

The Portland Tribune

Your City Hall: City, state, EPA may join forces to clean up harbor toxins

*By Jim Redden
May 14, 2019*

The city, state and EPA have long known a 10-mile stretch of the Willamette River north of the Broadway Bridge is polluted with dangerous toxins, chemicals and other materials, posing a threat to wildlife and humans, and limited the public use of the waterway and surrounding lands.

WHAT IS HAPPENING? The City Council will consider entering into a unique agreement with the state of Oregon and the U.S. Environmental Protection Agency to speed the cleanup of the Portland Harbor Superfund site.

The council will hold a Wednesday, May 15, hearing on an ordinance to approve a city and state settlement agreement that would create a \$24 million trust fund to be administered by the EPA.

The city and state would each contribute \$12 million to the fund. The money would be available to the more than 150 parties the EPA has identified as potentially liable for cleanup costs estimated at around \$1 billion total. It would be available at \$80,000 per qualifying acre to develop remedial plans for cleaning up the pollution.

WHY IS THIS IMPORTANT? The city, state and EPA have long known a 10-mile stretch of the Willamette River north of the Broadway Bridge is polluted with dangerous toxins, chemicals and other materials, posing a threat to wildlife and humans, and limited the public use of the waterway and surrounding lands.

After many years of study, in December 2000 the EPA declared the stretch a Superfund site that has to be cleaned up. The EPA announced its cleanup plan in January 2017.

But work has not yet started on most of the polluted locations. The EPA has been negotiating in secret with the potentially responsible parties (PRPs) to reach agreement on who will do what work, but few apparently have committed.

In December 2018, the EPA informed the parties that they must begin negotiations by June 30 to design their cleanup plans and then sign remedial design agreements by Dec. 31.

Portland and Oregon are among the PRPs. They both support the EPA's efforts to move the cleanup process forward. Together, they agreed to create and fund the trust to help encourage the reluctant parties to create their remedial cleanup plans. Under the agreement, the EPA will credit the city and state for their contributions to the fund.

IS THIS ALL THE CITY WILL HAVE TO PAY? No, Portland is still liable for the costs of cleaning up pollution in multiple locations in the harbor. Although detailed cost estimates have yet to be made, the actual cleanup is expected to cost much more than preparing the plans for it.

The city has been collecting money to help pay all costs through a Superfund site charge on the combined water-sewer-stormwater management bill administered by the Portland Water Bureau for years. That is the source of the \$12 million. It is unclear whether and when the council will need to find other funds to help pay for the city's total share.

WHERE CAN I LEARN MORE? The city's Superfund website is at portlandoregon.gov/bes/56848.

WHAT CAN I DO? You can testify at the Wednesday, May 15, hearing in the Council Chambers at City Hall, located at 1221 S.W. Fourth Ave., Portland. If you can't attend, you can find contact information for all council members at portlandoregon.gov.

The Portland Mercury

Hall Monitor: What's the Point?

*By Alex Zielinski
May 9, 2019*

The volunteer committee tasked with reviewing Portland citizens' complaints about the cops has one job: to examine police misconduct through an independent, outside lens. Or, as Commissioner Jo Ann Hardesty recently described, a "regular-person perspective."

A police misconduct case currently before Portland City Council, however, has raised concerns that this unique police accountability body is toothless.

Portland's 11-person Citizen Review Committee (CRC) offers the final opportunity for a citizen who has reported officer misconduct to get justice. Only after a member of the public files a complaint against an officer with the Independent Police Review (IPR)—and only after an investigation finds the officer did not break the Portland Police Bureau's (PPB) regulations—can a citizen present their case to the CRC in the form of an appeal.

If the CRC votes in favor of the citizen and the PPB refuses to settle, the case heads to city council for a final ruling. This has only happened three times in the IPR's 22-year history—the most recent being this month.

The May 2 council hearing was based on a seemingly cut-and-dry case: In 2017, Kristin Bowling was issued a citation for jaywalking after she stood in the street to photograph an armored PPB truck entering a police station. Bowling believes she was arrested in retaliation for photographing officers. Officer Neil Parker, who was driving the truck, told investigators that "he noticed the expression on [Bowling's] face... she was expressing disapproval for his activities." Based on this observation, Parker said, he decided to write Bowling a citation.

Bowling's retaliation complaint was investigated by PPB's internal affairs office who, along with Chief Danielle Outlaw, believed Parker was right to arrest Bowling. The CRC, however, sided with Bowling, pushing the case to a council vote.

"The question is not whether the appellant was technically violating the law, the question is whether [Parker's] decision to issue the citation was motivated by her lawful activity," said CRC Chair Kristin Malone, speaking before council.

The CRC's decision is based on nearly a year of interviews, after-work meetings, and detailed analyses of PPB's internal rules. Yet in the hearing, Mayor Ted Wheeler seemed puzzled that the CRC did not simply agree with the police that reviewed the case.

"Officer [Parker] denied retaliation on the record," said Wheeler, somewhat irritably. "There's nothing else in the record that suggests he's saying that, 'It was because I was biased' or 'Because I didn't like her.' I'm struggling to figure out how you can make this leap."

Hardesty pushed back. "When people are investigating themselves, of course they believe that they do nothing wrong," she said.

CRC Vice Chair Candace Avalos was confused by Wheeler's response. "Well, of course [Parker] wouldn't say he was intentionally retaliating," Avalos told the Mercury after the hearing. "That's why there's an investigation."

Wheeler decided to delay the council vote on Bowling's appeal until May 16, when all city commissioners will be present. It's unlikely Wheeler will change his mind. But the May 2 hearing left CRC's leaders with bigger concerns. As the city's uniquely transparent police accountability board, does their opinion count? Or are they just a flimsy facade to a system meant to protect the police?

"If the mayor just expects us to agree with the police," Avalos said, "what's the point?"

Mother of Terrell Johnson Requests Federal Trial for Son's Death by Portland Cop

*By Alex Zielinski
May 10, 2019*

It's been exactly two years since a pair of Portland police officers showed up at Alicia Johnson's door to explain that her son had been fatally shot by another officer.

"After you've lost a loved one to police brutality, the police should not be coming to your door to tell you what happened," Alicia told the Mercury on Thursday. "They insisted that they came inside, they insisted I wake up my husband. They came to my house with guns on their belts."

Now, after months of reliving that day through old evidence and new analysis, Alicia's prepared to seek justice for the death of her 24-year-old son, Terrell Johnson. And, in doing so, she's hoping to dramatically change the way Portland holds its police force accountable.

On Friday morning, Alicia filed a federal lawsuit for the wrongful death of her son against the city, the officer who killed Terrell, and that officer's superiors within the Portland Police Bureau (PPB). She's also accused the defendants of violating Terrell's civil rights—and her own.

The lawsuit alleges the city "has demonstrated that they exercise a pattern and practice of failing to train officers to follow police directives... and failing to properly investigate, monitor, and discipline officers for these violations." Alicia, who is represented by Oregon Justice Resource Center (OJRC) attorney Juan Chavez, has requested a jury trial.

Terrell died the evening of May 10, 2017 after PPB Officer Samson Ajir fired three bullets into his torso.

The encounter began after a woman called 911 to report that Terrell, who she said appeared homeless and "crazy," had chased her teenage neighbor off the SE Flavel MAX platform. Before the police arrived, the 17-year-old boy and his father returned to the platform wielding a kitchen knife and briefly confronted Terrell, then left.

A West Linn officer assigned to the multi-jurisdictional Transit Division police force was the first to arrive and spoke to Terrell, who later said the young man seemed "fidgety." When asked, Terrell told the officer he had a knife in his pocket—but the officer didn't ask to see it. The officer did, however, notify police who were en route to the scene that Terrell had a weapon.

When Terrell saw a second pair of officers, including PPB's Ajir, arrive at the station, he ran.

Ajir sprinted after Terrell down the MAX tracks, later telling investigators that he intended to chase him until he was tired and gave up. Ajir was able to run past Terrell and circled around to face him, and Terrell stopped running. At that point, Ajir who was only seven or eight feet behind him. Ajir told investigators he thought Terrell was going to surrender. Instead, Terrell allegedly began “slashing” at the officer with a box cutter knife.

Ajir unholstered his gun and tried to back up, but tripped over a curb and fell, firing four bullets at Terrell in the process. In later interviews, Ajir said he believed Terrell was going to kill him and confirmed that all of the gunshots were intentional.

Minutes later, Terrell was pronounced dead.

Alicia says that months leading up to his death, Terrell was struggling to find help with mental health and addiction issues. He was turned away from several residential clinics for lack of space. She believes his actions on May 10 directly reflect his untreated mental illness.

Ajir was later cleared of any criminal charges by a Multnomah County grand jury, on the basis of self defense. He faced no discipline, and continues to work at PPB.

PPB’s officer policies, called “directives,” address how and when officers should chase after a suspect on foot. One specific directive explains that if officers engage in a “foot pursuit,” the officer should notify emergency dispatchers via radio, coordinate with another officer to create a plan to contain the person they’re chasing, and follow that person at a “safe distance.”

The lawsuit says that officer testimony during the resulting grand jury trial, and PPB’s own interview with Ajir after the shooting, proves that Ajir followed none of these rules. He did, however, do one thing that the PPB directive prohibits: Engaging on foot when an officer knows the suspect is armed.

“Had Defendant Ajir followed directives concerning when and how to properly conduct, or not conduct, a foot chase, [Terrell] would be alive today,” reads the lawsuit.

It also accuses Ajir’s superiors of allowing Ajir’s misconduct to slide when reviewing his actions afterwards.

“While testifying at grand jury, PPB Sergeant Derrick Foxworth stated that Ajir’s use of force was ‘in policy,’” the lawsuit reads. “Later training and commander review documents also found the use of force justified. These PPB commanders and trainers ignored the clear violations of PPB directives.”

That argument was initially made by investigators with the OIR Group, an independent California-based firm contracted to review fatal PPB shootings for the City of Portland on an annual basis.

The OIR Group’s latest report, published in January, found that Ajir’s decision to follow Terrell so closely on foot led to his fatal decision. “The fact that the subject was able to turn and advance so quickly that Officer Ajir was immediately in fear for his life suggests there was not an effective buffer between the two,” the report reads.

OIR places the blame on PPB trainers for not properly training its officers on this directive and on not disciplining Ajir for his clear misconduct.

The report states that PPB’s internal investigations and analysis into Ajir’s actions “ignore or mischaracterize some facts in order to minimize those risks.” Investigators all but accuse a PPB commander and training expert of lying in their analysis of the incident.

In the lawsuit, those PPB superiors are simply dubbed as defendants “John Does 1-5.”

Shortly after Terrell's death, Alicia sought legal representation to try to file a lawsuit against the city—but the lawyers she found couldn't find enough evidence to make a case. When she read the latest OIR report, however, Alicia was determined to try again.

"It's very apparent in the OIR report that anyone and everyone who dealt with Ajir—all of his supervisors—they knew of the directive," says Alicia. "But they didn't make any attempt to punish him accordingly or hold him accountable at all. That's not right."

So she reached out to Chavez at the OJRC. Chavez says Terrell's case is just one example of the Portland police using excessive, often fatal force against someone with a mental illness.

"There is clearly a pattern and practice in the PPB to absolve and condone this kind of behavior. It's a cultural issue and it's a systemic issue," he says. "[Terrell] was looking for help. In a way, this goes even beyond the PPB and the city—it goes on to how we fund mental health care and how we as a society treat people who undergo mental illness."

Chavez points out how it's been eight years since a US Department of Justice investigation found that Portland police officers consistently engage in a "pattern of... unnecessary or unreasonable force during interactions with people who have or are perceived to have mental illness."

Since entering a settlement agreement with the DOJ with a promise to improve this dark trend, PPB officers have killed no fewer than 13 people undergoing a mental health crisis.

"This is a known issue, a well-documented one," says Chavez. "This is the end result of over-policing and over-surveillance in a punitive culture."

Alicia says she wants this lawsuit to bring justice to Terrell—and to influence how the city and PPB handle police misconduct cases going forward.

"I'm hoping this gets the city to realize that when you don't hold police accountable for the directives they're expected to follow, nobody else feels like they have to follow them," she says. "If they know they can go rogue, do whatever, and have no punishment for it, then why would anybody else do what they were supposed to?"

"In any other job that you work in, you have rules to follow," Alicia continues. "If you don't follow them, you get fired. It's only the police that get to break the the rules and keep their job, get pensions, be rewarded... get promoted."

Last month, Ajir was promoted to sergeant at PPB.

The lawsuit names Alicia as one of the plaintiffs harmed by PPB's misconduct, accusing Ajir and his supervisors of depriving her of "her son's love, assurances, comfort, companionship, and relentless optimism." This resulted in her emotional suffering, according to the lawsuit.

One example of that suffering? Alicia recalls how county prosecutors harshly depicted Terrell to the media and the public after his death. "Not only do you have to deal with the death of your child, you have to deal with them slandering them and dragging their name through the mud so that they can make their case," she says. "It's really painful."

Alicia's firsthand experience with the fallout of a deadly police shooting has also left her cynical about the motives of those in power, especially Mayor Ted Wheeler.

Months after Terrell's death, Alicia reached out to Wheeler's office to find a time to talk. Instead of meeting at his office, Wheeler came to her home.

Alicia said she asked why, days after Terrell's death, Wheeler chose to visit the scene where he died, but not her house. According to Alicia, Wheeler explained that he didn't visit because "he didn't know if I'd be mad, and he didn't want to deal with someone being irate."

"I thought, 'Wow, that's pretty ballsy of you to not risk being yelled out in case I was upset that my child was killed,'" says Alicia.

But, to Alicia, her case is larger than just one elected official or one officer. It's about the other families who might not have to go through what she's faced.

If anything, she says, the case may serve as a reminder to the community that officers aren't always what they seem.

"I used to trust the police. I really thought they were there to help," Alicia says. "I didn't realize that cops could shoot people and the system would back them up. That the things they did would be covered up, or not looked into. I didn't know it could go through so many hands and still end up this way."

The Daily Journal of Commerce

Architect receives national award

By Chuck Slothower

May 10, 2019

Peter Meijer lost the battle to preserve the Portland Building's façade, but the local architect has been recognized for his efforts.

Docomomo US recently gave Meijer its 2019 Advocacy Award of Excellence. He "played a pivotal role in speaking up and advocating for the sensitive preservation of the Postmodern icon," the organization stated.

"It's quite an honor for me to receive it," Meijer said in an interview. "It's a bit bittersweet in that it's an advocacy award for preservation of a building for which the conversation went a different direction."

The Portland Building was designed by Michael Graves and completed in 1982. A \$195 million project is under way to renovate and modernize the city building. Work includes repair and replacement of the exterior.

The imposing concrete-faced building, in the face of criticism, represented a key moment in architectural style, Meijer said. Graves "essentially started the postmodern movement," he said.

"The local community overwhelmingly hated that building, whereas the national and international community recognized it as a piece of (postmodern) work," Meijer said.

Postmodernism is a new front for historic preservation advocates as the buildings reach 40 or 50 years old.

"It was trying to start the conversation about the appropriate approach to postmodern buildings when they have reached a time, an age where when they need to be invested in," Meijer said.

While it's relatively easy to muster public support for preserving the Pittock Mansion or Pioneer Courthouse, the idea of preserving a building that hadn't reached its 40th birthday is a tougher task.

“The easiest buildings to justify saving, and putting a lot of effort and treasure into saving, are those that people have loved for a long time,” said Tim Eddy, president of Hennebery Eddy Architects. “They’re buildings that people relate to; there’s seldom any argument there. It’s also important to save buildings that are markers of our past and our architectural legacy.”

Docomomo has continued to document the work to dismantle the Portland Building’s façade as the project has continued.

“Not all preservation advocacy efforts result in a positive outcome, but these efforts would never happen in the first place without one person carrying the banner, holding the megaphone, taking the lead, and Peter has exhibited that strongly in this case and throughout his career,” Docomomo US Director Gunny Harboe stated in announcing Meijer’s award.

Meijer served as the founding president of Docomomo’s Oregon chapter, which was created in 2012. The group has lobbied for the preservation of other architecturally notable Portland buildings, including Veterans Memorial Coliseum.

The original Portland Building project was affected by the city’s budget and came as the nation was suffering from an energy crisis.

“It was a public competition and the city had ‘X’ amount of dollars, and it was built for ‘X’ amount of dollars,” Meijer said.

The building was not fully executed according to Graves’ vision, said Peggy Moretti, executive director of Restore Oregon.

“It just presented some very unique challenges and is an example of cutting some corners,” she said.

Restore Oregon has not focused on restoring postmodern buildings, instead favoring midcentury modern ones and those from other architectural periods, Moretti said.

“Every era has its good and its bad examples,” she said. “There are going to be important (postmodern) examples that are definitely worth preserving, and others where choices will be made. It’s something I think we’ll be thinking about the next 10 years.”

Building renovation approaching completion

The Portland Building renovation is on time and on budget, according to a quarterly report from the Community Oversight Committee. However, the project is likely to fall short of meeting goals for participation by minority and emerging small business contractors, according to the committee’s fourth-quarter 2018 report. Overall equity goals were on track.

“Social equity remains a source of concern as it appears that the team’s individual social equity goals for subcontract utilization will not be reached,” the committee stated. “The committee has recommended various forms of outreach to ensure more subcontractors can access the project.”

A spokeswoman for the Office of Management and Finance could not be reached for comment.

Howard S. Wright is the general contractor for the project. The city expects to commission a survey of all subcontractors contacted during the bidding process regarding their experience, according to the report.

City bureaus are expected to move back into the Portland Building in November, with a “soft opening” to the public scheduled for Dec. 16. A grand opening and media day will follow in January 2020.