



OFFICE OF
COMMISSIONER
CHLOE EUDALY

November 8, 2018

Commissioner Eudaly's Questions* on the Proposed Protest Ordinance

**1160 TIME CERTAIN: 2:15 PM – Authorize the Commissioner in Charge of the Police Bureau to order content-neutral time, place and manner regulations for demonstrations held in the City (Ordinance introduced by Mayor Wheeler) 2 hours 45 minutes requested*

Past Incidents/Crowd Management and Use of Force Policies

1. Since 2017, PPB has acknowledged the use of at least six different types of “riot control agents and less lethal impact munitions,” including pepper spray, rubber ball distraction devices, flash grenades, etc. How much does the Bureau spend on these types of devices? Has spending on these devices increased in recent years?
2. In 1970, the Police Bureau committed to not using violence on non-violent protestors. How many settlements have there been with protestors since then related to excessive use of force by police during demonstrations? What is the estimated cost of these suits?
3. How many pending lawsuits are there against the City from protestors or advocacy organizations for demonstrations between November 2016 and now? What is the estimated cost to the City to defend PPB in these lawsuits?
4. In response to this proposed ordinance, Daryl Turner’s recently decried the “over-emphasis on de-escalation and disengagement.” Is this view on de-escalation consistent with that of PPB leadership?
5. How should we reconcile PPB’s stated commitment to de-escalation with the numerous injuries we’ve witnessed on our streets, of which the most serious appear to be at the hands of the police? Please note these injuries include third degree chemical burns, open wounds, and a traumatic brain injury.
6. Why do the police believe that after they give dispersal orders, people who remain are fair game to be subjected to violence, even though they are not committing any violent act by remaining?
7. What are the conditions that have to be in place for PPB to demand a dispersal order?
8. I’ve heard feedback that dispersal orders are often contradictory, difficult to understand, or given without enough time for people to respond. What has PPB done to remedy this?
9. From the videos I’ve seen, it appears that counter-demonstrators are always the ones who are asked to disperse. Is this true?
10. Where is the evidence that the counterdemonstrators threw projectiles at police before the police began using violence in any of the recent demonstrations?
11. How is it legal to subject everyone in a crowd to chemicals, flash-bang grenades and other dangerous weapons when there is no individualized reasonable suspicion that they are committing crimes, much less violent crimes?
12. I’ve heard PPB leadership describe the tactical challenge of sending in officers to pluck out individuals from rowdy crowds. How do other police departments deal with this issue?

13. Have you looked to other police departments for “best practices” for crowd management? Are there any examples of good policing?
14. My understanding is the Crowd Control Directive excludes officers’ right to use violence against people who are not engaged in active resistance. Is this a correct interpretation? If so, how does PPB reconcile this with the many injuries of protestors we’ve witnessed.
15. How does having armed and armored police lined up facing a crowd help create a safe space for people to express their First Amendment protected speech? What alternatives have been considered?

Perceived PPB Bias

1. Portlanders have sustained countless injuries at the hands of the Portland Police Bureau. I can’t recall of any instances of protestors from Proud Boys or Patriot Prayer being seriously injured by police. Is this accurate? If so, how do you explain this?
2. How do you explain the perception, if not reality, that PPB see Patriot Prayer and Proud Boys as “more mainstream” than Portlanders who come to stand up to them?
3. The Mercury recently reported that more PPB officers live in Washington (177) than in Portland proper (158). How can we confidently say this has no bearing on actual or perceived officer biases?
4. Last summer, Portland activists were “kettled” and forced to provide ID. I still do not understand why this happened. Can you help us understand why that happened? Has PPB ever recorded identification information from the Patriot Prayer or Proud Boys groups in this manner?
5. Why is it that PPB seems to always be facing counterdemonstrators instead of the far-right paramilitary gangs that come to take over our streets? Has there ever been consideration of how this tactical decision actually empowers the alt-right groups, which makes Portland less safe for all?
6. What efforts has PPB made to reach out to Portland activists and advocates to discuss policing of protests?
7. Can the Portland Police Bureau explicitly and unequivocally state that Patriot Prayer, Proud Boys, and similar alt-right, white supremacist gangs are the real threat to our public safety?
8. During the August 4 protest, my understanding was there were weapons check-points because of the threat of gun violence. Yet, media reports indicate that the Proud Boys and Patriot Prayer were able to breeze by these check-points. Can you explain what happened? Why was no one arrested?
9. Much has been made of the “cache of weapons” that were discovered on the parking garage. Can you explain why no arrests were made in that situation?
10. In many of the protests, I’ve witnessed Patriot Prayer and Proud Boys crossing the street and into the side of the road sectioned off for counter-demonstrators while PPB looked on. Why was this allowed to occur?
11. The Anti-Defamation League’s Center on Extremism has reported that 71 percent of the extremist-related fatalities in the United States between 2008 and 2017 were committed by members of the far right or white-supremacist movements. Why is this, and more local data that we have at our disposal, not enough information to justify “selective enforcement” to address the actual threats to our public safety?

Follow-Up from Past Violence

1. At this point, we've seen countless videos of Patriot Prayer and Proud Boys violently assaulting Portlanders and can identify them by face if not also by name. Can you detail the steps that PPB has taken to follow-up and arrest these folks?
2. Why are these white supremacist gang members not being prosecuted more harshly?
3. It appears to me that the "tool" PPB need is more effective collaboration with the DA's office. Has the Mayor's office or PPB talked to the DA about this? What was the outcome of these discussions?

Ordinance Questions

1. Have other cities with similar Time, Place, Manner (TPM) restrictions been sued for these policies? How much did it cost them to defend these policies in court?
2. This ordinance is certain to face a legal challenge, what do you anticipate will be the legal costs associated with defending this policy in court?
3. Given that the constitutionality of this ordinance has been called into question by multiple experts, is the city prepared to defend this in court, including through appeals?
 - If so, has the city estimated the cost of that litigation to the public?
 - Does the mayor believe that this is the legal fight worth having with our limited city resources?
 - Wouldn't it be more responsible to spend our city attorneys' time and public funds pursuing legal strategies with existing tools to stop the recruitment and mobilization of white supremacist, paramilitary gangs on our streets?
4. Are there any other cities using TPM restrictions as a tool to combat alt-right violence?
5. How exactly does this ordinance lead to less enforcement or less use of police resources? The limits are surely to be tested, so isn't it possible that this policy will actually lead to more confrontations?
6. There are aspects of this that are very reminiscent of the gang database. The ordinance give the mayor or police commissioner to designate "groups" as having a history of violence with other "groups," and based on that designation, restrict the first amendment rights of those "groups" and individuals the police believe to be associated with those groups.
 - How will the Police Commissioner make determinations that a "group" has committed violent acts in the past and what level of "violence" is required for this designation?
 - How will the Police Commissioner determine who is part of the groups and who is not?
 - Will the rules apply to people who are not part of the groups targeted by the rules, such as people who are unassociated with either group and have no history of violence, but want to counter-protest one of the groups?
7. If a person is already willing to violate criminal laws against assault, are they actually going to follow these rules about when, where and for how long to protest?
8. The ordinance would allow the restriction of first amendment rights based on a determination that a planned demonstration presents a "substantial likelihood of violence" based on any "credible information obtained by law enforcement."
 - How exactly can a city official predict a likelihood of violence occurring?
 - Is there any guidance as to what level of certainty the Commissioner would need to have from this "credible evidence" before he can preemptively limit a protest?
9. If the plan is to set up free speech zones, will opposing groups be within line of sight of each other, or is the plan to place them far away from each other?

10. How exactly can PPB and the Police Commissioner limit the number of people in a group at a march?
11. What if a protest organically and quickly comes together in response to current events, will the ordinance apply to those types of events?
12. If this is aimed at events that are being planned in advance of their occurrence, how far in advance of the protest will the rules be put out, and how will the City make certain that members of the public have copies of the written ordinance with sufficient advance notice to comply?
13. If a group disputes the characterization of their members as having a history of violence, how can they challenge that? What if the characterization was false and there wasn't ample time to dispute it?
14. Could one group's right to protest be endangered by another group showing up at their protests and provoking violent encounters, with the aim of giving the group a "history of violence" (aka a heckler's veto)
15. The ordinance states that people who violate it would be subject to criminal penalties. Is this ordinance creating a new crime? If not, what criminal offense or offenses is the being referenced in the ordinance?

***This list also includes questions from constituents and advocacy groups.**