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REQUEST FOR INVESTIGATION

October 3, 2018

Oregon Department of Justice
Attn: Attorney General Ellen Rosenblum
1162 Court St. NE
Salem, OR 97301

Dear Attorney General Rosenblum:

On behalf of the National ICE Council I submit the following request for a criminal investigation of Portland Mayor Ted Wheeler. We believe that Mr. Wheeler has committed the crime of Official Misconduct. Our attempts to compel Mr. Wheeler to take reasonable action correct and/or cease his criminal activity have been unsuccessful.

To assist you in your investigation, we offer the following:

As the Mayor and Police Commissioner for the City of Portland, Mr. Wheeler has an inherent obligation to enforce the laws of the State of Oregon and the City of Portland. Mr. Wheeler also has an inherent obligation to not use the Portland Police Bureau to advance his own political agenda, or use his police powers to harm those he believes possess alternative political beliefs.

On or about June 20, 2018 Mr. Wheeler declared via tweeter, in relevant part:

The policy being enacted by the federal government around the separation of very small children from their parents is an abomination. It is un-American. I'm glad to see the President seems to be reconsidering this very ill-conceived policy and I hope that happens forthwith. I drove by the demonstration yesterday, it seemed to be very peaceful and I was pleased to see that. I want to be very clear I do not want the @PortlandPolice to be engaged or sucked into a conflict, particularly from a federal agency that I believe is on the wrong track that has not fully lived American values of inclusion and is also an agency where the former head suggested that people who lead cities that are sanctuary cities like this one should be arrested. If they are looking for a bailout from this mayor, they are looking in the wrong place.



According to public records provided by the City of Portland to an independent organization named "Judicial Watch," Captain Mike Frome sent an email to members of the Portland Police Bureau stating:

The PPB will only respond to calls at the demonstration site that have an immediate life safety concern. When we respond, a supervisor must be one of the responding units. We are not to proactively patrol the area of the demonstration either. (Email enclosed)

On June 21, 2018 Mr. Wheeler's advisor, Berk Nelson, sent a text messages to Assistant Chief Robert Day's personal cell phone stating:

Text Message

6/21/2018 2:39 Sender - 5038238056 Recipient - 5037939391

Here's where our office stands: The Mayor will provide strategic direction to PPB. He will not dictate tactics we will leave that to the expertise of PPB. In this case, the Mayor's strategic direction is for PPB to not get involved unless lives are in danger. If that direction changes it will be after a conversation between the Chief, deputy chief and the Mayor. (Text Enclosed)

On July 31, 2018 in response to the ICE Council's Cease and Desist Letter, Mr. Wheeler stated, in relevant part:

While Portland Police were not engaged in removing protesters from federal property, Portland Police made clear to Federal Protective Service officials that local law enforcement would respond to calls for service at the demonstration site that have an immediate life safety concern. (Letter Enclosed)

According to our investigation, after Mr. Wheeler's policy declaration of June 20, 2018 the crowd around the ICE building: swelled; physically blocked the exits of a privately owned building; blocked ICE employees from exiting their place of work; denied ICE employees access to their privately owned vehicles; verbally assaulted ICE employees; blocked traffic; harassed local merchants; harassed local residents; engaged in violent and tumultuous behavior; and established an unauthorized occupation of public property without a permit. This behavior continued for at least 38 days.

It is apparent that Mr. Wheeler did not enforce several State and City laws during the aforementioned period. The laws he refused to enforce include, but are not limited to:

ORS 166.015-RIOT

A person commits the crime of riot if while participating with five or more other persons the person engaged in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm.

ORS 166.025- Disorderly Conduct in the Second Degree

(1)A person commits the crime of disorderly conduct in the second degree if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:

(a)Engages in fighting or in violent, tumultuous or threatening behavior;

(b)Makes unreasonable noise;



- (c)Disturbs any lawful assembly of persons without lawful authority;*
- (d)Obstructs vehicular or pedestrian traffic on a public way;*

ORS 166.065 – Harassment

(1)A person commits the crime of harassment if the person intentionally:

(a)Harasses or annoys another person by:

(A)Subjecting such other person to offensive physical contact;

(B)Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response; or

14A.50.020 Camping Prohibited on Public Property and Public Rights of Way

A. As used in this Section:

1. "To camp" means to set up, or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary place to live.

2. "Campsite" means any bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

B. It is unlawful for any person to camp in or upon any public property or public right of way, unless otherwise specifically authorized by this Code or by declaration by the Mayor in emergency circumstances.

C. The violation of this Section is punishable, upon conviction, by a fine of not more than \$100 or by imprisonment for a period not to exceed 30 days or both.

It is also clear from the text of Mr. Wheeler's June 20, 2018 policy declaration that he ordered the Portland Police Bureau to not enforce applicable State and City laws to advance his own personal political agenda, advance his political career and punish citizens he perceived to hold alternative political beliefs. The negative impact of Mr. Wheeler's actions on the employees of ICE, local merchants, owners of the surrounding buildings and residents is well documented and undisputed.

In Oregon, Mr. Wheeler's conduct is the crime of Official Misconduct.

ORS 162.415 – Official Misconduct

(1)A public servant commits the crime of official misconduct in the first degree if:

(a)With intent to obtain a benefit or to harm another:

(A)The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or

(B)The public servant knowingly performs an act constituting an unauthorized exercise in official duties;

If a rank-and-file police officer was presented with an on-going crime for 30 days and did not take appropriate action that officer would be placed on administrative leave and subject to an internal investigation. We ask that the Oregon Department of Justice immediately investigate Mr. Wheeler's conduct.

We have sent a copy of this letter and enclosures to Mr. Wheeler's attorney. Our hope is that Mr. Wheeler relinquishes his supervisory authority of the Portland Police Bureau pending the outcome of your investigation. We ask that Mr. Wheeler join us in our request for an independent and thorough investigation of his conduct. We ask the Mr. Wheeler, like any other member of the Portland Police



Bureau, submit me to a recorded interview during the investigation. We ask that Mr. Wheeler lead by example.

Respectfully,

/s/ Sean J. Riddell
Sean J. Riddell

Cc: Mayor Ted Wheeler via Portland City Attorney Tracy Reeve
Mike Slauson, Chief of the Criminal Justice Division, Oregon Department of Justice

Enclosures

