

**Remote HHS and Public Safety
Meeting Agenda**
February 14, 2023 at 5:30 PM
Remote Meeting



MEMBERS
Councilor April Fournier, At-Large, Chair
Councilor Anna Trevorrow, District 1
Councilor Victoria Pelletier, District 2

To submit written public comment on an agenda item, email HHSPS@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Health & Human Services and Public Safety meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

The Health & Human Services and Public Safety Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

You are invited to a Zoom webinar.

When: Feb 14, 2023 05:30 PM Eastern Time (US and Canada)

Topic: Remote HHS and Public Safety Meeting

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/87951569342?pwd=WHVmY2tpVXB4bzVYYThvenNURURidz09>

Passcode: 053155

Or One tap mobile :

US: +16469313860,,87951569342#,,,,*053155# or +19292056099,,87951569342#,,,,*053155#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 646 931 3860 or +1 929 205 6099 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 253 215 8782 or +1 346 248 7799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 669 444 9171 or +1 669 900 6833 or +1 689 278 1000 or +1 719 359 4580 or +1 253 205 0468

Webinar ID: 879 5156 9342

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1. Announcements
2. Review and Approval of Minutes from January 10, 2023
 - a. January 10, 2023
3. HSC Management Plan Staff Presentation

4. Discussion on Long-Term Solutions for Extreme Weather Situations
 - a. Portland's Homeless Winter Emergency Response Plan
5. Fire Department Update on Potential Training Facility
6. Alternative Response Program- Update on Status of the Program
7. Discussion on Next Steps for Ordinance around Pregnancy Crisis Centers and Deceptive Advertising Practices Related to Pregnancy Crisis Centers
 - a. Corporation Counsel Guidance
8. Next Meeting: March 14, 2023



Health & Human Services and Public Safety Committee Minutes

Tuesday, January 10, 2023, 5:30pm, Remote Meeting

Committee Attendance: April Fournier, Chair (At-large), & Victoria Pelletier (District 2), Anna Trevorrow (District 1).

City Staff:

Kristen Dow, Director of HHS; Adam Harr, Executive Assistant for Social Services; Heath Gorham, Interim Police Chief; Keith Gautreau, Fire Chief;

Invited Guests: Rebecca Nisetich, Director of Honors Program at the University of Southern Maine; Vaishali Mamgain, Director of the Bertha Crosley Ball Center for Compassion at the University of Southern Maine.

Meeting called to order at 5:30 PM.

Announcements and Approval of Minutes

- The Committee is comprised the Chair, Councilor Fournier (At-Large), Councilor Pelletier (District 2), and Councilor Trevorrow (District 1); it is the first all-woman Council committee.
- Councilor Trevorrow moved to approve the minutes and Councilor Pelletier seconded and the motion passed 3 – 0.
- HHS and Public Safety are central to Council goals.
 - It is important to be informed by city staff, however the framework of this committee will be action oriented.

2023 Goal-Setting

Welcome and Gratitude

- The goal is to lay the groundwork of gratitude, past accomplishments and future work.
- Last year had intense challenging news on the need for housing throughout the year.
- Courage on the Council inspires the ability to speak to one's values.

Understanding Values and Social Change Ecosystem Roles & Archetypes

- Council common goals that prioritizes racial, social, and justice equity
 - Housing/homelessness
 - Climate
 - Sustainability
- Goals fall into three buckets
 - Health
 - Human Services
 - Public Safety
- We have legislative priorities through this HHS&PS lens.
- Councilor Fournier's Goals
 - Public Health
 - Chapter 35, a holistic review of cannabis regulations.
 - Roe Vs. Wade overturned by the Dobbs decision. How as a municipality do we protect our community? How do we support state policy on abortion?
 - Safe Injection Sites
 - Human Services
 - March: Homeless Services Center opens in Riverside.
 - How can hit committee help a successful implementation.
 - Looking at success of programs implemented throughout the city
 - Elena's way
 - Camping policy
 - Public Safety
 - Camping
 - Dispatch Center
 - Collaborative efforts and not reinventing the wheel if we already have information.
 - Community Health Improvement Plan
- Councilor Pelletier
 - Chapter 35 review as a whole.
 - Abortion: a discussion around resolutions we can make on urging constitutionally protecting it in Maine.
 - Agrees with the Chair's goals.
- Councilor Trevorrow

- Serves on the advisory board for Elena's Way.
 - Document formulating Elena's Way's advisory committee is similar to the HSC's.
- Decriminalize Maine: decriminalize the possession, adult use and cultivation of all plant and fungal medicines (entheogens).
- Safe injection sites. It is worth looking at these programs.

Creating a Consensual Process that Honors Interconnectedness

- Thinking of a timeline and partners needed to work on the issue.
 - Homeless services center
 - Safe injection sites
 - Chapter 35 Cannabis review
 - Abortion Access
 - Resources to help with the Dispatch Services Center
- Gauging program efficacy and remain action oriented.
- Councilor Fournier organized by quarter.
 - In the 1st quarter:
 - HSC implementation
 - Medical and dental providers
 - Vocational providers
 - Mental Health providers
 - Transportation, engaging Metro
 - Neighbors in D5 for a community building sense.
 - Who they can contact?
 - Abortion Resolution
 - Corporation Counsel
 - Take up and vote out of committee in February and then at the full Council.
 - August isn't a great time to start things so are there items that should star in July or wait for September?
- Councilor Trevorrow said some of these are more operational in nature vs policy and could have two tracks working at the same time.
 - An example of an operational item would be the HSC and resources for dispatch, both of which would be informed by the budget process.
- Councilor Pelletier agrees; seeing it planned out is helpful.
- The HSC has a management plan that was worked on for the planning board but could be presented to and tweaked by this committee.

- Not reinventing the wheel and closing the loop, building on the foundational work already competed.

Past Accomplishments

- Advocacy around resettlement.
- Advocacy around GA reform.
- Review of Police department best practices.
- Needle Exchange Program and Harm Reduction Review.
- Shelter licensing.
- Not reinventing the wheel and using prior work to deepen the work.
 - HSC management plan.
 - Past research on Safe Consumption Sites.

Future Goals

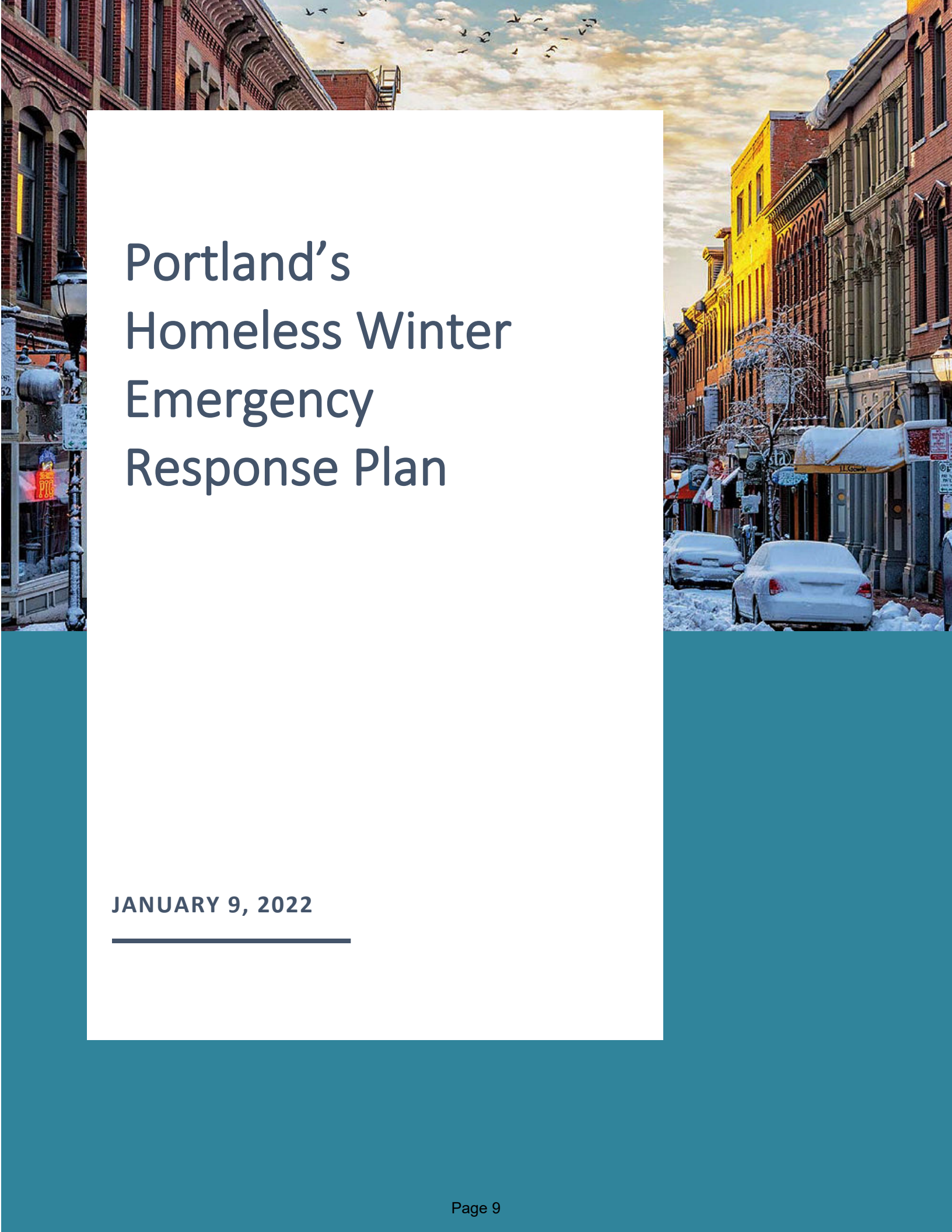
- 1
 - HSC implementation
 - Medical providers
 - Mental Health providers
 - Transportation, engaging Metro
 - Neighbors in D5 for a community building sense.
 - Abortion Resolution
 - Corporation Counsel
 - Take up and vote in February. Out of committee and at the full Council.
 - Looking at pregnancy crisis centers; An ordinance in MA bans the centers. They pose as healthcare centers where abortion care is available and are not that and can be harmful.
- 2
 - Camping Policy
 - Public Health
 - Public Safety
 - In context of HSC running.
 - Chapter 35
 - Dispatch Center
 - Anything this committee needs to do to be helpful with the finance committee.
- 3
 - Chapter 35 Cannabis review
 - Safe Injection Sites in September or in August if needed.
- 4

- Program health and efficacy.
 - We spent ARPA money to open programs; are they doing what we hoped they would.
 - What new money exists to replicate successful programs.
 - Legislative committee
 - Are there things from this committee we would like to carry forward.
 - Review
 - Able to still move through the work as things come up.
- Councilor Fournier did a great job running this meeting!
- Racial, Social, Equity Lens
 - Always uses a lens that prioritizes racial, social, and equity lenses for Council goals
 - One Committee goal:
 - Abortion
 - There will be disproportionate access in many states that will impact under resourced groups, racial and ethnic minorities.
 - It is so protected here, we need to leverage that to get full protections.
 - It will have disproportionate impact on anyone who can give birth.
 - Any resolution must be translated into the 7 major languages spoken in Portland.
 - The partners we will need are mostly people of color who speak languages other than English.
 - The overturning of Roe vs Wade was an act of violence against poor and minority women.
 - Pregnancy Crisis Centers prey on vulnerable individuals so any step at banning these centers works through this lens.
 - Once a resolution is passed, have it put into a format that is digestible for the average reader and translate that.
 - The infographics increased equity through making the information accessible.

The meeting adjourned at approximately 7:09 PM.

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DRAFT



Portland's Homeless Winter Emergency Response Plan

JANUARY 9, 2022

Homeless Winter Emergency Response Plan

The City's Cold Weather Operations and Shelter process includes outreach services and warming stations with activation of key partners with a specific threshold for the months of November to March when daily high apparent temperature is 5 degrees and below.

Warming Station

- Location: First Parish Church
- Address: 425 Congress St, Portland, ME 04101
- Hours: 8am – 5pm

Outreach Efforts

Through partnerships with nonprofit agencies, volunteer groups, and various departments within the city, cold weather operations efforts include increased outreach activities, additional day space and warming stations.

Participating Organizations:

- Amistad
- Spurwink
- Greater Portland Health
- MMC-PS Learning Collaborative
- Preble Street
- First Parish Church
- The Opportunity Alliance
- Police Department
- Fire Department Outreach Team
- Milestone
- Grace Street Ministries
- Portland Health & Human Services

Shelter Access

Shelter Name	Population Served	Contact Information
City of Portland Family Shelter	Family	207-772-8339
City of Portland Oxford Street Shelter	General - Adults	207-482-5224
Milestone	General - Men	207-775-4790
Preble Street - Florence House	General - Women	207-775-0026
Preble Street - Joe Kreisler Teen Shelter	Youth	207-775-0026
Through These Doors	Survivors of Domestic Violence	800-537-6066

For information on other shelters or resources in your area, dial 2-1-1

If an Emergency, Call **911**

Winter Emergency Response Activation and Communications Plan

Activation Threshold *Daily High Apparent Temperature of 5 degrees or Snow Accumulation of More Than 10 inches*

Alert Schedule *Alert will be shared 48 hours in advance of the Winter Emergency*

Initiating Emergency Response

Activity	Agency	Contact	Email
<i>Monitoring inclement weather events</i>	City of Portland	Caity Hager	chager@portlandmaine.gov
<i>Declaring/ending cold weather advisory</i>	City of Portland	Caity Hager	chager@portlandmaine.gov

Communications Plan

Essential Partners	Communication Method	Lead (Name/Email, Phone)
Homeless services providers	Email	Aaron Geyer; aeg@portlandmaine.gov ; (207) 482-5131
Police and fire departments	Email	Fire: Keith Gautreau; kng@portlandmaine.gov ; 207-874-8401. Police: Heath Gorham; frankg@portlandmaine.gov ; 207-874-8600
Emergency management	Email	Caity Hager; chager@portlandmaine.gov ; 207-756-8053
Public health departments	Email	Tina Pettingill; tpettingill@portlandmaine.gov ; 207-874-8437
Health centers	Email	Elizabeth Jackson: ejackson@greaterportlandhealth.org : 603-767-8124
General public	Local radio stations Press release Social media	

Roles and Responsibilities			
Activity <i>Shelter</i>	Agency	Contact	Email, Phone
Oxford	City of Portland	Sara Fleurant	skf@portlandmaine.gov
Florence	Preble Street	Laura Clark	lclark@preblestreet.org
Milestone	Milestone	Joseph McNally	jmcnally@milestone-recovery.org 207-303-2840
GA Supported Hotel	City of Portland	Aaron Geyer	aeg@portlandmaine.gov ; (207) 482-5131
Activity <i>Food Access</i>	Agency	Contact	Email, Phone
PS Food Program	Preble Street	Henry Myer	hmyer@preblestreet.org 207-615-5412
Activity <i>Transportation</i>	Agency	Contact	Email, Phone
Home Team Van	Milestone	Joseph McNally	jmcnally@milestone-recovery.org 207-303-2840
Activity <i>Behavioral Health Outreach</i>	Agency	Contact	Email, Phone
PATH	The Opportunity Alliance	Kelsey Hayes	kelsey.hayes@opportunityalliance.org 207-405-7261
ACT Team Outreach	Spurwink	Ben Strick	bstrick@spurwink.org 207-615-2146
Activity <i>Medical Outreach</i>	Agency	Contact	Email, Phone
Street Medicine	Greater Portland Health	Elizabeth Jackson	ejackson@greaterportlandhealth.org
LC Outreach	Learning Collaborative	Caroline Fernandez	cfernandes@preblestreet.org
Activity <i>Peer Support</i>	Agency	Contact	Email, Phone
Peer Support	Amistad	Brian Townsend	briant@amistadmaine.org 207-272-0429
Peer Support	Church of Safe Injection	Kari Morissette	msgatefulforrecovery@gmail.com (207) 332-4802

Small spaces for warmth during the day

Location	Individuals Served	Agency	Contact
PATH Conference Space	Path clients/those unconnected to care	The Opportunity Alliance	Kelsey Hayes
Spurwink Waiting Room	ACT patients	Preble Street	Ben Strick
Milestone	Shelter clients	Milestone	Joseph McNally
Learning Collaborative	LC patients	MMC-PS	Caroline Fernandez
Preble Office	PS clients	Preble Street	Andrew Bove

Office of Corporation Counsel

Michael Goldman, *Acting Corporation Counsel*

Amy R. McNally, *Associate Corporation Counsel*

Nicole M. Albert, *Associate Corporation Counsel*

Rachel L. Millette, *Associate Corporation Counsel*



MEMORANDUM

To: Health and Human Services and Public Safety Committee

From: Amy McNally, Associate Corporation Counsel

Date: February 10, 2023

Subject: Crisis Pregnancy Centers

Introduction

I understand the request from this Committee was for guidance as to whether the City can pass an ordinance that either bans Crisis Pregnancy Centers (“CPC”)¹ or, in the alternative, limits certain advertising practices. The purpose of this memorandum is to highlight some of the important legal limitations around the City’s ability to restrict CPCs generally, or their solicitation practices, in the City.

The foremost concern when determining what is appropriate in this context is the First Amendment’s prohibition on the government infringing on speech. The First Amendment offers broad protection against government action and must be considered carefully before adopting legislation. This memorandum provides a brief summary of how courts around the country have addressed this issue and how this should inform the City’s consideration of an ordinance in this context.

In summary, the short answer to whether the City may adopt an ordinance which bans CPCs is: probably not. The concise answer to whether the City may restrict some CPC solicitation practices is: maybe.

¹ Also known as “Pregnancy Resource Centers,” CPCs are facilities generally known for counseling pregnant individuals against having abortions. Some facilities may provide pregnancy testing and sonograms.

Background and Summary of First Amendment Considerations

The First Amendment generally prohibits the government from limiting speech based on content or viewpoint.² There are two ways in which the First Amendment can be violated in this context, by compelling speech or by restricting speech. If challenged in court, regulations of speech will be reviewed under different levels of scrutiny based on the nature of the restriction.

Restriction of content or message-based speech will be strictly scrutinized by court. To survive “strict scrutiny,” the ordinance must be “narrowly tailored to promote a compelling government interest.”³ More specifically, courts have said any government restrictions must: 1) show a substantial interest in regulating the speech; 2) the tactic must directly advance that interest; and 3) cannot be sustained by a more limited restriction.⁴

On the other hand, restriction of “commercial speech” is protected under a more relaxed standard and therefore, limitations on commercial speech are more likely to be upheld by courts. The United States Supreme Court has described commercial speech as “purely factual and uncontroversial information about the terms under which ... services will be available.”⁵ The US Supreme Court has held that restrictions on solicitation are likely permissible “so long as they do not discriminate based on topic, subject matter, or viewpoint.”⁶ Compelling certain commercial speech may survive a constitutional challenge if it is “reasonably related” to the government’s substantial interest, is “purely factual and uncontroversial” and is not “unjustified or unduly burdensome.”⁷ Restricting commercial speech that is “patently misleading” or related to illegal activity also has a better likelihood of surviving a constitutional challenge.⁸

² *City of Austin v. Reagan Nat’l Adver. Of Austin, LLC*, 596 U.S. ___, 142 S. Ct. 1464 (2022).

³ *Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council Baltimore*, 721 F.3d 264, 279 (4th Cir. 2013).

⁴ *Fargo Women’s Health Org., Inc. v. Larson*, 38 N.W.2d 176, 180 (1986), *cert denied* 476 U.S. 1108 (May 5, 1986) (No.: 85-1801).

⁵ *National Institution of Family & Life Advocates v. Becerra*, 585 U.S. ___, 138 S. Ct. 2361 (2018).

⁶ *City of Austin v. Reagan Nat’l Adver. Of Austin, LLC*, 596 U.S. ___, 142 S. Ct. 1464 (2022).

⁷ *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 650-52 (1985).

⁸ *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n*, 447 U.S. 557, 565-65 (1980).

Examples of relevant court decisions:

When a legal challenge is raised, courts undertake a careful, fact-specific analysis of the legislation at issue. For some additional context, here are a few examples of how courts have decided cases:

1. Fargo Women’s Health Org. v. Larson.⁹ In this 1986 case, a North Dakota Supreme Court issued an order ceasing a crisis pregnancy center from “*falsely and deceptively advertising that they provide elective abortions and financial assistance for such services*” when they in fact, did not provide those services. The Court found that because the advertisements were placed in the commercial context and referenced the availability of financial aid for services, it was commercial speech and appropriately limited in this instance noting “[t]here can be no constitutional objection to the suppression of commercial messages that do not accurately inform the public about lawful activity or are more likely to deceive the public than to inform it.”
2. Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council Baltimore.¹⁰ This 2013 case involved a Baltimore ordinance that required a disclaimer that the center does not provide or make referrals for abortion or birth-control services. The court determined that this message was non-commercial speech and compelling the disclaimer was deemed impermissible. The Court reasoned: “[w]hether a provider of pregnancy-related services is ‘pro-life- or ‘pro-choice,’ is it for the provider - not the Government - to decide when and how to discuss abortion and birth-control methods.”
3. Evergreen Ass’n v. City of New York.¹¹ This 2014 case was the result of a challenge to a New York City Council Local Law No. 17 which required pregnancy service centers to disclose the following:
 - i. Whether they have a licensed medical provider on staff that provides the services (“Status Disclosure”);
 - ii. That “NYC Department of Health encourages women who are or who may be pregnant to consult with a license provider” (“Government Message”); and
 - iii. Whether or not the centers provide abortion services or provide referrals for abortion, emergency contraception or prenatal care (“Services Disclosure”).

⁹ 381 N.W.2d 176 (1986).

¹⁰ 721 F.3d 264 (4th Cir. 2013).

¹¹ 740 F.3d 233 (2d Cir. N.Y. 2014).

The Court found that “Status Disclosure” was permissible but the “Government Message” and “Services Disclosure” violated the First Amendment.

The Court concluded the “Status Disclosure” was narrowly tailored to address the problem and within the government’s policy power to regulate for health and safety. In contrast, the Court found that the “Services Disclosure” altered the center’s speech by “*mandating the manner in which the discussion of these issues begins.*” The Court also found the “Government Message” was impermissible because it “*deprived the [centers] of their right to communicate freely on matters of public concern.*”

4. National Institute of Family & Life advocates v. Becerra.¹² This 2018 United States Supreme Court case involved a challenge to a California law that required facilities without licensed medical providers on staff to post a conspicuous notice on site that the “*facility is not licensed as a medical facility by the State of California and has no licensed medical provider who provides or directly supervises the provision of services.*” The Supreme Court held that law violated facilities’ protected speech under the First Amendment. The Court found this was content-based speech rather than commercial speech and applied strict scrutiny in its review. As a result, the Court held the law was unconstitutional because it burdened protected speech in large part because “*it targets speakers, not speech, and imposes an unduly burdensome disclosure requirement that will chill their protected speech.*”¹³ This was in part because it required the facility to “*call attention to the [government’s] notice, instead of its own message.*”

While each of these cases include a fact-specific analysis, there are a few important threads to take away. One theme is that mandated content disclosures will often run afoul of the First Amendment. Courts disfavor the government compelling entities to relay a message on its behalf. On the other hand, if required disclosures are narrowly tailored and purely factual, they could survive a constitutional challenge. Similarly, restrictions on speech are most likely to survive a legal challenge if they are specific, content-neutral and related to commercial speech.

¹² 585 U.S. ___, 138 S. Ct. 2361

¹³ *Id.* at 2378.

Challenges Presented and Potential Options

It is very unlikely that a ban on CPCs in the City would survive a legal challenge in court. Based on the case law, courts would presumably find that such a restriction is a broad infringement on CPCs' anti-abortion message, which is protected speech under the First Amendment.

Implementing restrictions on specific conduct could be possible if it is narrowly tailored to address a compelling City interest. The likelihood of an ordinance surviving a legal challenge will largely depend on what precisely the ordinance is seeking to limit and how it does it. Crafting any restriction must be content-neutral. If the ordinance is tailored to "commercial speech" in a clear, concise and objective way, for example, it is more likely to survive a legal challenge.

I hope this background is helpful. It seems more than likely that any restriction adopted by the City in this context will give rise to legal challenges. Careful consideration of the City's policy goal, and keeping any ordinance objectively and narrowly tailored to that goal, while remaining content-neutral, will give any legislation the greatest chance at surviving that challenge.

I look forward to discussing this further and answering any additional questions you may have at the upcoming Committee meeting.