this:
 - Tomorrow, the PAC is presenting all their work and their recommendations to City Council and Council will vote whether to accept receipt of their report.
 - Then the Council will have 60 days to review it to propose code language.
 - That would then have to move through the DOJ process and the Settlement Agreement process, giving the DOJ an opportunity to review and weigh in.
 - It would need to go through the judge as well.
 - From there, whatever that final code looks like, would ultimately after those steps, be voted on for approval of the code by City

Council.

- Stephanie Howard, Mayor's Office (cont.): It's not clear how long that middle part could take - there aren't a lot of clear deadlines. It could take a while for all of those pieces to come together before this really comes into existence. Also in that intervening part is where, if there are recommendations that Council puts forward that implicate collective bargaining obligations, this would be addressed. We're at the beginning of the procedural phase.
- Sameer Kanal, PAC Project Manager [Chat Comment]: First line of the Charter section (<https://www.portland.gov/charter/2/10>) is "A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act [...]"
- Sameer Kanal, PAC Project Manager [Chat Comment]: The Settlement Agreement reads: "The City will comply with any collective bargaining obligations it may have related to the Oversight Board, which the City agrees to fulfill expeditiously and in compliance with its obligation to bargain in good faith." (<https://www.portland.gov/police/doj/documents/doj-settlement-agreement-revised-feb28-2023>)
- Sameer Kanal, PAC Project Manager: What I've been told is that, at the end of the 60 days, there will be a City Council resolution that formally sends the code package they're proposing, which may have some differences with the PAC's proposal as well as City-proposed Settlement Agreement amendments, to the DOJ and the court.
- Stephanie Howard, Mayor's Office: At 60 days, there will be that Council action necessary to move whatever the Council code package, based on PAC recommendations, into the DOJ settlement case. There would need to be a fairness hearing once that agreement is reached, and it would result in an amendment to the Settlement Agreement. I think there will be multiple opportunities for community input, such as speaking at a fairness hearing whatever the ultimate code package may be.
- Community Member #1: Are there guidelines for Is there any basis on which the City Council can approve or deny it? Are there guidelines for what types of reasons they can have, for, say, opposing certain aspects of it? Do they have to justify their opinions?
- Jared Hager, USDOJ: I just want to give a little bit of perspective from the DOJ's side of things. We are always interested in the rationale behind proposals. The reason why the parties codified this a new accountability structure, from Paragraph 195 of the Settlement Agreement, as a new remedy in response to the notice of noncompliance, was to address accountability issues that we identified in our notice. So we want to see an effective accountability structure. And, we approach this with some deference to a process that we approved in having Paragraph 195, which resulted in the PAC forming and developing recommendations that City Council would then consider and propose to the Department of Justice. The public will have many opportunities to be heard, whether at a fairness hearing, whether in a PCCEP meeting like this or at City Council. I think the

hurdle for the public influence whatever City Council proposes is much higher after its proposed to DOJ than it is on the front end. So, to the extent you want your voice to have more impact, I'd say go convince your local elected City representatives what you want in here.

- Co-Chairs propose making statement in support of PAC's work (at the PAC's presentation to the City Council) **0:51:35**
 - Pastor Robin Wisner, PCCEP Co-Chair: Look at these recommendations and the hard work this community has put together as people who are ready for change. We see these proposals and recommendations and strongly ask the City Council to: 1) accept the recommendations as is, and then 2) to be able to understand that we all care about our city and accountability. Accountability of the police goes to a lot of uncomfortable places. But this goes along with the trust that I believe that we are asking for and the work the PAC has put together. The PAC's work builds on the 30 years of the work that Celeste and I have done - that the community demands more and we deserve more. So that's my statement of support for the PAC's recommendations to the Council.
 - PCCEP Staff: The Bylaws state that whenever a member is speaking on behalf of the group, we request the group's consent first. This isn't a formal vote of the PCCEP. Does the group support your co-chairs testifying on this issue? We're not voting on a formal statement to adopt, but we are requesting your consent that your co-chairs can testify on behalf of PCCEP. Can we just ask for a display of support for that action with a show of hands?
 - [The PCCEP members present all show hand emojis.]

- What is Codification? **0:57:20**
 - [Slide] "Codification = making PCCEP a part of City code so it is an enduring venue for community engagement into policing and the policymaking process beyond the resolution of the Settlement Agreement"
 - Celeste Carey, PCCEP Co-Chair: We're bringing this up now is to look at how valuable this process is, how much progress we are making at this point, how much work is still needed, and the fact that there is going to be some upcoming changes in City governance. We thought we want to capture the work that's been done and capture the process that has been successful. So it's time for us to once again look at codifying PCCEP up into City Code.
 - PCCEP Staff: We just wanted to get a preliminary understanding of how that process works at the City level and what opportunities PCCEP might have for giving input into that process. Just giving a little preview into what might be unfolding if we were to undertake this effort. We have Sarah Ames, City Attorney, with us and she will speak about how the codification process might work.

 - Sarah Ames, Dep. City Attorney: There has been a long-time commitment by the Mayor's office to codify PCCEP. In fact, there was a drive to do it and PCCEP was working on it, revising it, then putting that forward as part of its codification efforts. Anyway, that didn't work out. But right now, if you want to codify PCCEP, you do not have to go back and revisit the PCCEP plan. You

have a PCCEP plan that's filed with the Court. It's been approved by City Council. It is in effect. We can codify PCCEP without worrying about that whole bundle of work. And it really can be a pretty simple process. I actually last year drafted a draft code to codify PCCEP. It's one page long because the code is the high level of the law, and you want to allow enough flexibility for individual groups to develop their plans within that. Some elements are covered by bylaws. So, you really don't need a lot of code to define what to get PCCEP up into code as a permanent part of the city government. What would happen is I could bring the code I drafted on behalf of the Mayor's office last year to Stephanie Howard and I could bring it to a PCCEP meeting, either a to a subcommittee or the full committee, discuss it, and get your feedback. And then, we could put it in an ordinance and get it done. This is not a very involved long process. With the Mayor's support and and a little bit of extra leg work and consultation with you, we can get this taken care of, if it's a priority now for you all, which is sounds like it is.

- Stephanie Howard, Mayor's Office: I just want to add that this is not a heavy lift for PCCEP at all. What we just would want is to get your feedback on the draft code and to ensure that this is reflective of what PCCEP would like to see happen. You've heard from the Mayor that he has always envisioned PCCEP existing beyond the Settlement Agreement. Sarah and I and the PCCEP Project Manager would handle the coordination on the back end of getting the ordinance to Council, and, of course, all of you would be invited to speak at that Council session if you wanted to. It would just be a matter of passing the ordinance.
- Jared Hager, USDOJ: With my Department of Justice had on the decision, to codify PCCEP or not is the City's decision. That wasn't/isn't a requirement of the Settlement Agreement. That being said, one of the advantages of the PCCEP structure, not found in the COAB (Community Oversight Advisory Board, the predecessor to PCCEP), was that it can live beyond the life of the Settlement Agreement. It isn't tied to the CO/CL (Compliance Officer/Community Liaison), and therefore isn't a creature of the Settlement Agreement. It wasn't defined as just a body that existed for the Settlement Agreement. The Mayor made it one part of his 18-point-plan in the summer of 2020 and has always been very supportive. PCCEP itself has an interest in its continued existence to really reward and make more durable all of the hard work the volunteers are putting in and the staff are putting in. The Department of Justice surely supports this. We would not require it of the City or PCCEP, but we are appreciative of you all taking it seriously and understanding the various interests at stake here.
- Celeste Carey, PCCEP Co-Chair: And just to add a little bit more background as to why we're looking for codification. As I mentioned, there's going to be a change in the City governance structure. Also, the mayor is not seeking reelection, and he has been our champion in many ways. One of the things that we really appreciate that is mandated by the Settlement Agreement is the partnership with the Mayor and the partnership with the police leadership. Those are two key things that we would like to see endure with

regard to a relationship promoting community vision of community policing. That's one of the key reasons for seeking codification, so that we can maintain this this dynamic of meeting and working together.

- Community Member #2: You have these two different boards – the new board that is going to deal with police misconduct and PCCEP. Both do different things, and both are needed. What is to stop someone on the Council, at some point, from pitting one against the other and saying there isn't enough money for both, especially since they do similar things?
- Sarah Ames, Dep. City Attorney: I think that's a really important point. And there are some questions about how to influence Police Bureau policies that could be seen as overlapping between the two. So, I think when I do bring the PCCEP codification draft code language to PCCEP for your comment, I think it would be good to also have the charter language for the new police accountability.
- PCCEP Staff: There are a lot of details of the future (police accountability) system that have not yet been decided upon. But, I believe, in the charter, and correct me if I'm wrong, something that the future board is able to do is make policy recommendations to the PPB. That is in the charter, correct?
- Sarah Ames, Dep. City Attorney: Yes, that is in the charter language. They have the authority to investigate, impose discipline, and to make policy recommendations to the Police Bureau. And if the Police Chief rejects their policy recommendations, they can then basically appeal and bring those recommendations to the Council for them to accept, and impose on PPB, or reject. There are some questions about how these two groups influence Police Bureau policies that could be seen as overlapping between the two. When I do bring the draft PCCEP code language for your comment, I think it would be good to also have the charter language for the police oversight group, which has some real teeth in those policies. Because their view is going to be through the world of looking at imposing discipline, they will be dealing with cases where policies failed or weren't clear enough or didn't prohibit some kind of conduct clearly. I think that was where they really wanted to have that policy authority put into the charter language. PCCEP, on the other hand, has a very different way of developing policies and making recommendations about policies and practices. You have a much broader kind of view of what kinds of recommendations you can make to the Police Chief and to the Mayor as Police Commissioner. The role of both groups does overlap, but they are also distinct. We can look at the charter language and any code language, if we've gotten that far, for the oversight board and look to make sure that they aren't seen as redundant. Because I see them as having very different roles, as you do.
- Stephanie Howard, Mayor's Office: While we're talking about this important question about the interplay between the new oversight board and codified PCCEP and what that can look like, I do just want to point out one section for this group to consider that's in the code package being proposed and discussed tomorrow. There are some recommendations from the Police Accountability Commission about making the new oversight board responsible for reviewing advisory bodies that make policy

recommendations.

- Break 1:22:43
- Project Planning 1:28:21
 - PCCEP Staff: We want to have a discussion about what's ahead for us. As you may or may not know, PCCEP operates on the school year, so we are at the beginning of a new PCCEP year right now. And we are trying to put some pieces in place to help us sort of anticipate what work we have coming up. And, what are our goals for this month? What do we have coming up the following month? And what else do we have time to fit in? So what we've laid out here is things that have been mentioned so far in addition to, some housekeeping. Things that we know we have coming up and we just wanted to talk about these things fitting in in the next couple of months and how we achieve these things.
 - Contact Survey Recommendation 1:31:29
 - PCCEP Staff: This is something that's been discussed in quite a few PCCEP meetings. We have a draft recommendation already put together. I think the thing the committee has not decided on yet is whether you want to do more community engagement around that recommendation before finalizing it. So that's a decision that needs to be made. Does there need to be more community engagement on that? Or would you like to just submit it as it is? Or have a meeting to finalize it and then submit it.
 - [Member Discussion]
 - **Decision** - This can be resolved in a future full committee meeting where the members circulate the draft to the public via the normal channels. And then the committee revises it collectively. PCCEP hears public input. And then PCCEP holds a formal vote. Also, a few PCCEP members are encouraged to commit to provide feedback or comments or be part of a work group on the topic, to make sure there's collaboration in that recommendation. (**Time Frame** – Penciled in for October.)
 - Finishing Bylaws 1:50:30
 - [Member Discussion]
 - **Decision** – (**Time Frame** - Placed in the calendar for October)
 - Scheduling for December 1:52:45
 - [Member Discussion]
 - **Decision** – December will be a light month, only for housekeeping and tying up loose ends of existing issues.
 - Onboarding New Members 1:54:34
 - [Member Discussion]
 - **Decision** – (**Time Frame** - Onboarding to be completed by the start of December)

