

‘Old-boy-style racism’ by small-town cops leads to \$600,000 payout to Portland man

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8

Michael Fesser racial discrimination, retaliation case

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By [Maxine Bernstein | The Oregonian/OregonLive](#)

Update: [Officers placed on leave, investigations ordered in growing scandal over rogue arrest of black Portland man](#)

Former West Linn Police Chief Terry Timeus had his officers work as his “personal posse” to initiate an unwarranted, racially motivated surveillance and arrest of a black Portland man as a favor to the chief’s fishing buddy.

The case had no ties to West Linn.

The city recently negotiated to pay \$600,000 to the target of the rogue investigation, Michael Fesser, 48.

West Linn police also have agreed to a face-to-face meeting with Fesser.

The settlement is one of the largest in the state resulting from a wrongful arrest claim, Fesser’s lawyer Paul Buchanan said. It ends a federal lawsuit that Fesser filed in the summer of 2018.

“This case vividly illustrates a ready willingness on the part of the West Linn police to abuse the enormous power they have been given, and a casual, jocular, old-boy-style racism of the kind that we Oregonians tend to want to associate with the Deep South rather than our own institutions,” Buchanan said.

Attorney Andrew Campbell, who represented West Linn in court, did not respond to a request for comment Monday night.

The brazen misdeeds by West Linn police include making a surreptitious audio recording of Fesser at work without a warrant or court order, arresting him without probable cause with the help of Portland police and seizing his cash, cellphone and documents without a search warrant, court records show.

The case file includes a raft of racist and crude text messages between West Linn police and Fesser's boss at the time, aimed at Fesser and others. The West Linn detective who led the investigation against Fesser deleted the offensive texts from his phone and claimed they weren't of a racist or homophobic nature, but they were found on another phone, according to the records.

Fesser, a father of eight who now runs a prison ministry and transitional program to support men getting out of prison, said he took legal action so this doesn't happen to another black man, including his two teenage sons.

"Ever since that arrest, I was terrified to go to West Linn," Fesser said. "This has to be exposed, and it has to stop."

'My game my rules'

The West Linn investigation began in February 2017 after Fesser brought concerns of racial harassment by co-workers to his boss at the time, Eric Benson, owner of A&B Towing in Southeast Portland, court records show.

Fesser said other employees called him racist slurs and one asked him how he liked a Confederate flag that was fastened to a pickup parked in the tow company's lot.

He had worked for the company since 2004, mostly managing its car auctions, selling impounded, abandoned and other cars. It was his job to record the amount of the sales, receive deposits and payments from bidders and handle the cash transactions.

After Fesser complained about a hostile workplace, Benson went to Timeus, his friend in West Linn who he had joined on four or five fishing trips.



Terry Timeus, former West Linn chief of police LC- THE OREGONIAN

Benson convinced the police chief to investigate unsupported allegations that Fesser was skimming proceeds from the car auctions, according to court records. Benson said he believed his company should have been earning more from the auctions and that Portland police wouldn't respond to his concerns.

Timeus sent a text message to Benson on Feb. 21, 2017, saying his detective was finishing up a sex crimes case "and will have your case ready to go before Saturday ... If I hear more, I'll let you know."

On Feb. 25, 2017, the West Linn police conducted surveillance of Fesser at his job. Police that day relied on an associate of Benson's to record Fesser at work using an audio app called "Swann View." Benson also watched a live feed from company video surveillance cameras, according to evidence obtained during the litigation.

Benson provided real-time updates to West Linn Detective Tony Reeves, text messages show.

As the surveillance went on, Benson and Reeves exchanged sexually explicit and homophobic banter, referencing themselves and the police chief, and made racist comments about Fesser, their text messages revealed.

At one point, Benson told Reeves that he regretted Fesser's arrest wasn't going to happen in Clackamas County because he had hoped to "make sure he was with some real racist boys."

Benson added: "Dreams can never come true I guess" and followed up, writing, "Oh did I say that? I'm a bad person. I have some anger issues going on with him right now."

At another point, Benson sent Reeves a photo of his dog. Reeves messaged, "Hope Fesser doesn't get her in the law suit." Benson wrote back, "Hahaha. She is not a fan of that type of folk. She is a wl (West Linn) dog."

Although Reeves later admitted that officers hadn't found any signs of wrongdoing by Fesser during the surveillance, he told another West Linn officer, along with five Portland officers, to stop Fesser as he headed home from work that day about 5 p.m.

"My game my rules," Reeves wrote to the tow company's owner just before police moved in.

Reeves continued in texts to Benson: "It's better that we arrest him before he makes the complaint (of race discrimination). Then it can't be retaliation."

Fesser recalled seeing lights and sirens behind him and so he pulled over at Southeast 106th and Foster.

"I'm thinking they're going to go by," he recalled in an interview with The Oregonian/OregonLive on Monday.

But multiple police cruisers surrounded his black Range Rover.

A Portland sergeant told him that the Portland officers were just there to help West Linn police.

“West Linn? It has to be a mistake,” Fesser said he thought. “I know I haven’t done anything wrong. I’m terrified. I’m scared.”

‘How do police fire me from my job?’

West Linn police ordered Fesser out of his SUV. They took his phone, cash and a letter Fesser had written to his boss documenting the alleged racial discrimination he faced at work.

They took him to Portland’s East Precinct, where West Linn officers questioned him.

Reeves asked for the passcode to Fesser’s cellphone, but Fesser didn’t disclose it. Reeves said in a deposition later that he sought the passcode “in case I was able to obtain a search warrant to search his phone.”

Fesser was then taken to the downtown jail in Portland, booked on an aggravated theft allegation and released.

That night, Reeves had notified Benson that West Linn police had found a letter in Fesser’s car “about the work place and discrimination” and Benson alerted his fishing buddy, according to text messages obtained by Fesser’s lawyer.

Benson texted Chief Timeus at 6:26 p.m. that day, asking: “Can I get extra patrols for a bit at my house?”

“Yep, send me your address,” Timeus responded by text. “I’ll handle it.”

About two days later, West Linn police called Fesser, who had gotten a new phone with the same number, and told him to come to their department to retrieve his belongings.

Afraid to go on his own, Fesser waited for his wife to drive with him there. Once he arrived, Reeves told Fesser that he was fired from his job and ordered him to not return to A&B Towing’s property.

“How do police fire me from my job?” Fesser said he thought.

Before he left, Reeves told Fesser, “Stradley says hi.”

Indictment based on ‘shady’ witnesses

That was a reference to then-West Linn police Lt. Mike Stradley, a retired veteran Portland police officer who used to work on the gang enforcement team.

Stradley had told Reeves that Fesser was a “gang associate.” Stradley was the one who helped get Portland gang enforcement officers to assist in Fesser’s arrest.

Stradley, though, admitted in a deposition that he hadn't had any interactions with Fesser for more than two decades. He acknowledged that his characterization was based partly on who he remembered Fesser was hanging out with in the late 1980s and 1990s and that he saw Fesser attend gang-related trials.

Fesser, who grew up in North and Northeast Portland, had been convicted in 2001 of using his phone in the commission of a drug-trafficking offense and sentenced to four years in prison. He has had no other convictions since.

The afternoon after Fesser went with his wife to the West Linn Police Department, Fesser attended his Multnomah County arraignment and learned prosecutors had declined to file the theft charge. The case was dismissed, though it could be revived in the future.

Months went by. Fesser checked daily with the court to see if the charge had been refiled. In September 2017, he filed a suit in Multnomah County courthouse against Benson and A&B Towing, alleging racial discrimination and retaliation.

That lawsuit led Benson to press West Linn police about Fesser's theft charge, court records show. West Linn police, in turn, asked the Multnomah County District Attorney's Office to revive the case.

In November 2017, based largely on grand jury testimony by Reeves and Benson and statements from two witnesses who West Linn police described as "shady" and "dirty," Fesser was indicted on five counts of first-degree theft, according to court records.

As Fesser's lawsuit against the tow company was pending, lawyers for Fesser's ex-boss offered to have the criminal charges against Fesser dismissed if Fesser dropped the civil suit, Buchanan said.

Fesser wouldn't accept that.

Lead West Linn detective in case gets promotion

Nearly a year after Fesser's arrest, his lawyers finally received the damning text messages between Benson, the tow company owner, and Reeves, the West Linn detective. They came through an exchange of evidence in Fesser's suit against A&B Towing.

"Only after he received the text messages did he understand that racism, cronyism and impropriety of the officer's conduct and motivations," Fesser's lawyer wrote in court documents. "And only after he received the texts were all criminal charges precipitously dropped."

In March 2018, Benson and A&B Towing agreed to pay Fesser \$415,000 in damages, wages and attorney fees to settle his discrimination suit in Multnomah County Circuit Court.

The settlement included a clause that Fesser wouldn't bring any further legal action against the company or its agents.

As his federal civil case then progressed against West Linn police, the department's lawyers urged the court to dismiss the case, arguing that West Linn officers were acting as the "agents" of the tow company and therefore couldn't be sued based on the state settlement.

"This assertion is virtually an admission of misconduct," Buchanan, Fesser's lawyer, responded last month. "Defendants were not seeking to engage in legitimate law enforcement. Rather, the officers were acting based on a striking and alarming personal malice, racism, and desire to protect a 'good old boy' from the West Linn community."

West Linn police admitted in court records that they conducted audio surveillance of Fesser without a court order and seized his phone without a warrant.

Reeves was investigated and disciplined for failure to properly document the seizure of Fesser's cash after his arrest, according to his deposition.

He also acknowledged that he didn't document the seizure of Fesser's cellphone and didn't record the interview of Fesser in Portland – both violations of West Linn police policy.

Reeves, according to deposition records, also had deleted his Feb. 25, 2017, text message exchange with Benson and maintained that there had been no homophobic or racist remarks sent between them, according to court records.

Fesser and his lawyer already had the text messages from Benson's phone and knew that to be false.

It's unclear the level of discipline Reeves received. He was promoted to sergeant in March 2018.

Timeus, the police chief, said in a deposition that he heard his friend Benson use a racist slur at least a "half a dozen" times. Timeus admitted to having used the racist slur himself but said he couldn't recall if it was when he was police chief or if he used it when referring to Fesser's cases, according to his deposition transcript.

Timeus retired in October 2017 amid allegations that he drove drunk while off duty. He received more than \$123,000 in a separation agreement.

Stradley resigned as a West Linn lieutenant on Jan. 16, 2018, and started working the next day as a police trainer at the state's basic police academy for the Department of Public Safety Standards and Training, where he's a supervisor.

-- Maxine Bernstein

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Police accountability, long ignored by Oregon lawmakers, poised to become law as white leaders finally see black colleagues' urgency

Updated Jun 23, 2020; Posted Jun 13, 2020



“The bill attempts to modernize the intimidation statute and strengthen community involvement in reporting incidents,” said state Sen. Lew Frederick, D-Portland. Beth Nakamura

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By [Molly Harbarger | The Oregonian/OregonLive](#) and [Hillary Borrud | The Oregonian/OregonLive](#)

Oregon lawmakers from both parties and Gov. Kate Brown agreed this week that it's time for the state to pass police accountability laws.

The matter is so urgent, they say, that lawmakers should vote on the bills in a special session this month, along with legislation to address the coronavirus crisis.

It's a dramatic change that might not have happened but for weeks of protests against police brutality against black people, following a Minneapolis police officer's killing of George Floyd.

As recently as 2019 and again this year, Oregon's Democratically controlled Legislature rejected such moves. All of the ideas that a coalition of Oregon's four black legislators

and five other lawmakers of color proposed last week for a special session have been introduced repeatedly in Oregon's Democratically controlled Legislature over the last decade but were left to die in committee.

Although they addressed well-documented concerns, such as the frequency of arbitrators overturning police discipline in high-profile use-of-force or racial bias cases in cities including Portland, the proposals got little traction. Law enforcement unions put up fierce fights and other labor groups backed them up, arguing a change would undermine labor laws.

But lawmakers of color who introduced and championed the bills said they ran up against a lack of urgency among their white colleagues, who did not appear to grasp the seriousness of the problems people of color were experiencing with law enforcement.

"Mostly it was a sense that the bills were not necessary," said Sen. Lew Frederick, D-Portland, who has sponsored 59 bills related to police reform and accountability since taking office in 2010.

Only a few of Frederick's proposals have succeeded. "They thought there were things we could tweak around the edges because things were actually working ok," he said, citing other lawmakers' views.

He has introduced one of the central proposals the caucus put forth in recent days -- restricting the ability of arbitrators to overturn police discipline -- repeatedly in the last decade. It came close to passing in the last two sessions, clearing the Senate both times only to stall in the House, which is controlled by more left-leaning Democrats.

This year, it died along with hundreds of other bills when House Republicans walked to protest a climate bill in the Senate.

But in 2019, House Speaker Tina Kotek sealed the bill's fate by sending it to a committee led by a well-known opponent: Rep. Jeff Barker of Aloha, a retired Portland police lieutenant. Barker did not respond to calls for comment Thursday and Friday.

"The real stumbling block was, Rep. Barker was fairly clear he wasn't a supporter of the bill," said Scott Winkels, lobbyist for the League of Oregon Cities. If Barker had allowed a committee to consider the bill, "the votes were there" to move it to the House floor where it would also likely have passed, Winkels said.

But it is every committee chair's prerogative to decide which bills assigned to their committee come up for a vote. And Barker didn't pick the arbitration bill.

Through a spokesman, Kotek said bills "involving arbitration issues typically go" to the House Committee on Business and Labor, which Barker chairs, rather than the House Committee on Judiciary, even though it had gone through the Senate Committee on Judiciary.

“The Speaker has always supported the bill,” spokesman Danny Moran wrote in an email. “It’s rare that a Senate committee assignment influences” which House committee the speaker assigns it to. “The speaker was extremely disappointed this police accountability bill, along with many other important bills, died in the 2020 regular session because of the Republican walkout.”

BLACK OREGONIANS SEE WHITE DENIAL

Frederick can talk at length about the experiences he has had with police because he is a black man.

He said he has been pulled over at least once a year, well into his 60s, for pointless reasons. He has been asked by police if he is lost in his own neighborhood, parked in front of his own house. When he has asked for police help, he has been turned away, he said.

And he has told his white colleagues in Salem these stories for years. He felt like he received head pats and condolences in return, rather than passion to act.

Not because they are bad people, he said.

“The simple answer is that people didn’t think they were serious, people didn’t believe there was a problem,” Frederick said.

So his bills largely died in committee. Many dealt with topics at the center of 2020’s police accountability debate. Nine focused on deadly use of force. Seven with moving deadly use of force investigations to the Oregon Department of Justice. Six dealt with racial profiling. Four addressed bias crimes. The others looked at body cameras, marijuana offenses, expungement, mental health for police officers, public accommodations. The list goes on.

Now, a huge number of Oregonians and people across the U.S. have seen a Minneapolis police officer kneel on the neck of George Floyd for nearly nine minutes while it is clear Floyd is dying.

The state’s leaders have had to deal with massive marches, protests and riots, some of which will likely continue for the foreseeable future.

Gov. Kate Brown told Oregonians this month that she has let herself off the hook to act for black and brown Oregonians for too long. The governor does not appear to have done much to wield her position as the state’s top elected official to push for police arbitration changes or similar changes. However, a spokesman wrote in an email Friday that she “believes strongly that swift action on racial justice and criminal justice reform is needed, and she hopes to sign the People of Color Caucus legislative agenda into law.”

In a written statement, Oregon Attorney General Ellen Rosenblum did not address her position or lack thereof on police reforms now headed for a special session. Instead, she cited her work on some of the criminal justice reforms that did pass in recent years, such

as a law on police profiling which she described as “the most important and far-reaching police reform policy in the past ten years at least.”

Frederick said that sometimes it just takes a while to get bills the momentum they need to get passed.

Sometimes, Frederick said, “it takes a national incident for people to see this is real and it’s not just something Lew’s making up.”

Rep. Janelle Bynum also seized a moment of wide awareness of what present-day racism looked like in [2018](#) to [get passed a bill that punishes people for making racist 911 calls](#). Bynum was canvassing for re-election in her own district when a woman called 911, saying that a black woman was going up to houses and taking notes on them.



Black Oregon legislator says campaigning in own district triggered 911 call
Rep. Janelle Bynum, a Democrat who is running for a second term this fall in the state House, said she was knocking on doors and talking to residents for two hours along Southeast 125th Avenue in Clackamas. She was taking notes on her cellphone from the conversation she'd had with someone at the second to last of about 30 homes on her list around 5:10 p.m. when a Clackamas County deputy pulled up to her.

An officer showed up, and the interaction was peaceful. Bynum and the cop took a selfie. The story was picked up widely, as similar incidents made news across the country. Bynum said it’s clear that the ability of her white colleagues to see and name the incident as racist allowed her to leverage it into action.

“I did not expect the reaction that I got,” Bynum said, of story going viral. “I was actually sharing an experience because I knew if I said it verbally, no one would have believed me.”

But she had talked for years about the same thing happening to her daughter when she was just a black teenager in a car. She had complained about how hard it was to get her children into higher achievement educational programs, despite their good scores.

“It’s now when people see it, they get it,” Bynum said, “And even then when people see it, some still don’t believe it.”

ARBITRATION BILL REVIVED

Bynum tries to not get too emotionally attached to bills, but it was wrenching for her to watch Democratic leaders last session to once again go to the mat over the greenhouse gas cap-and-trade bill. As widely expected, it caused a legislative shutdown while a police accountability bill that has been brought up for at least seven years finally had the votes to pass.

She told her Democratic colleagues it was hard to prioritize a climate change bill when there was still a fight for the very air that the black and brown community breathed.

“And that for me was a struggle, sharing with my colleagues to say if my children can’t play outside, my children can’t ride the train, they can’t sit in a parking lot without being harassed, that is a basic human need that needs to be addressed before anything,” Bynum said.

Oregon’s history of arbitrators overturning police discipline goes back decades and legislation to reduce that outcome is not new. In 2013, then-Sen. Chip Shields of Portland introduced a proposal to prevent Portland police from challenging discipline through an arbitrator.

Shields put forward the bill at the request of two lawyers in Portland who were troubled that high-profile police discipline cases were often overturned, The Oregonian/OregonLive [reported](#) at the time. The bill received a hearing but died in the Senate Committee On General Government, Consumer and Small Business Protection that Shields chaired.

The consistency with which high-profile discipline cases were overturned by arbitrators was “setting a pattern or a practice that you can do this and have no repercussions at all that will come to you,” the [Rev. T. Allen Bethel](#), president of the Albina Ministerial Alliance and senior pastor of Maranatha Church in Northeast Portland, told lawmakers according to a [recording](#) of the hearing.

The proposal drew a rebuke from Rod Edwards, president of the Oregon State Fraternal Order of Police, who promised in written [testimony](#) that the group would “do everything in our power to defeat this bill.” Edwards said arbitrators who overturned discipline decisions were “obligated to correct” the “poor administrative decisions” by police chiefs and other city officials under pressure from the public. A lawyer for the Portland Police Association described the bill as [“a solution in search of a problem”](#) and a lobbyist for the Oregon Council of Police Associations said it “strikes at the foundation of Oregon’s public sector collective bargaining law.”

Last year, Oregon lawmakers considered a proposal to reduce the likelihood of arbitrators overturning police discipline, [Senate Bill 383](#). It was proposed after racist remarks by Portland Police Sgt. Gregg Lewis once again highlighted the difficulty of disciplining police for bad behavior.

Three other sergeants reported Lewis' comments to a lieutenant and Lewis was eventually fired. But the city of Portland agreed to a settlement after Deputy City Attorney Mark Amberg told commissioners there was a good chance an arbitrator would overturn Lewis' firing for what Lewis described as an off-the-cuff joke, because the sergeant had minimal history of discipline and no previous record of such comments on the job.

Amberg's assessment squared with [The Oregonian/OregonLive's 2012 examination](#) of Portland police discipline cases, which found that all of the discipline cases taken to arbitration in the prior decade were either overturned or were still pending. One factor arbitrators cited in overturning discipline was that similar bad behavior went unpunished, or less severely punished, in the past. That standard is enshrined in [state law](#), but Frederick and the rest of his caucus want to change that – and appear to have wide backing.

Over several decades, Portland police chiefs have fired officers for leaving dead animals outside a black-owned business, selling "Don't Choke 'Em, Smoke 'Em" T-shirts to officers after a man [died in a police chokehold](#), and fatally shooting an [unarmed man in the back](#) in 2010. Arbitrators ordered the bureau to reinstate those officers.

Sen. James Manning, a member of the Senate Judiciary Committee and strong supporter of the arbitration bill, said in an interview Thursday that it would address a long-running lack of accountability.

“When you have people that are bad actors, police officers that commit heinous crimes and are able to go from one place to another, we see (bad) results again and again,” Manning said. “(White) people don't understand what that's like when you have someone that's hiding behind a badge and a gun and can pretty much do whatever they want to with impunity.”

Manning said that while it's surprising the Democratically controlled House killed the proposal in 2019, “not everybody sees this the same way and I get that. But there are some things that shouldn't even be debatable. One is public safety, and this is really about public safety.”

POLICE UNION STRONGLY OPPOSED

Daryl Turner, president of the Portland Police Association, said that he will renew his demand that the union have a seat at the table if an arbitrator does find policy violations. He does not want police management to be able to hand down punishment without negotiation.

The union asked for an amendment that said essentially that in the last session and will again push for the amendment.

But Turner most adamantly opposes a proposed bill to put police use-of-force investigations into the attorney general's hands. Under the bill, if a police officer in Portland used deadly force on a resident, the state Department of Justice would assign an investigator from the Washington or Clackamas County district attorney's office.

Black lawmakers said that when prosecutors must investigate the officers they also rely on as expert testimony in other cases, there is an inherent conflict of interest that often means police officers appear to get off without consequence.

Turner said that Multnomah County's grand jury system is the most equitable way for those decisions to be made. Grand juries in Multnomah County, and across the country, almost always side with the police officer. Many point to bias introduced by the prosecutors who lead grand juries, or to the process itself, during which police are often given ample opportunities and ways to explain their actions, while testimony from victims and contrary witnesses is limited.

"That would be taking it out of the hands of community members and putting it in the hands of the AG's office, which is counterproductive to what a reform is supposed to be about," Turner said.

He also pushed back hard on the idea that his union members, or police agencies across the country, have problems beyond a few bad cops. Turner came out strongly against the killing of George Floyd, calling it murder. But he insisted that Portland city commissioners, protesters and some activists are painting all police with too broad a brush.

The Portland City Council is poised to cut about \$11 million from its planned budget for the Portland police bureau and another \$4 million of Transit Police paid by Trimet and staffed by Portland officers.



Portland City Council fails to agree on police spending, will revote on budget next week

Portland Commissioner Chloe Eudaly said she felt \$15.3 million in reallocated funds from the Police Bureau to other city functions and initiatives in the city's latest budget wasn't enough, citing public demand for the tally to be as much as \$50 million.

“We are always open to listen to change, always open to evolving, always open to reform if we need to. Reform does not mean defunding though,” Turner said. “Right now, with the defunding of the Portland Police Bureau, those changes will be hard to make when we’re being defunded. We’re being reduced at the cost of the public.”

Other labor groups have joined with Oregon law enforcement unions to oppose arbitration changes, including as recently as the 2020 short session when the [Oregon State Firefighters Council](#) and [Oregon School Employees Association](#) submitted testimony against Senate Bill 1567. The state’s largest and most powerful unions, including SEIU 503, AFSCME and the statewide teachers union, did not weigh in publicly.

WHAT’S NEXT

Frederick wants these bills to be a start, the conclusion to years of stalling. He has ideas for what to propose in the next year, but aims for the state to reimagine what public safety looks like.

He doesn’t like the rallying cry of “defund police” that protesters, who tend to be millennials or younger, are screaming on the street.

But he is interested in many of the same goals: Could investing in mental health services and addiction treatment reduce the need for police interactions with black communities? Why should police budgets be spent on armored vehicles or weapons of war if the need for those is very low?

Manning wants lawmakers to ban chokeholds and create a database of police fired for misbehavior that agencies would be required to query before hiring officers.

Akasha Lawrence Spence, who is black, is the youngest member of the Oregon Legislature and tries to provide a bridge for younger people to the Capitol.

“I think that there is a divide that is not necessarily bipartisan but generational about what can be done and what is reasonable to expect from the government,” Lawrence Spence said.

Lawrence Spence, [who was appointed to temporarily fill the seat vacated by former House Majority Leader Jennifer Williamson](#), wants the conversation move beyond the criminal justice system to housing, education and economics. She is not alone in the People of Color Caucus.

But first, she knows that many of the younger people on the streets want to see radical changes now, and policing is first. Housing and small-business loans seem secondary to generations raised with the narrative that no one else will try to stop police from acting badly. They want more than bills that change how police are punished for those bad actions after the fact.

“They have been weaned on tragedy and I think they are through,” Lawrence Spence.

Correction: This article has been updated to reflect that former state Rep. Jennifer Williamson served as House majority leader, not House Speaker as originally reported. Additionally, there are four Black legislators in Oregon, not three as originally reported.
-- Molly Harbarger

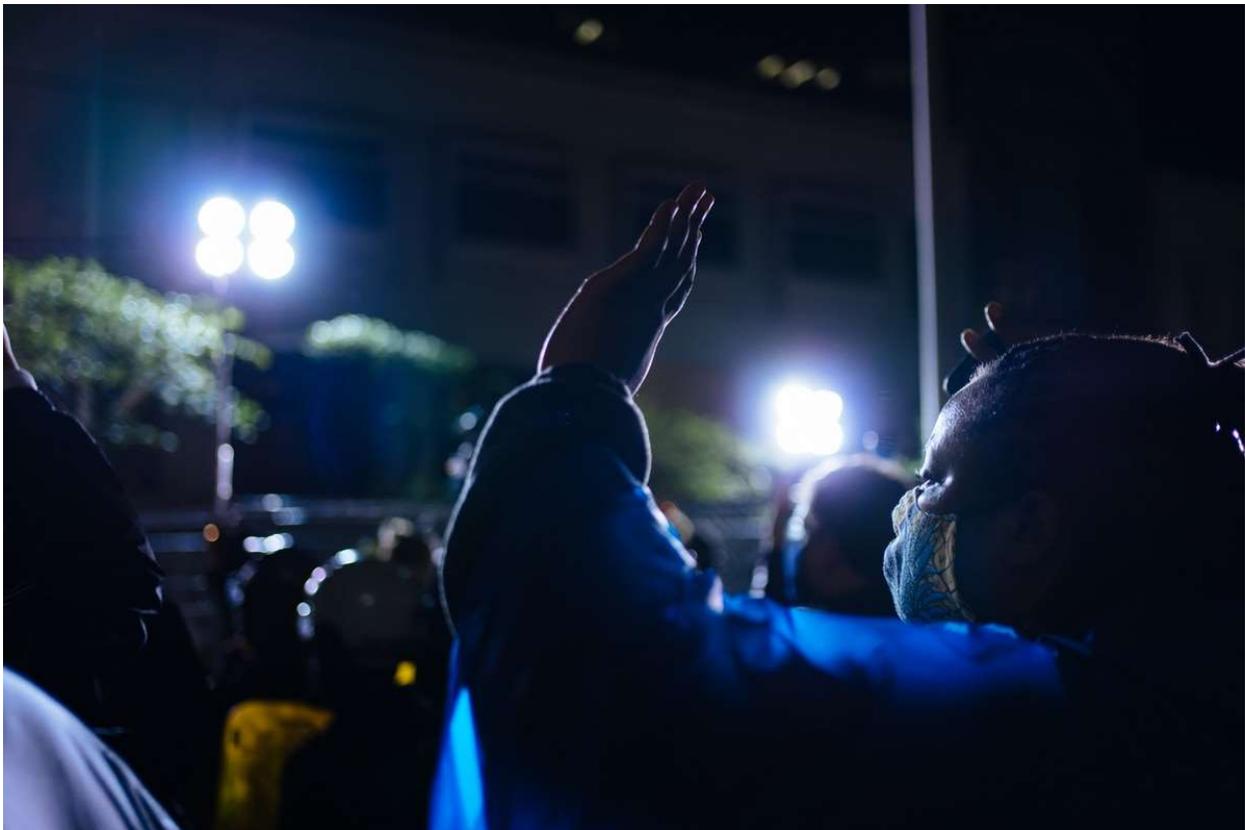
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After a Mysterious Plane Circled Over Portland Protests, Oregon's Congressional Delegation Calls for Answers

"This is an invasive, dragnet surveillance tool," the lawmakers said.



Protesters chant "Hands Up! Don't Shoot!" outside the Justice Center on June 13, 2020. (Alex Wittwer)

[By Tess Riski](#) |

Published June 24 at 6:02 AM

Updated June 24 at 7:58 AM

Five members of Oregon's congressional delegation are calling on the U.S. Marshals Service to disclose information about airplanes surveilling protesters in Portland and potentially mining their cellphone data.

U.S. Sens. Ron Wyden and Jeff Merkley, and Reps. Suzanne Bonamici, Earl Blumenauer and Kurt Schrader [signed onto a June 24 letter](#) demanding the Marshals Service disclose information about an airplane that circled above Portland over 30 times on June 13 as thousands of protesters marched on the streets below.

[A June 15 report from WW](#) first raised concerns about the aircraft, a Cessna plane, which is registered to a company previously linked to the U.S. Marshals Service. An agency spokesman declined to tell *WW* if the plane belonged to the Marshals.

But now Oregon lawmakers are calling for transparency. In their letter, they gave the U.S. Marshals Service a July 17 deadline to disclose whether or not the Marshals Service owns the aircraft, who authorized its 3-hour flight above the city, and what surveillance tactics were used.

"Many Oregonians who have protested are justifiably concerned that their participation in these lawful protests will be logged, recorded and used against them later by the government," the lawmakers wrote. "As such, Congress has a responsibility to investigate these reports and make sure that the government's powerful surveillance tools are under close supervision of the courts and that Americans' rights are being protected."

If the U.S. Marshals Service was using the plane to surveil protesters, it wouldn't be entirely surprising.

The agency for years has used spying technology, known as cell site simulators (CSS) or "dirtboxes," equipped to Cessna airplanes to mine cell phone data from

anyone in the plane's scope. However, as the delegates' letter notes, the technology was initially created for overseas surveillance.

"This is an invasive, dragnet surveillance tool, which intrudes into the homes and devices of thousands of innocent people each time it is used," the lawmakers wrote. "While such large-scale invasions of privacy might be justified in order to protect the public from imminent harm, the decision as to when to conduct bulk surveillance using a technology that intrudes on the privacy of so many innocent people must be made by independent courts and not the government."



About [Tess Riski](#)

Tess Riski covers prisons, the alt-right movement and more. She has previously written for the Miami Herald, the Wall Street Journal and the New York Times. Tess recently graduated from the Columbia Journalism School, where she was a Stabile fellow in investigative journalism. She is originally from Seattle.

After Police Discharge Sea of Tear Gas on Portland Protesters, Mayor Directs Chief to Use It Less

As in Seattle, protesters carried umbrellas, which they used to form a phalanx in the streets. Others brought leaf blowers to clear the chemicals.



May 31, 2020. (Wesley Lapointe)

[By Aaron Mesh](#) |

Published June 6

Updated June 6

Hours after Portland police unleashed tear gas on protesters in portions rarely seen even in this fractious city, Mayor Ted Wheeler directed the police chief to reduce the use of chemicals. But he stopped short of a blanket pause on tear gas—instead saying officers should only use it if their personal safety was endangered.

"Today, I directed Portland Police Chief Jami Resch that gas should not be used unless there is a serious and immediate threat to life safety, and there is no other viable alternative for dispersal," Wheeler said in a statement. "I strongly believe that gas should not be used to disperse crowds of nonviolent protesters or for general crowd management purposes. It should only be used in response to violence that threatens life safety."

On Friday evening, Wheeler told protesters of police violence that he was working on new restrictions on the use of tear gas.

Within hours, some protesters tested that commitment, knocking over a fence outside the Multnomah County Justice Center—and police used gas like they needed to exhaust their supply.

Riot police repeatedly tossed canisters of gas into groups of protesters for several hours. Demonstrators flung it back at the cops. Officers used gas to drive crowds away from the Justice Center, sometimes chucking it directly into the center of crowds. People ran frantically along the downtown Transit Mall, choking and retching.

Police said officers deployed tear gas and explosive devices—apparently stun grenades—because protesters were throwing bottles, bricks and cans full of White Claw and beans at officers. They also said they were concerned for the safety of inmates housed inside the Justice Center, which rioters set on fire one week previously.

Video by freelance journalist Sergio Olmos shows protesters came ready for gas. As in Seattle, they carried umbrellas, which they used to form a phalanx in the streets. Others brought leaf blowers to clear the chemicals.

The new images of chemicals and chaos came hours after a black activist group, Don't Shoot Portland, sued the city in federal court to halt the use of tear gas and other chemicals. Two city commissioners, Jo Ann Hardesty and Chloe Eudaly, have decried the use of chemical irritants during the COVID-19 pandemic, warning that coughing and choking will only further spread the virus.

It was not immediately clear whether Wheeler's directive today would bar officers from using gas in the manner they did last night. The Police Bureau issued statements on social media late Friday night saying officers were in physical danger from protesters hurling rocks and the broken necks of glass bottles.



About [Aaron Mesh](#)

Aaron Mesh is WW's news editor. He's a Florida man who enjoys waterfalls, Trail Blazers basketball and Brutalist architecture.

Beaverton hires former Portland cop who shot unarmed motorist

Updated Mar 27, 2019; Posted Jan 15, 2008

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By [The Oregonian/OregonLive](#)

Motoya Nakamura/The Oregonian

Former Portland police officer Jason Sery is sworn in as a Beaverton officer Monday night at City Hall.

BEAVERTON -- Jason Sery, a police officer who shot and killed an unarmed motorist and later resigned from the Portland Police Bureau, has been hired as a Beaverton police officer.

Sery, 32, was one of four new officers sworn in at Monday night's City Council meeting and accepted his shield from Mayor Rob Drake. Afterward, Sery was congratulated by fellow officers, including some uniformed Portland officers, one of whom said "Welcome back, brother."

But Sery's hiring is troubling to some in Portland familiar with the March 2004 shooting of James Jahar Perez.

[\(The Oregonian's earlier coverage of the case.\)](#)

The Albina Ministerial Alliance pushed for Sery's firing and indictment in Portland. The Rev. T. Allen Bethel, alliance president, said Tuesday that it's wrong that Sery should be able to resign from Portland and be hired by another agency.

"We are opposed to him being an officer again," Bethel said.

Sery declined to comment after the Monday ceremony, referring questions to Chief David Bishop.

In a prepared statement, Bishop said, "We completed an extensive background investigation before Officer Sery was hired. Based on the background investigation, we determined Officer Sery had been cleared three times of any wrongdoing. His background investigation was probably one of the best of the best.

"We spoke with many members of the community who spoke very highly of Officer Sery, both as a police officer and as an outstanding person."

Sery officially started with Beaverton police on Monday, said Sgt. Paul Wandell, a department spokesman. Sery will go through a seven-week department orientation

before going on the road with a field training officer. That will take as long as two more months, after which Sery will patrol alone, Wandell said.

Sery shot and killed Perez after officers were unable to remove Perez from his car and take him into custody for not having a driver's license. Sery shot Perez three times when he saw Perez pull a clenched fist from his right pocket, thinking he was pulling out a gun. A second officer, Sean Macomber, then fired his Taser gun at Perez.

Perez, 28, died of a gunshot to the heart.

The shooting sparked a public outcry and led Multnomah County District Attorney Michael Schrunk to hold a rare public inquest into the shooting after a grand jury found no criminal wrongdoing by Sery. Derrick Foxworth, who was Portland chief at the time of the shooting, determined in November 2005 that Sery's actions fell within the bureau's policies, but Foxworth recommended changes in training as a result of the case.

Sery resigned in August 2004 from the Police Bureau, saying he had decided to become a teacher at a Beaverton Christian school and work toward becoming a pastor.

Sery has taught 11th graders at Southwest Christian School, which is affiliated with Southwest Bible Church, a nondenominational church in Beaverton. He's also worked in the college ministry and other ministries, said Scott Gilchrist, senior pastor.

"He's passionate about his love for Christ and his love for people," Gilchrist said. "I can't speak highly enough about him."

Elden Rosenthal, the Portland lawyer who is representing the family of Perez in a multimillion-dollar civil rights suit against the city of Portland, said he was surprised Sery has returned to police work. The lawsuit is on hold while the U.S. 9th Circuit Court of Appeals considers whether the Police Bureau's use of force policy is constitutional.

Within the past year, Beaverton police have hired several officers from other agencies who have been involved in high-profile cases.

Randy Gottwald, who retired from the Portland Police Bureau, was one of five officers involved in a 1992 incident in which police shot and killed 12-year-old Nathan Thomas as they tried to rescue him from a knife-wielding intruder. Gottwald fired a shot, but missed.

Viola Valenzuela, who had been a sergeant with the Oregon City Police Department, worked on the murders of Ashley Pond, 12, and Miranda Gaddis, 13. Valenzuela was the first detective to interview neighbor Ward Weaver, who was ultimately arrested and convicted in 2002 of killing the girls.

Wandell said hiring of new officers is very competitive among police agencies, but the hiring of Sery, Gottwald and Valenzuela don't represent a pattern.

"It's a fact of the job that you're going to be involved in situations," he said.

-- *David R. Anderson*; davidanderson@news.oregonian.com

City Commissioner Chloe Eudaly Calls on Portland Police to Stop Deploying Tear Gas at Protests: “It Is Sadistic”

During the council meeting, Commissioner Jo Ann Hardesty said the city is obligated to determine the impact of chemical weapons against protesters.



June 2, 2020. (Wesley Lapointe)

[By Tess Riski](#) |

Published June 3

Updated June 3

Following a night of protests where Portland police officers chased protesters with tear gas and concussion grenades, City Commissioner Chloe Eudaly called on the Police Bureau to stop deploying tear gas at crowds.

"The Geneva Convention banned the use of tear gas. I think we should, too," Eudaly said during a City Council meeting on Wednesday. "I am absolutely horrified by what I saw last night. It is sadistic to be using tear gas in the middle of a public health crisis. It's attacking people's respiratory symptoms."

On Tuesday night, the Portland police deployed tear gas and other chemical agents at protesters for hours. Portland police have targeted protesters with similar chemical agents and stun grenades since Saturday, sometimes lobbing them at crowds.



June 2, 2020. (Wesley Lapointe)

During the council meeting, Commissioner Jo Ann Hardesty said the city is obligated to determine the impact of chemical weapons against protesters.

"I share Commissioner Eudaly's concern about [the fact that] we are in the midst of the pandemic. We know that it causes respiratory distress," Hardesty said. "And we know that, as we see more and more people showing up to protests, those people are putting their health at risk, and that risk is going to be exacerbated by tear gas and other chemical elements."

Last night, in a series of tweets, Hardesty condemned the Portland police's tactics, calling the use of tear gas and flash-bang grenades "completely unacceptable."

Mayor Ted Wheeler's office did not respond immediately to *WW*'s request for comment about whether he supports banning the use of tear gas.

The conflicts on Tuesday escalated as protests neared closer to midnight. A now widely circulated video from KGW-TV shows a caravan of Portland police vehicles driving straight toward a group of people who were moving barricades on the street.

In a news release responding to the video, the Portland Police Bureau said a large group of protesters began using barricades to block the intersection, and that pallets and other large items were being used to create a large pile.

"A bucket of what was believed to be an accelerant was poured on the large pile of items by a protestor," the bureau wrote on its website. "There was significant concern about the dangerousness of the situation and life safety risk for those in the vicinity....Officers drove through the large pile of items to prevent the pile from being ignited."



June 2, 2020. (Wesley Lapointe)

The police say they are "researching the circumstances surrounding this incident."

Eudaly said the city must listen to demonstrators.

"These protesters want action, and we are not giving it them," Eudaly said during Wednesday's press conference. "I'm really worried about the health impacts that these protests might be having, but what I see out there is beautiful. It's an uprising and it's a reckoning and we have got to do something now."

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About [Tess Riski](#)

Tess Riski covers prisons, the alt-right movement and more. She has previously written for the Miami Herald, the Wall Street Journal and the New York Times. Tess recently graduated from the Columbia Journalism School, where she was a Stabile fellow in investigative journalism. She is originally from Seattle.

Clackamas County Deputies Face Lawsuit After Allegations Of Pressing Knee Into Black 12-Year-Old's Neck

by **Conrad Wilson** [Follow](#) OPB June 18, 2020 11:56 a.m. | Updated: June 18, 2020 8:10 p.m. | Portland, Ore.

(UPDATED: 7:39 p.m. PT) — During an arrest on Aug. 5, a Clackamas County Sheriff's Office deputy placed his knee on the neck of a then 12-year-old African American child, making it difficult for him to breathe, according to a lawsuit filed Wednesday in Clackamas County Circuit Court.



A lawsuit filed June 18, 2020, alleges Ka'Mar Benbo was the victim of police violence after Clackamas County Sheriff's Office deputies knelt on the 12-year-old's neck in 2019.

Contributed by Kafoury & McDougal law firm

Attorneys for Ka'Mar Benbo said deputies were responding to a call about teenage girls who were involved in a fight. As Benbo was leaving the Clackamas Town Center mall with friends, he was grabbed and taken to the ground by several deputies.

Later Thursday, Sheriff Craig Roberts put out a statement noting the incident was investigated by the sheriff's office last year and didn't find any evidence that a deputy placed a knee on Benbo's neck.

"We do not train deputies to restrict a person's airway or impede their ability to breathe," Roberts said. "It was determined the involved deputies followed training and policy."

Deputies were responding to a call from mall security about a fight involving a large group of juveniles who were physically assaulting and following a female juvenile, Roberts stated. When deputies arrived on the scene, Roberts said, all but one male juvenile complied, presumably Benbo.

"He pulled away from deputies," Roberts said. "They briefly placed him on the grass and then in handcuffs. He was questioned and released to his guardian."

The next day, Benbo's guardian made a complaint, which Roberts said set off the internal investigation.

Attorneys for Benbo said one witness reported seeing a deputy arrive on the scene, exiting his vehicle and slapping what appeared to be a baton into his hand as he approached.

"One officer elbowed [Benbo] in the face, officers force [Benbo] face-first to the ground, and several officers held [Benbo] with one officer putting his knee on [Benbo's] neck using his weight to pin the child to the ground," the lawsuit states. "The pressure made it difficult for Ka'Mar to breathe."

Benbo and others at the scene repeatedly told deputies he was 12 years old, the lawsuit states.

While it happened months ago, the incident mirrors that of George Floyd, a Black Minneapolis man who was killed by police last month after an officer held his knee on Floyd's neck for 8 minutes and 46 seconds as he shouted: "I can't breathe." The incident has set off nationwide protests, including in Portland, over police violence and systemic racism.

The civil lawsuit charges the officers with battery and asks for \$300,000. It names Deputy Tyler Simpkins, Deputy Rob Watts, Deputy Thomas Broomfield, Deputy Clint Pierce and Deputy Angela Church as defendants in the case.

"What the world is seeing now, is what African-Americans have always known," Benbo's attorney Jason Kafoury wrote in an email. "It didn't start with a knee to the neck of George Floyd. The police here were aggressive and abusive to a 12-year-old child; that's why if there is ever to be police reform, the time is now."



Clackamas County deputies are facing a lawsuit for kneeling on Ka'Mar Benbo's neck during an Aug. 5, 2019 incident.

Contributed by Kafoury & McDougal law firm

Clackamas County District Attorney John Foote said his office is reviewing the incident.

“We didn’t know about this until we saw it this morning,” Foote said. “We’re looking into it.”

In September 2019, Roberts wrote to Benbo’s guardian the results of the internal investigation, which found no wrongdoing on the part of deputies.

“We formally interviewed employees, witnesses, reviewed reports, reviewed databases, reviewed video and other relevant information,” Robert wrote in the letter. “Based on the available evidence and totality of circumstances, the investigation has determined potential violations have received a disposition of ‘Exonerated.’”

Roberts added: “‘Exonerated’ means the member’s conduct was lawful and proper.”

In his statement, Roberts said his office also participated in a listening session that arose out of the incident on Oct. 8 coordinated by Rep. Janelle Bynum (D-Happy Valley).

Roberts didn’t run for re-election and is set to step down at the end of the year.

This article was updated after it was published with a statement from the Clackamas County Sheriff.

Couple sues city of Portland after being exposed to tear gas during protests

Updated Jun 09, 2020; Posted Jun 08, 2020



Protesters took to the streets of Portland, Ore., for the 11th consecutive day of demonstrations on Sunday, June 7, 2020. The calls for change started after the May 25 death of George Floyd. Dave Killen/Staff

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By [Celina Tebor | The Oregonian/OregonLive](#)

A Multnomah County couple has sued the City of Portland after they said they were exposed to tear gas during protests downtown. Plaintiffs Andy and Samira Green are seeking up to \$200,000 in damages through the lawsuit.

The couple and their two teenage children were attending a protest in support of the Black Lives Matter movement on June 2 in downtown Portland. The lawsuit says the family was leaving the demonstration when they were caught in the midst of tear gas released by Portland police.

The lawsuit does not specify where in Multnomah County the Greens reside.

This is at least the second lawsuit filed against the city in response to police use of tear gas against protesters. The nonprofit Don't Shoot Portland, along with two individuals, [filed a class action lawsuit](#) and sought a temporary restraining order against

the city Friday for using tear gas indiscriminately amongst crowds of demonstrators. [A judge will hear the argument](#) on Tuesday.

Juan Chavez, the project director of the Civil Rights Project at the Oregon Justice Resource Center, is an attorney for both lawsuits.

“We did this out of our moral obligation to advance our clients’ civil rights,” Chavez said. “The other case was strictly about stopping the practice of unlawful use of force at protests — this one’s about compensation. This one’s about addressing a wrong.”

The plaintiffs in the latest case are suing the city for negligence and battery and assault.

Tear gas can have a variety of harmful short- and long-term health impacts, including miscarriages of pregnancies, according to the lawsuit. Samira Green is pregnant, the court filing says. The lawsuit says the Greens continue to suffer from respiratory pain days after being exposed to the tear gas.

“CS tear gas agents can trigger lung inflammation, and has been linked to causing respiratory damage and chemical injury,” the lawsuit states. “Ongoing studies focus on the toxicological effects of tear gas agents, especially in the skin where CS agent can cause burns and blistering.”

This lawsuit was filed the same day Portland Police Chief Jami Resch [stepped down](#) from her position and asked Chuck Lovell, an African American lieutenant, to replace her. City Commissioners Chloe Eudaly and JoAnn Hardesty have called for a ban on police tear gas use, and Seattle’s mayor [issued a 30-day moratorium](#) on the police use of tear gas on Friday.

On Saturday, Portland Mayor Ted Wheeler said he told police to restrain from using tear gas unless there’s a threat to life safety and no other alternatives are available.

-- Celina Tebor

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Don't Shoot Portland and Other Protesters Sue City Hall Over the Use of Tear Gas

In a federal lawsuit, the nonprofit seeks to bar the city from using chemical agents against protesters now or in the future.



June 2, 2020. (Wesley Lapointe)

[By Rachel Monahan](#) |

Published June 5

Updated June 5

Black activist group Don't Shoot Portland sued the city of Portland in federal court this afternoon, seeking to halt the Portland Police Bureau's use of various

forms of tear gas to control protesters amid a local uprising against police brutality and racism.

"PPB has repeatedly used chemical agents ('tear gas') against crowds of protesters, including plaintiffs who had committed no criminal acts, posed no threat of violence to any person, and were merely engaged in protected speech," says the suit, filed in U.S. District Court in Portland. "The use of tear gas is particularly dangerous at the present time because it is specifically designed to irritate the respiratory system and to cause people to expel mucus and aspirated saliva."

The suit filed on behalf of the activist nonprofit, as well as the individuals Nicholas J. Roberts and Michelle "Misha" Belden, alleges violations of the protesters' constitutional rights to free speech and probable cause of the First and Fourth Amendments. Both individuals allege in the lawsuit they were peacefully and lawfully protesting and yet were subjected to tear gas.

"The 1993 International Chemical Weapons Convention, Geneva, bans tear gas from use by military forces during war," the complaint states.

Teressa Raiford, a founder of Don't Shoot Portland who ran for mayor this May, says deploying gas during the COVID-19 pandemic is nonsensical and cruel.

"We're out screaming for justice for Black people and asking the state to stop its violence against us, and the city responds by using tear gas when we're in the middle of a pandemic of respiratory disease," said Raiford in a statement. "This just demonstrates that they don't care about the harm they're causing, and that they are willing to literally kill us for standing up. For weeks we've been told to protect against the coronavirus, and we have shut down the country to achieve that. Now suddenly the city doesn't care about the risks of COVID-19 when we are fighting for our lives."

The lawsuit follows calls from City Commissioners Chloe Eudaly and Jo Ann Hardesty that police stop using tear gas. Both cited the health effects of a respiratory irritant during a pandemic. Today, Mayor Ted Wheeler said he would support halting the police use of tear gas if it wouldn't lead to more aggressive police tactics. (Advocates argue that's already the city's policy, and the mayor just has to enforce it.)

This afternoon, Seattle Mayor Jenny Durkan paused the use of tear gas there.

Wheeler's office declined comment on pending litigation.

The suit seeks a temporary injunction against the use of tear gas and then a permanent ban on the city using it at police protests.

"It's simple, what we have seen is the government's failure to listen to the people who are in the streets and listen to what they're demanding," says Juan Chavez, one of the attorneys for the plaintiffs. "Instead what they did was send a militarized response into the streets of Portland, and a lot of people were hurt by that. I don't think it stopped any of the things that they said they were trying to stop. Tear gas is the definition of indiscriminate force."

Chavez says the city has not used it at all protests, and he says the last time he recalls Portland using tear gas is the day that Portlanders protested the inauguration of President Donald Trump in 2017.

"Tear gas is unique in some respects," he says. "You don't see it in war zones. You only see it in dictatorships that are falling."

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About [Rachel Monahan](#)

Rachel Monahan joined Willamette Week in 2016. She covers housing and City Hall.

Federal Judge Warns City and Portland Police Bureau Against Gratuitous Use of Tear Gas

“Tear gas shall not be used to disperse crowds where there is no or little risk of injury.”



June 2, 2020. (Wesley Lapointe)

[By Nigel Jaquiss](#) |

Published June 9

Updated June 9

U.S. District Judge Marco Hernandez tonight handed protesters a partial victory in their effort to force the Portland Police Bureau to stop using tear gas or similar substances for crowd control.

The black activist group Don't Shoot Portland went to U.S. District Court in Portland last week seeking to stop the bureau from using tear gas, CS gas or other aerosol crowd control agents.

Hernandez weighed numerous factors in his [decision](#): protesters' First Amendment rights to free speech; the difficult jobs police face in trying to maintain public safety; the unprecedented complexity COVID-19 adds to large public protests; and "the difficulty in drawing an enforceable line that permits police officers to use appropriate means to respond to violence and destruction of property without crossing the line into chilling free speech and abusing those who wish to exercise it."

[As The Oregonian reported earlier](#), attorneys for the two parties offered oral arguments today. Attorneys for Don't Shoot hoped Hernandez would stop the police from propelling crowd control agents into the air, while attorneys for the city sought to preserve maximum flexibility.

In his ruling, Hernandez split the baby, granting in part the plaintiffs' plea for a temporary restraining order but also telling the city it could continue to use tear gas or similar substances—but only in narrowly defined circumstances.

"The Court therefore orders that PPB be restricted from using tear gas or its equivalent except as provided by its own rules generally," Hernandez wrote in his order. "In addition, tear gas use shall be limited to situations in which the lives or safety of the public or the police are at risk. This includes the lives and safety of those housed at the Justice Center."

That probably won't change anything on the streets.

Mayor Ted Wheeler has already ordered the Police Bureau to restrict the use of tear gas to situations where it is absolutely necessary, and it is the bureau, of course, not Hernandez or anybody else, that defines what is necessary.



About [Nigel Jaquiss](#)

News reporter Nigel Jaquiss joined Willamette Week in 1998. He covers politics.

Five Infamous Incidents That Didn't Cost Portland Police Officers Their Jobs

In four of them, officers were fired but got their jobs back.



WALL OF PAIN: A memorial to Black Portlanders, many killed by police, went up outside Revolution Hall. (Brian Brose)

[By Tess Riski](#) |

Published June 24 at 5:34 AM

Updated June 24 at 11:04 PM

Five incidents indelibly shaped the relationship between the city's Black community and the Portland Police Bureau. In four of them, officers were fired but got their jobs back. In the fifth, no cops lost their jobs.

THE BURGER BARN (1981)

On March 12, Officers Craig Ward and James Gallaway threw four dead opossums in front of a Black-owned North Portland restaurant called the Burger Barn. The city erupted in protest, and Commissioner Charles Jordan, the first Black man to serve on the City Council and as police commissioner, fired the officers. Hundreds of officers and their families marched on City Hall. An arbitrator ordered the city to give the officers their jobs back, and Mayor Frank Ivancie stripped Jordan of the Police Bureau.

LLOYD "TONY" STEVENSON (1985)

On April 21, Lloyd "Tony" Stevenson was shopping at a Northeast Portland 7-Eleven when he helped a store clerk fend off a robber. Stevenson, an off-duty security guard and father of five, then got into a fight with a witness in the parking lot. A white Portland police officer, Gary Barbour, responded to the scene and placed Stevenson, who was Black, in a chokehold. Stevenson collapsed and died 45 minutes later at the hospital. On the day of Stevenson's funeral, two white officers, Paul Wickersham and Richard Montee, handed out T-shirts to fellow cops. The shirts depicted a smoking handgun with the words "Don't Choke 'Em, Smoke 'Em." Mayor Bud Clark fired Wickersham and Montee, but an arbitrator overturned the firings and they got their jobs back.

KENDRA JAMES (2003)

On May 5, Portland police pulled over a vehicle in which Kendra James, a 21-year-old Black mother of two, was a passenger, because it failed to make a complete stop at a stop sign. After police arrested the driver on an outstanding warrant, James jumped into the driver's seat and attempted to drive away. As the car rolled forward at what eyewitnesses described as a walking pace, Officer Scott McCollister shot James in the hip. Police pulled James out of the car and handcuffed her. As she lay dying on the ground, the police set up crime scene tape and did not check her vital signs. McCollister was placed on unpaid leave, and an arbitrator later determined that McCollister did not violate police policy when he killed James. He was reinstated with back pay.

AARON CAMPBELL (2010)

On Jan. 29, Aaron Campbell was holed up with his girlfriend and children in an apartment at Northeast 128th Avenue and Sandy Boulevard. A caller told 911 that Campbell was armed and suicidal. Campbell let the others in the apartment go and told an officer via text message that he was coming out. He walked out with his hands behind his head but refused to raise them. An officer shot him with a beanbag round, and Campbell ran. Officer Ron Frashour shot him fatally in the back, later saying he thought Campbell, who was Black, was reaching for a gun. No gun was found. Chief Mike Reese and Mayor Sam Adams fired Frashour, but an arbitrator and, later, the Oregon Court of Appeals ordered him reinstated. The city of Portland paid Campbell's family a \$1.2 million settlement.

KEATON OTIS (2010)

On May 12, 25-year-old Keaton Otis was driving his mother's Toyota Corolla in Portland's Lloyd District. Police pulled him over because he failed to signal a turn and because the young Black man looked "like a gangster," The Oregonian reported. Four patrol cars surrounded Otis, and officers ordered him to put his hands on his head. Police testified that Otis, who suffered from mental illness, grabbed the steering wheel while screaming profanities. The officers said Otis reached for a Crown Royal bag that contained "something bulky" before shooting one of the officers, Chris Burley, twice. Burley and the three other officers—Cody Berne, James Defrain and Ryan Foote—fired 32 shots at Otis, hitting him 23 times. A Multnomah County grand jury found the officers' use of force was justified, and Independent Police Review said the shooting was "within policy."

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About [Tess Riski](#)

Tess Riski covers prisons, the alt-right movement and more. She has previously written for the Miami Herald, the Wall Street Journal and the New York Times. Tess recently graduated from the Columbia Journalism School, where she was a Stabile fellow in investigative journalism. She is originally from Seattle.

BLOGTOWN

NEWS

Good Morning, News: Police Are Afraid of Journalists, Oregon COVID-19 Spike, and Police Are Afraid of Shake Shack

by [Blair Stenvick](#) · Jun 16, 2020 at 8:45 am



We need your help. The economic fallout of the coronavirus has threatened our ability to keep producing the Mercury. If you're able, please consider [donating to the Mercury](#).



Portland police during the June 6 protest. BLAIR STENVICK

Good Morning, Portland! And Happy [Queer Week!](#)

Here are the headlines.

- Last night was the [19th consecutive night of protests](#) against police brutality and racism in downtown Portland. Last night's protest was a shift from previous nights for two

reasons: The group that normally meets at Revolution Hall and marches around the eastside joined protesters downtown, and the Justice Center was down one of its two fences. What didn't change was the officer's response to protesters. After throwing a few bottles and other items over the remaining fence at officers, a crowd of 500 demonstrators were hit with rubber bullets and pepper balls. One person was hit in the head, and needed urgent medical attention. The night ended after a fire was ignited (and extinguished) in front of Chipotle and armored officers bum-rushed journalists, youth, and other demonstrators out of public spaces. Another night of cops inflicting terror in downtown Portland.

- Oregon saw a big spike of new COVID-19 cases yesterday, with 99 cases alone coming from sparsely populated Union County. It turns out many of those cases are [linked to a church](#) that recently hosted a testing clinic.
- If you've participated in any of the Portland protests in the last two and a half weeks, there's a decent chance you've heard Lilith Sinclair's voice through a megaphone. For Queer Week, [I interviewed the activist about the current protests](#), the power that comes from working for abolition, and how being nonbinary shapes their activism.
- Scientists at the University of Oxford have identified a steroid—Dexamethasone—that [reduced COVID-19 deaths by one third](#) for patients using ventilators. It's the first drug shown to actually reduce coronavirus deaths, and per the BBC, it's old and "cheap-as-chips."
- Donald Trump is expected to unveil some police reform plans soon—but don't hold your breath for them to include anything meaningful. According to the *Washington Post*, they'll [mostly be funds used for police officer training](#), which is something that's already been happening for years without any marked improvements.
- United States retail sales [went up by nearly 18 percent last month](#)—though they really didn't have anywhere to go but up after the devastating economic impacts of COVID-19.
- It appears that after journalists and protesters, police officers are most afraid of Shake Shack employees. The New York Police Department's union reported last night that three of its officers had been given poisoned milkshakes at the upscale fast food restaurant. Just hours later, NYPD reported that [it had found no evidence of foul-play](#).
- Some good news: After yesterday's historic Supreme Court victory for LGBTQ+ employment rights, the Trump administration's attempt to reverse trans healthcare rights [appears to be dead in the water](#).

Huge Crowds Surge Peacefully Into Downtown Portland, but Another Night Ends With Flash-Bangs and Gas

“The last time I checked, property doesn’t have nerves. Glass doesn’t have feelings. Property doesn’t bleed like black and brown people.”



Protesters cross the Burnside Bridge on May 31, 2020. (Wesley Lapointe)

[By Tess Riski](#) |

Published June 1

Updated June 1

Portland witnessed another night of extraordinary sights Sunday.

Thousands of people marched across the Burnside Bridge into a vivid pink sunset and a line of police waiting for them. Long after a citywide curfew, that crowd stood for hours in a standoff with police in which neither side would blink. For a time, it looked as though the city would avoid the chaos that marked the first two nights of protesting the killing of George Floyd.

Yet the night ended in a fashion that has now become dispiritingly familiar: Police deployed stun grenades and gas, and angry protesters responded with vandalism in downtown.

That harsh ending was something that protesters had repeatedly tried to avoid. For the duration of the night, they repeatedly called on fellow demonstrators to act peacefully and not provoke the police.

"It's not just about George Floyd. It's not just about Sandra Bland. It's about the fact that we know this country was built on slavery and on the backs of black and brown people," event organizer Lilith Sinclair said into a megaphone. "The last time I checked, property doesn't have nerves. Glass doesn't have feelings. Property doesn't bleed like black and brown people."



May 31, 2020. (Wesley Lapointe)

As demonstrators headed west across the Burnside Bridge around 9 pm—an hour past curfew—protesters who had been on the westside warned of rubber bullets and tear gas awaiting at the other end of the bridge. The group paused, then reiterated chants of "Stay together, stay tight!" and "Whose streets? Our streets!" as it proceeded toward downtown.

Once across the bridge, demonstrators continued to march until they reached the Multnomah County Justice Center, which two days earlier was broken into and set on fire by demonstrators. Police dressed in full riot gear stood guard at the boarded-up building as protesters gathered around the chain-link fence surrounding the Justice Center.

Over the loudspeaker shortly after 9 pm, the police announced they would not be enforcing curfew: "The city of Portland wants to protect your First Amendment

rights," an officer said into the loudspeaker. "The behavior of this group will set the tone for this evening."

It wasn't clear why the Portland Police Bureau shifted its tactics despite the mayor's curfew. But the demonstrators, too, repeatedly called for peace. "Until they fuck with us, be peaceful," one of the event organizers said into a megaphone. "Let your voice be heard."

As the crowd size swelled around the Justice Center, demonstrators repeatedly chanted, "Arms up, don't shoot!" "Peaceful protest," and "I don't see no riot here, take off your riot gear," at police.



May 31, 2020. (Wesley Lapointe)

At one point, as hundreds of protesters knelt on the ground, a police officer walked down the front steps of the Justice Center up to the chain-link fence, where he had a conversation with an event organizer. Their words were

inaudible, but some members of the crowd cheered at what appeared to be a productive dialogue between the two parties.

But as the night drew on, police employed increasingly aggressive tactics. In part, that decision appeared to result from vandalism of the nearby Mark O. Hatfield United States Courthouse. Whatever the reason, the police tactics shifted.

Freelance journalist Sergio Olmos tweeted that, close to midnight, police demanded protesters move west, and then lobbed flash-bangs and tear gas at the crowd. The crowd largely dispersed, and people on the scene reported that police told them to go home as they threw more tear gas at the crowd.

As protesters fled, some people smashed in store windows across downtown, and others set bonfires in the streets. The federal courthouse was covered in graffiti, much of it expressing anti-police sentiment.

Portland Mayor Ted Wheeler has scheduled a press conference for Monday at 8 am to discuss the Sunday night demonstrations.



May 31, 2020. (Wesley Lapointe)

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About [Tess Riski](#)

Tess Riski covers prisons, the alt-right movement and more. She has previously written for the Miami Herald, the Wall Street Journal and the New York Times. Tess recently graduated from the Columbia Journalism School, where she was a Stabile fellow in investigative journalism. She is originally from Seattle.

I Was an Investigator of Portland Police Conduct. Here's Why It Doesn't Work.

The entire process is enveloped in secrecy.



STICKS AND STONES: The city's Independent Police Review received 2,300 complaints about officer behavior in one week of protests. (Alex Wittwer)

[By Andrea Damewood](#) |

Published June 17

Updated June 17

The phone lines and email inbox at Portland's Independent Police Review are jammed.

At an unprecedented volume, Portlanders are reaching out to the civilian oversight agency whose job it is to investigate allegations of police misconduct. Allegations of abuses witnessed over the past few weeks of officers driving their

squad cars toward people, firing tear gas at protesters as they ran away, and spray-painting vehicles cops believe are associated with the protesters.

In a slow week, IPR might get a complaint or two a day; recently, those numbers have skyrocketed to hundreds of contacts daily.

When citizens seeking accountability come to IPR to find out the results of a complaint they made, they get a form letter that contains little information about the investigation, besides a "yes" or "no" whether their allegations were sustained.

Why don't citizens get more? Because, according to state law, no one outside of IPR or the Portland Police Bureau itself will see the full report. Nearly all police misconduct investigations are guaranteed never to see the light of day.

I'm a former newspaper reporter (including at *WW*), and I covered cops and social justice for most of my career. When I had the chance in 2017 to work for the city of Portland at IPR as an investigator, I jumped at it to make change from the inside.

But by the time I left the agency last year (on good terms), I'd grown frustrated with the absence of transparency and true accountability.

The system is flawed for two reasons: The first is that the yardstick by which police actions are measured makes it extremely difficult to find fault. The second is that the entire process is enveloped in secrecy.

During my two years, I probably investigated dozens of allegations of police misconduct, and I saw things that horrified me. But as an IPR investigator, my task was to determine whether a cop, accused of a charge like racial bias or improper arrest, did anything to violate police policy in a way that could lead to discipline.

Investigators, if we want our cases to hold up in court or arbitration, have to show we're using the standard of rule or law. In the case of PPB, the standard is the bureau's "directives."

"Directives provide members with information to act decisively, consistently, and legally," PPB's rulebook says. "When unusual circumstances are encountered, directives help members identify the best course of action to follow."

But how these directives function often leaves wide latitude for officer behavior. For example, the bureau's use-of-force directive says an officer can't strike someone known to be medically fragile with a baton, but if the officer claims not to have seen the cane a man was holding before he pushed him down, he's going to be let off. Or take the bureau's truthfulness policy: It requires officers to have "knowingly or willfully" lied to be in violation of bureau directives—but let me say, it's tough to prove what exactly was going through a cop's mind if they won't tell you.

I was often left with no alternative but to exonerate officers whose behavior was reprehensible, just because they acted in a way that the bureau's training and policy supported. In other words, the conduct, even when reprehensible, often complied with PPB directives.

No matter what my personal beliefs are, I can't as an investigator just go rogue because I don't like a particular bureau directive.

But if you were the complainant, you'd never know just how much investigating I did, or why your complaint was not sustained. That expectation of a reasoned response—and an explanation of how the officer's behavior complied with directives—is the whole point of transparency. It almost never happens.

That's because you're not allowed to see the report. Neither is the press or any member of the public. Even in cases where I could sustain allegations against an officer, the report and discipline were also kept secret.

Oregon Revised Statutes 181.854 keeps all of this information cloistered in Central Precinct and City Hall, with limited exceptions for high public interest cases. State Sen. Lew Frederick (D-Portland) attempted to get his Democratic colleagues to pass a bill to make investigations public last year; it died in committee.

If you're angry reading this: good. You should be allowed to read the conclusions investigators reach, and you, and your fellow citizens, should be allowed to use those conclusions to lobby for change. For years, our progressive leaders in the statehouse have chosen secrecy and protecting police unions over transparency and accountability. They now say they will try to atone for that failure in a special session starting June 24.

If Mayor Ted Wheeler and Commissioner Jo Ann Hardesty really want to reform how police oversight works, they need to start at the Legislature. Reforms could certainly be made at the level of IPR and its Citizen Review Committee—investigators, for example, aren't allowed to search the Police Bureau's database, which holds copies of police reports and evidence. Instead, they must rely on the records department to provide them at their leisure. But until the public can see exactly where directives are too lax, we'll never see the kind of change protesters are demanding.

There's so much wrong with how policing works in America. I understand the sentiment to abolish it entirely. Barring that, we've got a long way to go. Even with the transparency offered by body cameras—which Portland police do not wear—and the increasing availability of video evidence, cops are rarely held accountable for their actions because of ironclad union contracts and friendly arbitrators who routinely overturn firings and other discipline. That must change.

But without transparency, you don't really know how bad it is. And I can't tell you, because state law allows agencies to withhold this information.

We all know the power of videos showing police abuse of Black people in this country. But reports are powerful, too. If you could see what I've seen, you would be furious.

You should be allowed to see what I've seen.

Andrea Damewood now works for Multnomah County, but she speaks only for herself.

Injured Portland Protesters File Lawsuits Against Police Brutality

by **Conrad Wilson** [Follow](#) OPB June 8, 2020 3:22 p.m. | Updated: June 9, 2020 7:31 a.m. | Portland, Ore.

In recent days, five protesters in Portland filed lawsuits against the city, arguing that at different times since late May, all five were violently attacked by police using “military-style weapons” while they were peacefully protesting.

The civil lawsuits filed in Multnomah County Circuit Court allege battery and seek damages up to \$950,000. In addition, each plaintiff is asking a judge for an injunction prohibiting the police from using weapons that launch projectiles.



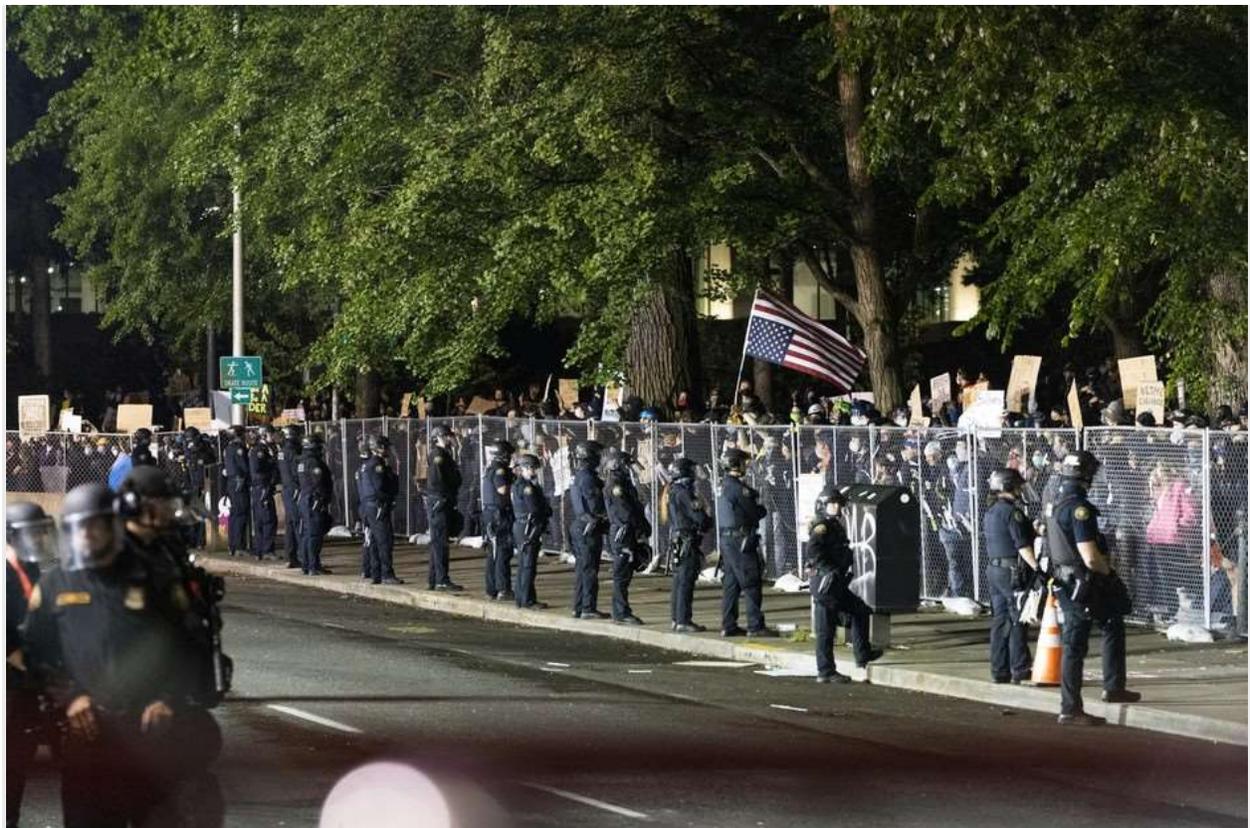
A seventh night of protests ended with police using tear gas, flash bangs and rubber bullets to disperse the crowd. After protesters threw water, fruit, and bottles at police.

Jonathan Levinson/OPB

“These lawsuits are not anti-police,” said attorney Michael Fuller, who is representing the protesters. “It’s against police brutality against unarmed protesters. That is the narrow scope of what we’re trying to accomplish. I don’t want it to be seen as we’re promoting looting or rioting and we’re not anti-police. We just want — you know, people have a right to go out there and peacefully protest.”

Across Oregon and the country, protesters have taken to the streets demanding justice for George Floyd, a Black Minneapolis man killed by a white police officer last month after the officer pressed his knee on Floyd’s neck for nearly nine minutes as Floyd shouted, “I can’t breathe.”

At times in Portland, those protests have centered along a fence that surrounds the Multnomah County Justice Center in the city’s downtown core.



A seventh night of protests ended with police using tear gas, flash bangs and rubber bullets to disperse the crowd after protesters threw water, fruit, and bottles at police and then knocked down the fence surrounding the building.

Jonathan Levinson/OPB

The city is also being sued in federal court by protesters and the group Don't Shoot Portland to block police's use of tear gas, also known as CS gas.

Calling the use of tear gas "ugly," Portland Mayor Ted Wheeler signaled last week he wanted to temporarily ban its use, but over the weekend backed off a full ban.

"I strongly believe that gas should not be used to disperse crowds of non-violent protestors or for general crowd management purposes," the mayor said in a statement Saturday. "It should only be used in response to violence that threatens life safety and there is no other viable alternative for dispersal."

The judge in that case is expected to rule Tuesday.

On Monday, Portland Police Chief Jami Resch stepped down amid many nights of protests that have ended with police using force to disperse largely peaceful protesters.

When asked about the latest lawsuit, the city attorney's office told OPB it can't comment on pending litigation.

Each of the incidents involving injured protesters took place during different demonstrations, though many of them describe similar scenarios.

On May 31, photographer Mason Lake was documenting the protests when he said police fired less-lethal munitions, according to court documents.

"Police officers opened fire on Mr. Lake with military-style weapons including chemical weapons and explosive devices, and intentionally launched a projectile into Mr. Lake's arm, resulting in an instant loss of feeling in his arm and swelling and broken skin, causing him pain, discomfort and distress," court documents state.

More than a week later, Lake continues to have pain and a limited range of movement in his hand and arm.

“At no time during the protest did Mr. Lake ever act physically aggressive toward anyone,” the lawsuit states. “Mr. Lake believes he was specifically targeted by City of Portland police officers because he was a photographer documenting police brutality.”



Julia Leggett alleges she was injured by police while peacefully protesting in Portland. She has filed a lawsuit.

Michael Fuller, attorney

On June 4, Brandon Farley was at a protest when he alleges Portland Police “shot him in the knee with a rubber bullet, sending him to the hospital and causing him pain, discomfort and distress.”

On June 6, Daniel Michaels was downtown picking up a friend from a peaceful protest when police officers “opened fire” and “and intentionally launched projectiles into Mr. Michaels’s leg, rear, and hand, causing him pain, discomfort and distress,” another lawsuit states. “At no time during the protest did Mr. Michaels ever act physically aggressive toward anyone.”

Another protester on June 5, Julia Leggett, was demonstrating when she alleges police “intentionally launched a flashbang grenade” at her right leg as she was walking away from officers.

“The grenade exploded near Ms. Leggett’s right leg, shredding her pants, producing hematoma, and requiring immediate medical attention, causing her pain, discomfort and distress,” the lawsuit states. “Ms. Leggett continues to experience pain and the injury to her leg has now become infected. At no time during the protest did Ms. Leggett ever act physically aggressive toward anyone.”

Judge allows excessive force suit to proceed against Portland police from August 2018 protest

Updated Jun 04, 2020; Posted Jun 04, 2020

5

Three Portland protesters injured in Aug. 4, 2018 counter-demonstration file federal suit (WARNING: GRAPHIC IMAGES)

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By [Maxine Bernstein | The Oregonian/OregonLive](#)

A lawsuit by two protesters alleging Portland police used excessive force indiscriminately against anti-fascist demonstrators in an August 2018 rally while protecting Patriot Prayer members can proceed, a federal [judge has ruled](#). Aaron Cantu and Tracy Molina allege Portland police fired aerial distraction devices, commonly known as flash-bang grenades, into a passive crowd while they were in downtown Portland opposing an Aug. 4, 2018, rally by the right-wing group Patriot Prayer. The event attracted more than 1,000 counterprotesters, led to [at least three people hospitalized](#) and was eventually declared a civil disturbance by police. They also contend the city has a practice of using militarized force against left-wing or counter-fascist protesters to punish them for their political speech while not using force against right-wing protesters, such as the Proud Boys or Patriot Prayer.

U.S. Magistrate Judge Stacie F. Beckerman denied the city of Portland's motion to dismiss the suit and the city's request that the plaintiffs redefine their allegations.

"The Court finds that Plaintiffs have adequately alleged that PPB has a custom or practice of using excessive force at protests," Beckerman wrote. "Plaintiffs allege the specific tactics that the PPB Officers used against protestors during the Protest, and that they used force with little provocation."

The city argued that the plaintiffs couldn't prove excessive force in light of prior court decisions that held the city hadn't overstepped its bounds at protests.

"Judges, juries, and arbitrators have agreed that the City's police officers used appropriate force on protestors," Assistant Deputy City Attorney Michael Jeter argued in legal briefs. "Plaintiffs have not plead any protests over the past several years where PPB officers were deemed to have used unconstitutional force. Therefore, Plaintiffs cannot plausibly allege a practice or custom of using excessive force on protestors."

But the judge disagreed.

“Even if there are court decisions ruling on the merits on PPB’s alleged use of excessive force at every Portland protest during the relevant time period, the Court could not conclude that those cases addressed every protestor’s experience at every Portland protest during the relevant time period,” Beckerman wrote.

Lawyers for the city had called the plaintiff’s allegations far-fetched.

“That the city somehow condones or sympathizes with fascists is simply an outrageous claim that should be properly stricken,” Jeter said in a [hearing in March](#). “It unnecessarily impugns the character of the city and its officers. It’s scandalous and has no business being in the lawsuit.”

Cantu said a police flash-bang grenade [struck the back of his head](#) and penetrated his helmet and his skull. He said he suffered a traumatic brain injury.

His injury prompted former Chief Danielle Outlaw to halt police use of the flash-bangs that are fired into the air.

Molina was holding a sign that read, “Hey Racists Stop Making Your Ignorance Our Problem Grow Up or Go Home” and was trying to get on the sidewalk near Southwest Columbia and First Avenue when police were dispersing counterprotesters, according to the suit.

Molina said she was moving along the sidewalk when police grabbed her sign and one officer knocked her to the ground and another tackled and arrested her. She was charged with misdemeanors that were dismissed.

Beckerman also allowed the plaintiffs’ allegations that Portland police used excessive force against them in retaliation for their protected speech and with an intent to chill their speech, while at the same time coordinating plans and security coverage with Patriot Prayer’s Joey Gibson and his supporters.

“The Court finds that Plaintiffs’ allegations are sufficient at the pleading stage to support their claim that Defendants targeted them for their speech,” Beckerman wrote.

Attorney Juan Chavez, who filed the suit on behalf of Cantu and Molina, called the judge’s ruling “an important step” and said the plaintiffs are pleased and grateful for it.

“Just because the police feel there’s exigent circumstances, doesn’t mean they can indiscriminately fire into crowds,” he said. “What we’re seeing in the streets right now with tear gas takes that a step further. Tear gas is the definition of indiscriminate force. It’s just the wind really. It carries.”

He said he hopes “the city sees that it can still change its policies on how police protest. It’s too late for Mr. Cantu and Ms. Molina but it’s not too late for the rest of us.”

A third plaintiff in the case, James Mattox, settled his claims with the city earlier this month. Mattox, who was seriously injured when he was shot in the arm with a

rubber projectile during the 2018 protest, will receive nearly \$23,000 from the city in an approved settlement.

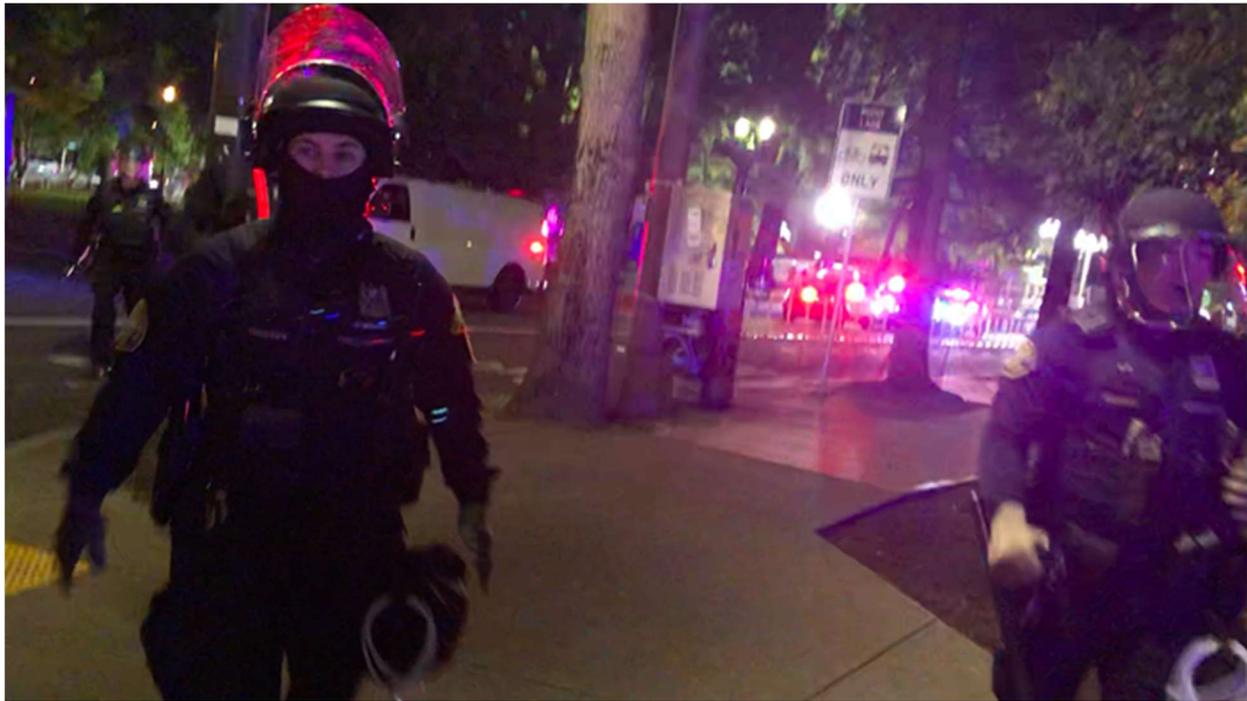
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OHSU Volunteers Arrested, Assaulted by Police During Portland Protests

by [Alex Zielinski](#) · Jun 16, 2020 at 12:43 pm



A still from a video of PPB officers clearing out Chapman Square Saturday night. ALEX ZIELINSKI

June 2 was the first day a group of graduate students from Oregon Health and Science University (OHSU) set up a pop-up canopy and table in Chapman Square and offered first-aid, snacks, and respite to protesting Portlanders. Since then, the volunteers have doled out ice packs to people injured by rubber bullets, goggles for people prepared for tear gas, and face masks to keep protesters safe during a pandemic. Most of the items had been donated by fellow students, faculty, and members of the public—with OHSU sponsoring the table and tent later on.

The OHSU group has also watched Portland police officers' shifting response to the nightly demonstrations. That's why on Saturday, June 13, volunteers Micheal Martinez and Adrian Baris were expecting a relatively low-key evening. The night had been preceded by evenings with little officer presence behind the fence that had been erected between protesters and

the Multnomah County Justice Center—and, in Martinez's words, "Police had stopped attacking entire crowds, just individual people later in the night."

That changed Saturday. By the end of the night, Martinez was in jail, Baris was rattled from being shoved by the police, and all of their donated items had been confiscated by the Portland Police Bureau (PPB).

Their story of unwarranted abuse and arrest by police officers is just one of many anecdotes we've heard from non-violent Portlanders who've attended the nightly demonstrations. But for the students, and administrators at OHSU who support their work, it only adds to the growing concerns around police abuse of power in Portland.

"It's clear the community needs us. I've seen severe use of force while working out there. I've seen infants get tear gassed, people shot with rubber bullets, people walking away who were arrested."

— *Micheal Martinez, OHSU graduate student*

The encounter began around 10:40 pm, when the group heard the initial announcement from a Portland Police Bureau (PPB) loudspeaker, declaring the protest unlawful and ordering everyone to disperse. Baris, Martinez, and other volunteers began to break down their tent and start packing up supplies. No less than five minutes later, they looked up to see a line of officers—clad in all-black armor and carrying black batons—swiftly marching towards them.

"The officers were yelling at us to leave everything and disperse," said Martinez. But the group didn't want to abandon the donated items—especially the tent, table, and banner borrowed from OHSU—and asked the officers for a few more minutes. That's when Martinez was put in handcuffs. He was told he was under arrest for interfering with a police officer.

"When I saw Mike being arrested, I froze," said Baris. "It was shocking. But then officers started just pushing me away, out of the park. They said, 'Don't worry, your stuff will still be here later.'"

Five hours later, only after PPB had chased protesters out of downtown Portland with flashbang grenades, rubber bullets, pepper balls, and clouds of smoke, Baris returned with Michelle Ozaki, another OHSU graduate student, to find only a pile of trash where their tent had stood. When they asked officers stationed nearby where they could find their items, they were met with what Ozaki said was "belittling comments."

"They said things like, 'You knew what the risk was coming out here,' and, 'You should have been prepared for theft,'" Ozaki recalled. "It's funny, because they were the ones who had stolen from us."

Martinez was released from jail at 5:30 am, after being bailed out by the donation-based PDX Protest Bail Fund. His phone had been confiscated. Later that day, an OHSU faculty member visited PPB's Central Precinct to collect the university's tent, table, and other missing property. Only some of the items were returned.

A spokesperson for PPB was not able to comment on the arrest Tuesday.

The students say OHSU administrators have steadfastly supported the group of volunteers, and are investigating the incident.

"OHSU firmly stands with communities calling for an end to the trauma and anguish people of color are suffering as a result of systemic bias and discrimination," said George Mejicano, the senior associate dean for OHSU, in a statement set to the *Mercury*. "We fully recognize the important role our students, faculty, residents and staff play as members of the broader community and support their right to be involved in civic and community activities. We are a community of healers and fully support our members providing medical aid to the community and engaging in nonviolent demonstrations."

Mejicano added: "Although we cannot comment on the specifics of the case, [Martinez] and his attorney are working to resolve this matter in a just manner. We applaud and support Michael's effort to serve our community during these tumultuous times."

On Tuesday morning, the Oregon AFSCME Council 75, which represents OHSU graduate students, released a statement condemning the PPB's abuse and theft.

The students said the experience hasn't deterred their volunteer work. If anything, it's only further given them a reason to continue showing up to protect people who don't have a powerful institution like OHSU to back them up.

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"Police use arrest to inflict intimidation," said Martinez. "I will not bend to that. It's clear the community needs us. I've seen severe use of force while working out there. I've seen infants get tear gassed, people shot with rubber bullets, people walking away who were arrested. I've seen individual policeman showing no remorse and, honestly, a fair amount of glee about what they're doing. Police play far too great of a role towards the problems in our city."

Baris and Martinez said they are planning on finishing their term papers while volunteering during the protests this week. For them, it's not worth skipping a night of critical work.

"The only thing that's made me feel unsafe while I'm down there is the police," said Baris. "And the only thing that's made me feel safe is the community. That should tell us where our resources as a city need to go. Where they're going right now is fundamentally wrong."

Opinion: Fix Oregon's public records law to allow scrutiny of police

Posted Jun 24, 6:30 AM



Wednesday, October 30, 2019 - FILE Oregon legislators should change a law that exempts police discipline records from public release, writes Ginger McCall, former Oregon public records advocate. Michael Mancuso | NJ Advance Media for NJ.com Michael Mancuso | NJ Advance Med

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By [Guest Columnist](#)

Ginger McCall

McCall served as Oregon's first public records advocate from April 2018 to October 2019. In my previous role as Oregon's public records advocate, I encountered many troubling aspects of Oregon's public records law. Perhaps the most concerning is the secrecy surrounding disciplinary proceedings and records for police officers accused of wrongdoing. The continued evidence of police brutality by officers with previous complaints clearly demonstrates that this policy is unacceptable and must change.

A few months into my tenure as public records advocate, I was contacted by a young woman who shared her story about a Portland Police officer – [her former stepmother](#) – who had [inappropriately used a law enforcement database](#) to track her in 2015. As news accounts at the time reported, Officer Scherise Hobbs had [prior disciplinary actions](#) on record and a well-documented animosity toward the young woman. An investigation by internal affairs sustained wrongdoing, but the officer remained on the job with no

punishment for several months. In fact, it's unclear whether Hobbs, who remains employed by Portland Police, was ever disciplined. A 2016 public-records request to view the investigation files was denied, despite the clear public interest in keeping police officers from unethically monitoring innocent citizens. The Multnomah County District Attorney's office [denied an appeal](#), noting that two provisions exempt "all personnel investigations of law enforcement officers from disclosure under the public records law" and referred to the exemption again in a follow-up discussion two years later. This practice denied the victim - and the public - the opportunity to evaluate the fairness of the internal affairs investigation and understand whether an abusive officer ever faced any consequences.

Unfortunately, Oregon's public records law is deliberately set up to make it difficult for the public to learn about a police officer's disciplinary record. If an ordinary government employee is found guilty of wrongdoing during a disciplinary proceeding, the documents related to that proceeding are exempt from public records requests. Police officers are afforded an even greater level of secrecy; personnel disciplinary actions for police officers are typically withheld whether the officer is found guilty of wrongdoing or not. This shrouds both the questionable actions of police and the efficacy of the disciplinary system in secrecy.

I saw similar secrecy many times. Even when police officers kill civilians, there is little transparency regarding internal affairs investigations. While the law appears to allow for disclosure if the requester can prove a public interest, in practice, there is little that any requester, even a journalist, can do to pry police disciplinary records loose from the hands of the government. This practice potentially allows abusive officers to continue on the job protected by inadequate internal affairs investigations or an indulgent command staff and, over time, it erodes public trust in police and government.

Police officers exercise the most extreme forms of government power - they are armed with deadly weapons and are sometimes permitted to use deadly force. That level of power ought to be subject to greater transparency than your average government employee, not less.

In the interest of justice, these public records exemptions must be repealed. If a police officer is found guilty of wrongdoing, all records related to that should be made public. This is the only way for the community to determine if there is actual accountability for governmental agents armed with deadly weapons.

If, on the other hand, the officer is found not to be guilty of wrongdoing, the records of that disciplinary action ought to be released with as few redactions as possible, because there is a strong public interest in transparency of the investigation itself. This ensures fairness and efficacy of internal affairs investigations and builds trust with the public, which must be able to see the details of the investigatory process and the decision-making to have faith that the actions made sense.

It is worth remembering that the stated purpose of policing is ultimately the welfare of the community. Without the confidence of that community, police departments have no hope of achieving this goal. These reforms may be uncomfortable for some departments, but police departments and unions must recognize that the current system is not working and embrace changes that ensure accountability and build greater trust.

Public records exemptions which allow for withholding of police misconduct investigations have been repealed in other states – including recently in New York and California. This is just one small reform that must be part of a larger slate of reforms which address systemic injustices.

The deaths of George Floyd, Breonna Taylor, and so many others illustrate the urgent need for change. It is long past time for the Legislature and the police unions to stop protecting abusive officers and, instead, work to protect justice and public safety by fostering transparency and accountability for Oregon police officers.

Oregon police misconduct: Keeping allegations hidden

Updated Jan 09, 2019; Posted Dec 15, 2017

[Impunity for bad policing in Oregon](#)

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By [The Oregonian/OregonLive](#)

By **CARLI BROSSEAU** and **REBECCA WOOLINGTON**

It took more than two years to acquire the public records underlying The Oregonian/OregonLive's investigation into police accountability in Oregon.

The project began in January 2015, when the newsroom requested the electronic records that the Department of Public Safety Standards and Training keeps on certification, employment and training for police officers.

Fired, But Fit for Duty

Dozens of Oregon police officers stay eligible to carry a gun and a badge even after being fired for chronically inept police work or worse, an investigation by The Oregonian/OregonLive has found.

[READ MORE](#)

The newsroom also requested data on cases in which state regulators considered revoking an officer's certification.

The state agency imposed hurdle after hurdle.

Regulators put the cost of providing the data at more than \$17,000. So the newsroom appealed to the state attorney general's office, arguing that the cost estimate obstructed public access to important information.

[\\$13,053.40 \(p. 1\)](#)



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The attorney general's office helped regulators and the newsroom come to agreement on all but one point. The Oregonian/OregonLive sought the birthdates of police officers. We

had no intention of publishing that information. We requested it only to avoid accidentally mistaking officers with clean records for people with similar names and long criminal rap sheets.

The attorney general's office sided with the newsroom. In response, regulators filed a lawsuit against the reporter. The Oregon Coalition of Police & Sheriffs sought a new exemption to Oregon's public records law for officer birthdates. Lawmakers obliged.

The Oregonian/OregonLive received the data on officers, minus dates of birth, eight months after its initial request. The lack of dates of birth made it impractical to analyze court data for how effectively the state is catching officers who are charged with a crime.

But the data allowed reporters to identify all officers whose cases had gone before regulators and the outcomes.

To dig deeper into the allegations against officers and how regulators reached their decisions, the newsroom asked for copies of staff reports and any attached documents for 210 officers. Oregon law says state regulators must write a report every time they close a decertification case.

[\\$29,282.40 \(p. 1\)](#)



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Regulators estimated that providing the documents would cost \$29,282.40 for staff time to review for possible redaction. They proposed a 50 percent discount, for a total of \$14,641.20.

Because of the high cost, the newsroom eventually narrowed its focus to the 40 police officers who were fired but kept their certifications from 2013 to 2016.

Read the documents

[View the records](#)

for three officers whose cases were described in *Fired, But Fit for Duty*.

The records included disciplinary memos and internal affairs reports compiled by police departments and sheriffs' offices. Before answering The Oregonian/OregonLive's request, the state asked for permission to disclose documents the local agencies had submitted. The local agencies vetoed the release of records on 10 officers.

Getting access to the full case files required the newsroom to appeal repeatedly to the attorney general's office. Disciplinary records are considered exempt from release under the public records law unless a requester can show that disclosure is in the public interest. In every one of the newsroom's appeals, the attorney general's office agreed that disclosure was necessary.

"Given the authority that is entrusted to police officers, there is a significant public interest in monitoring the investigations that DPSST undertakes to determine whether a police officer's certification should be suspended or revoked," the deputy attorney general wrote in one of the orders.

"Because DPSST's investigations rely in a large part on these personnel investigations, public oversight of DPSST would be severely constrained were these records withheld."

[\\$1,813.30 \(p. 1\)](#)



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Inquiries from reporters have prompted the Department of Public Safety Standards and Training to make some changes.

For example, the department posted on its website a slimmed-down version of its database containing each officer's certification, employment and training history. In the future, the agency will post documents about officers whose cases are discussed at a public meeting, officials said. They also opened up meetings of work groups and subcommittees to the public after The Oregonian/OregonLive challenged closed-door sessions as a violation of public meetings law.

Administrative closures, the focus of The Oregonian/OregonLive's investigation, appeared for the first time on the agenda of a public meeting in November. An official read off the names of officers whose cases they closed and briefly described why.

As recently as June, the department continued behind the scenes to take steps that would limit disclosure of police records.

Linsay Hale, the agency's director of professional standards, sent an email that month to then-Portland Police Chief Mike Marshman noting the attorney general's recent orders to release disciplinary documents to The Oregonian/OregonLive.

She spelled out how Marshman could keep his officers' records from reporters in the future. Rather than handing records over to the state, the Portland Police Bureau could ask the state to send someone to Portland to read the records in person.

In an interview, Hale denied trying to thwart transparency. She described this change as a records-management improvement to limit the records the state collects to only the

most relevant ones. For example, a criminal investigation would be irrelevant, Hale said, if the officer were convicted.

She said the offer she gave Portland is available to all police departments and sheriffs' offices. She said the state's two investigators would drive from Salem to as far as Gold Beach and Umatilla County to review records if asked.

Portland's Police Bureau, according to a spokesman, hasn't decided whether or not to accept Hale's offer under the new chief, Danielle Outlaw.

-- Carli Brosseau and Rebecca Woolington

Portland must address incidents of journalists assaulted by police

Portland Tribune

Wednesday, June 17, 2020

If it's not an organized effort to intimidate, it smacks of shoddy police practice; if it is organized, that would be worse.

In the middle of a protest, with adrenaline pumping, fatigue setting in, and no end in sight, accidents happen.

A police officer assaults a reporter? Well, that could happen.

If it occurs twice, there might be a need for analysis.

When it happens three, four, five times, well, Portland Police Bureau, you have a problem.

A problem that needs to be addressed. Immediately.

If a recent spate of journalists getting shoved around by cops is mere coincidence, command staff needs to have a stern conversation with the rank-and-file to make sure it comes to an end.

If it's not mere coincidence, then it's a significant escalation in the reports of community violence at the hands of the police, which has become one of the most pressing issues locally, throughout Oregon, and across our nation.

Portland Tribune reporter Zane Sparling was covering Sunday night's brawl between police and protesters in downtown Portland. When he saw police barreling his way, he stepped around a corner to avoid a collision. One of the officers — so far unidentified — came after him.

In a Tweet that has been seen more than 456,000 times, Sparling can be heard shouting, "Media!" The officer shoves Sparling into a wall and shouts, "I don't give a sh--! Get down!"

If this were a one-off incident, we'd be concerned and we'd express those concerns with the mayor and police chief, which we've done.

But it's part of a larger pattern.

As reported by The Oregonian/OregonLive, veteran photographer Beth Nakamura said an officer shoved her forcefully from behind with a baton, the night before Sparling's assault.

Nakamura said she was holding her press ID, camera in her hands above her head and had been following the police orders to leave. When she identified herself as a journalist, she says the officer responded with an expletive and said he didn't care.

Sound familiar?

The Oregon Territory Chapter of the Society of Professional Journalists has begun gathering anecdotes such as these.

On June 5, police officers reportedly drew weapons on an associate of broadcaster Robert Evans while she was attempting to get a license plate number of a pickup that nearly ran into them.

On June 6, independent reporter Sergio Olmos was pushed by an officer while trying to communicate and comply; he was wearing visible press ID. (Olmos has written several stories for the Portland Tribune). The contact is caught on video.

Also on June 6, Donovan Farley, a contributor to Willamette Week, said that after identifying himself as press and disengaging from recording an arrest, a Portland police officer beat and pepper-sprayed him while Farley was walking away from the scene, his back turned.

The list goes on.

On Tuesday, the publisher and managing editor of the Portland Tribune spoke via conference call with Mayor Ted Wheeler, Police Chief Chuck Lovell, and members of the mayor's staff and City Attorney's office. Wheeler said he takes the situation seriously and that it could become a matter of further directives and training with Portland Police.

When asked if the officers who assaulted Sparling and Nakamura have been identified by command staff and, if so, what are the next steps, Chief Lovell said he did not know.

Granted, the chief is brand new on the job, having been sworn in exactly one week ago. Still, we think these incidents should have been brought more urgently to his attention.

We understand that journalists covering violent protests are taking risks. That's part of the job. And, we are very aware that many protesters, including several demonstrating peacefully, have suffered much more serious injuries from police than the journalists listed here.

But if there is an organized attempt by rank-and-file Portland police to intimidate accredited journalists, then we cannot overstate how serious a situation that would be. Journalists are on the streets, risking their safety, telling all sides of these confrontational protests, so that Oregonians can get a full, independent account of what's going on.

Journalism is the only job embedded in the U.S. Constitution, and it's there for precisely such history-making events as these.

If it's not an organized attempt by cops to intimidate reporters, then it's clear that leadership, from Wheeler — who serves as Police Commissioner — through Lovell, through his assistant chiefs, commanders, captains and lieutenants, need to reign in officers and to remind them that assaulting anyone unprovoked is contrary to the policies and procedures of the department.

On Thursday, in response to a second letter from the Society of Professional Journalists, Wheeler and Lovell issued a statement saying they had reminded officers "of their obligation to support a free press as legally permissible" and vowed to review tactics to ensure members of the media are free to exercise their constitutional rights."

The Portland Tribune will continue to cover the protests and the changes in policing, funding of police and city policy. Our job now will include tracking and reporting on how Wheeler and Lovell respond to these documented instances of police assaulting the media.

The message from these two leaders should be clear. If it is organized or intentional intimidation: Knock it off immediately.

If it's not organized, then the mayor and chief must get their house in order by identifying the officers involved and taking the necessary corrective steps.

Police Keep Injuring Journalists Covering Portland Protests

by **Rebecca Ellis** [Follow](#) OPB June 15, 2020 8:15 p.m. | Updated: June 16, 2020 11:35 a.m.

At least two Portland-based reporters came out of a weekend of covering protests against police brutality with new injuries.

Oregonian journalist Beth Nakamura [recounted being slammed by a baton](#) from behind by police late Friday evening. The next night, Portland Tribune reporter Zane Sparling said he was shoved [into a wall by a police officer](#) and hit in the heel by a crowd control munition.

In both incidents, the reporters say they identified themselves to police as press. Nakamura said she had her hands up, her press ID in her left hand and her camera in her right. Sparling can be heard in a video he posted telling the police “media” as he’s pushed into the wall. In both incidents, the reporters were told by police, in what the journalists described as profanity-laced responses, that their press credentials did not matter.

The incidents were not the first accounts of police officers behaving violently toward people on the street during the protests. But they were the first police actions toward journalists to be publicly questioned by the mayor since the uprising began.

In a Monday afternoon tweet, Portland’s Mayor Ted Wheeler called Nakamura’s account of being attacked “[extremely concerning](#).” “Journalists need to be able to cover the protests safely,” Wheeler said, retweeting her description of the assault. “I know [the Portland Police Bureau] works hard to protect the rights of our press, but there are alarming incidents that need to be addressed.”

Two members of the Portland City Council have similarly expressed concerns over the treatment of the press at the hands of the city’s police force. In a

statement, Commissioner Chloe Eudaly said she believed journalists' rights had been violated and called on Wheeler and new police Chief Chuck Lovell to intervene. Commissioner Jo Ann Hardesty said she found the violence "particularly troubling" and would be meeting with Lovell to discuss further.

Wheeler said all incidents involving journalists should be brought to the attention of his spokesperson, Tim Becker.

A [petition](#) circulated by a group of Portland-based reporters is asking the mayor's office to do more than take in complaints, though. Noting violence directed toward reporters has escalated in recent weeks, the petition asks Wheeler to stop the police bureau he oversees from assaulting journalists and warns of a "chilling effect on coverage and debate about PPB's use of force" if the violence continues.

The petition notes these "heavy-handed tactics" displayed over the weekend on reporters from local media outlets have also been used on independent reporters, who are often the ones sticking around late into the night as police clear protesters from downtown.

Some have questioned why it took so long for Wheeler to weigh in on these reports of Portland police responding violently to people recording the protests, as some of the independent journalists had made their own accounts of assault public in weeks prior.

"It's telling now that this involves an Oregonian reporter and Portland [Tribune] reporter that suddenly the mayor seems really concerned about investigating," said Rachel Alexander, president of the regional chapter of the Society of Professional Journalists. "Because prior to this, mostly what we documented was happening with freelance reporters."

Last Tuesday, Alexander sent a letter to the mayor and Lovell detailing concerns about Portland police using force on journalists. In the most dramatic account brought up in the letter, a Portland police officer is accused of "[doing sword type stabs](#)" and pepper-spraying freelancer Donovan Farley after he tried to film an arrest. Alexander said the media advocacy group has yet to receive a personal response from either of the city leaders.

Alexander said she's concerned not just for the rights of people such as Farley, who identify as reporters, but anyone out on the streets with a camera phone.

"I really want people to be mindful that this is a right that everyone has," she said. "The press don't get special protections, and there should be this amount of concern when anyone's getting treated this way for filming law enforcement."

The letter notes that, while holding a press pass doesn't give journalists special rights, documenting protests and the police response is a task "of vital public interest."

"That includes documenting confrontations between protesters and police, and actions taken to disperse crowds," the letter reads.

It's not clear Portland Police Bureau leaders agree with that, however. On Sunday evening, [the police released a video](#) in which their lead spokesperson said all crowd members had to follow orders to disperse, even journalists. "We continue to work with our media partners about the importance of following the lawful orders given by the sound truck, officers, and social media, so they can stay safe and avoid arrest or altercation," said police spokesperson Lt. Tina Jones. "The unlawful orders apply to everyone, without exception."

The bureau was excoriated online by Twitter users, who accused police of trampling on journalists' First Amendment rights. Others have pointed out that the moments when the police begin dispersing protesters tend to be the tensest, and, therefore the most worthy of being documented.

It appears the bureau is within its rights to force journalists to leave once they order the crowd to disperse. According to the Reporters Committee for Freedom of the Press, [journalists can be arrested](#) for disobeying an order to disperse, and the committee recommends reporters "promptly comply" with such orders. Other watchdog groups have emphasized that members of the media are subject to the same rules as protesters, [meaning they can be charged with a crime for failure to disperse](#).

But civil rights organizations have questioned the bureau's use of these orders to disperse, which some view as being used too liberally against protesters. Kelly Simon, interim legal director for the Oregon's chapter of the ACLU, said she's noticed a trend where largely peaceful gatherings against police violence are ended prematurely by police who declare it an unlawful assembly and force protesters to disperse.

"It is clear that PPB's use of dispersal orders and declarations of unlawful assembly are both arbitrary and very deeply troubling, especially when PPB and city leaders have repeatedly agreed the protests have remained overwhelmingly peaceful," said Simon. "I find it legally suspect what we're seeing out of PPB right now."

Kyu Ho Youm, who holds the Jonathan Marshall First Amendment Chair at the University of Oregon School of Journalism and Communication, said while it's probably not illegal to clear out journalists along with the protesters, that's not necessarily how it should be.

"They should be given some kind of special consideration by police officers," Youm said. "Otherwise, what's the point of having freedom of press?"

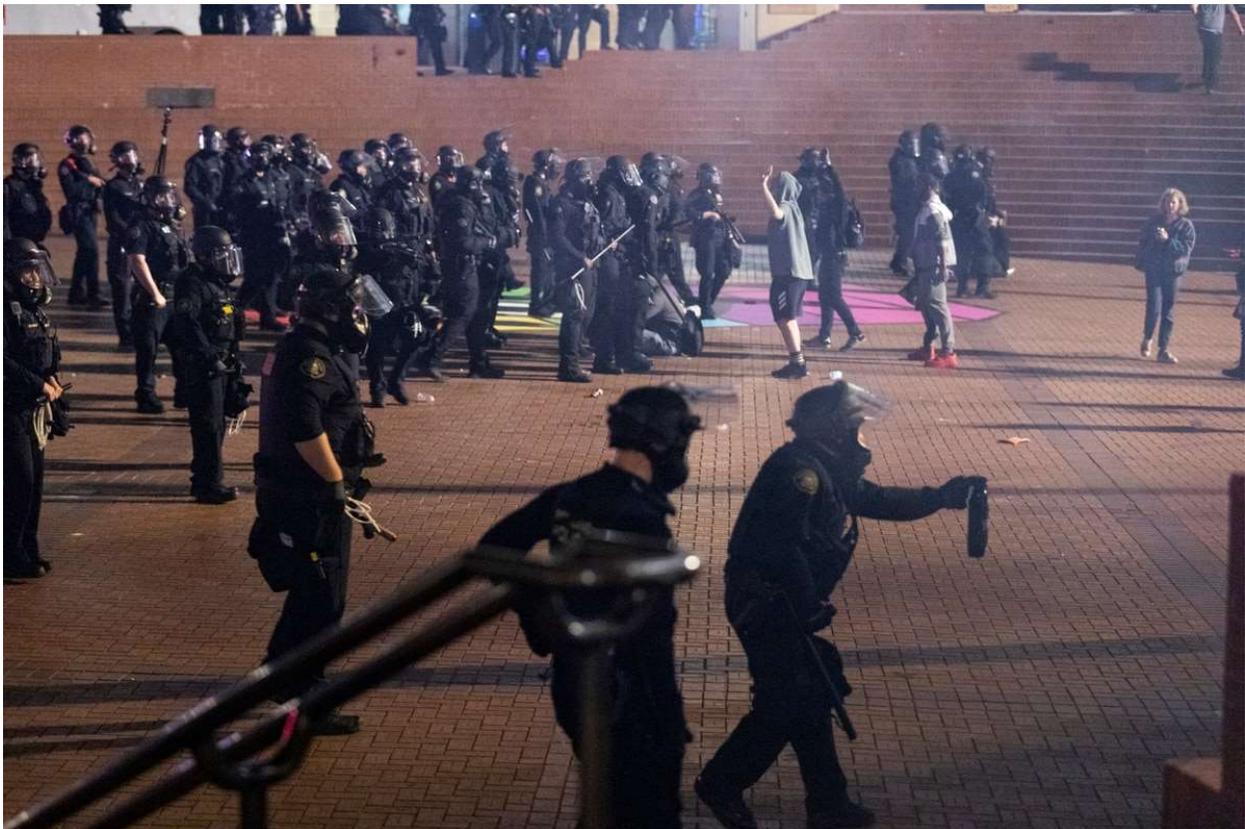
"If they are treated as demonstrators, that's a terrible mistake on the part of police."

According to Sergio Olmos, a freelance reporter who has documented the protests each night since they began, that's exactly what's happened. The tension between reporters and police has escalated, and press passes, he said, appear to have lost their significance.

"We used to be neutral bystanders," he said. "Now, we're the same as protesters to them."

Portland City Hall Has Received More Than 2,300 Complaints About Police Officers in a Week

The bureau has come under fire for what city commissioners describe as excessive use of force against protesters.



Police in Pioneer Courthouse Square on June 2, 2020. (Wesley Lapointe)

[By Tess Riski](#) |

Published June 8

Updated June 8

Portland's Independent Police Review, an oversight agency for the Portland Police Bureau, has received more than 2,300 police-related complaints in the

past week, says Irene Konev, the agency's senior community outreach coordinator.

Since May 29, Portlanders have protested en masse against the killing of George Floyd and the deaths of scores of black Americans at the hands of police.

Since the protests began last month, Portland police have been scrutinized heavily for what many residents—including city commissioners—call an excessive use of force, such as deploying [clouds of tear gas at protesters](#), pelting others with rubber bullets at a close range and [using a "long range acoustic device"](#) that can cause hearing loss.

Konev says not all 2,000-plus complaints will be investigated. It was not immediately clear how many complaints the agency usually receives on a weekly basis.

Earlier today, Portland Police Chief Jami Resch [announced she was resigning from her role](#), and that she would be replaced by a longtime officer, Lt. Chuck Lovell.



About [Tess Riski](#)

Tess Riski covers prisons, the alt-right movement and more. She has previously written for the Miami Herald, the Wall Street Journal and the New York Times. Tess recently graduated from the Columbia Journalism School, where she was a Stabile fellow in investigative journalism. She is originally from Seattle.

Portland Mayor, Police Chief Defend Police Response To Tuesday Protests

by **Rebecca Ellis** [Follow](#) OPB June 3, 2020 10:49 a.m. | Updated: June 4, 2020 6:19 p.m.

Portland's mayor and police chief defended their approach to policing during another night of demonstrations against police brutality, as some on the ground condemned what they saw was an indiscriminate use of tear gas by police officers.

Tuesday night's protest saw thousands gather across the city to demonstrate peacefully against the death of George Floyd, the Minneapolis man killed by a police officer who planted a knee on Floyd's neck for nearly nine minutes. It was the [first demonstration without an 8 p.m.](#) curfew in place since major demonstrations began late last week.

On Wednesday morning, Wheeler said that in addition to the peaceful protesters, he'd also monitored a small group of people he said were provoking conflict and violence — acts he said he saw play out after a late-night visit to the police bureau's incident command team.

“I saw where the pockets of violence were occurring and how our police bureau was responding,” he said. “It confirmed what I already knew about the minute to minute reports I had been getting over the last five days — that our officers are doing everything they can within their power to respect and protect peaceful demonstrators.”

Critics have condemned the police bureau's response Tuesday night, which included tear gas widely used to disperse groups gathering downtown. On Twitter, Commissioner Jo Ann Hardesty said she'd followed reports of indiscriminate use of tear gas and flash bangs, and found them “completely unacceptable.”

“It was heartbreaking to see the day end in reports of the media, children, families, and youth getting swept up in an over aggressive response to a small group of disruptors,” she wrote. “Portland, we have a lot of work to do to change the culture and system of policing. One part of that is demilitarizing the police.”

In the aftermath of protests, both Hardesty and Commissioner Chloe Eudaly have called for a ban on tear gas. The Geneva Convention has banned the use of tear gas during war, and the Oregon ACLU sent a letter to a collection of mayors Wednesday evening calling on them to prohibit their police from using tear gas.

At Wednesday’s City Council meeting, the first since the protests began last Friday, Eudaly said she was horrified by what she witnessed play out on Portland streets the night before. She called the use of tear gas in the middle of a public health crisis “sadistic” and said she believed the council should ban its use.

“I went to bed in tears, watching police fire gas canisters as they were rolling down streets into random crowds of protesters,” she said. “I woke up horrified by images that were shared with me this morning.”

On Wednesday morning, Police Chief Jami Resch disagreed that police had responded with gas and flash bangs indiscriminately.

During the demonstration, an overflow crowd gathered at Pioneer Courthouse Square to hear speakers and demonstrate against police violence. As the night continued, parts of the crowd moved toward fencing PPB had established around an area of downtown that had been hit by vandalism during previous nights’ demonstrations.

Police quickly warned people to leave the area and said over loudspeakers that crowd control measures would be used if they did not.

Resch said people attempted to tamper with the fence. Video of the gathering shows police shooting tear gas canisters into crowds of hundreds of people. Throughout the evening, Resch said, some people threw fireworks, bottles,

ball bearings and other projectiles at police. Officers continued to fire tear gas and flash bangs for extended periods as they scattered crowds.

Whether or not to use tear gas was the decision of incident commanders, who usually make the call “to protect life and safety,” Resch said.

Some Oregon civil rights groups have condemned police action Tuesday night.

The police bureau’s “continued use of flash bang grenades, tear gas, intimidation, and violence against protestors is reprehensible,” wrote the Oregon Justice Resource Center. “It goes beyond the realm of an appropriate response to those standing against police violence and racial injustice. ... This is obscene and an affront to all those who stand for and work for racial justice and civil rights.”

Resch said the police have received many questions regarding use of force by Portland Police Bureau from Tuesday night. One of these incidents involved a police cruiser crashing through barriers protesters had placed in the middle of a street. The vehicle caused protesters to flee. Resch said these incidents “are documented and investigated,” but added that the focus should not be on the bureau’s response.

“I will not let the actions of a few individuals intent on causing violence turn this focus on the Portland Police bureau,” she said. “The Portland Police Bureau did not instigate the violence that began in our city last night.”

At City Council Wednesday, Eudaly said she was disturbed by what message these actions were sending to the young demonstrators. She said she understood the powerlessness many feel in the face of police.

“I still feel powerless against the police,” she said, adding that, despite being a public official, she had been unable to push for police reform after the [intense protests following the November 2016 election](#).

“Time and time again, we were told it couldn’t be done: ‘That has to be bargained in the contract, that’s a directive.’ We got nowhere with those conversations,” she said. “We are not going to see an end to this until we get somewhere.”

In remarks Wednesday morning, Hardesty also emphasized the need for concrete action. The commissioner said she plans to ask the Council to eliminate the police bureau's Gun Violence Reduction Team, school resource officers, and the Transit Police, as well as seeking more training for the Portland Police Bureau.

During recent budget discussions, Hardesty had said she was interested in introducing amendments that aimed to disband those three specialty units. Instead, the mayor and commissioners decided to create a team to "consider the ongoing use" of these units and bring recommendations to the Council by next February, which could potentially be incorporated in next year's budget.

RELATED COVERAGE



Protests Force Leaders To Weigh Coronavirus Spread Against The Right To Political Expression

A week of demonstrations appear to have sped up that schedule considerably. Hardesty said she plans to make the ask before the Council passes the budget. The final vote to adopt the budget is in two weeks.

Hardesty said she shared Eudaly's concerns about the effect chemical weapons could have on a person's respiratory system — particularly given COVID-19.

"We know as we see more and more people show up to protest, those people are putting their health at risk, and that risk is going to be exacerbated by tear gas," she said. "We have an obligation to find out what the impact of those chemical weapons are, especially in the midst of a pandemic."

Commissioner Amanda Fritz also made brief remarks about the protests at the start of Wednesday's council session, though did not specifically mention the police response from the night before. She thanked Wheeler and Hardesty and noted the anguish of Black Portlanders, who, she said, had been routinely denied justice in the city. She said her office plans on putting out a statement later in the day.

At Wednesday's morning press conference, Wheeler said that for the second night in a row, [he will not be instituting a curfew](#). After some late night "soul searching," he said he believed the 8 p.m. curfew in place over the weekend had little impact and possibly encouraged more people onto the streets. "I would argue, in some cases, it may lead to some people being more highly motivated. When you put down a gauntlet, that can actually cause some people to say, 'I'm going to try to cross that line,'" he said.

Dr. Markisha Smith, Portland's equity director, also spoke at Wednesday's morning press conference. She said the protests represented a breaking point for Black Americans.

"It is painfully clear that Black folks are tired and that empty words and promises for justice and reform are no longer enough," she said. "The Black community is demanding action. While the vast majority of the Black community would not condone violence and looting, the reality is when over 400 years of oppression continues to play out in our communities, there is a tipping point."

Portland Police Again Chase Protesters Out of Downtown With Explosives as an Uprising Voices Its Policy Demands

Speakers debuted an ambitious but concrete agenda for police reforms in Portland. The 11 demands include several items now being proposed by city commissioners.



Police advance into Chapman Square from the North end of the park, Multiple flashbangs and smoke grenades were fired into the plaza in the initial rush. (Alex Wittwer)

[By Latisha Jensen](#) |

[By Alex Wittwer](#) |

Published June 8

Updated June 8

Portland's nightly uprising against police killings continues to be a tale of two protests: a larger, pacific march of solidarity against racism, and a smaller group that confronts riot cops along a chain-link fence.

On Sunday night, Portland police again used force to scatter the smaller group, deploying pepper balls, smoke, stun grenades and a wall of officers to clear the fence around the Multnomah County Justice Center.

A crowd of hundreds began standing at the fence around 8 pm, holding umbrellas to guard against smoke and sticking glazed doughnuts between the chain links to taunt officers. Minutes after midnight, police deployed explosives—thundering booms that could be heard on both sides of the Willamette River.

Videos showed protesters fleeing downtown as officers advanced. For a second consecutive night, police appeared to use less tear gas than they did last week—but were also seen aggressively arresting people who didn't comply with their orders, and tackling some. Protesters yelled obscenities at cops as they fled.



A U.S. flag was tied upside down to the fence on the south side of the Multnomah County Justice Center, with numerous doughnuts adorning the fencing. (Alex Wittwer)

Police advanced from the north side of Chapman Square toward the protest, and pushed demonstrators west. After a standstill, with reporters and photojournalists in the front of the crowd, police charged down Southwest Main Street and fired stun grenades toward retreating protesters. They then began pushing the crowd toward West Burnside Street, firing flash-bangs and walking toward the remaining group.

Some protesters attempted to build a barricade using potted plants, but broke the pots by moving them. One officer stumbled over the barricade as he advanced.

Police said the Elk Fountain on Main Street was briefly set on fire, but the flames went out on their own.



A counterprotester in the crowd was chased off, while chants of “Go home, Cowboy!” were shouted. A group formed around him, and some claimed he had a knife. (Alex Wittwer)

But the melee was not the only protest Sunday.

Earlier in the evening, leaders of Portland's uprising against racial injustices voiced a list of tangible demands of Portland City Hall, amid a crowd of protesters standing shoulder to shoulder in front of Revolution Hall on Southeast Stark Street.

By 6 pm, the area surrounding the building was overflowing with supporters. Volunteers set up tents and handed out meals, Salt & Straw ice cream, snacks, water and ear plugs. Portland Fire & Rescue and EMTs also had their own station. It was their first night at the protests.

Speakers debuted an ambitious but concrete agenda for police reforms in Portland. The 11 demands include several items now being proposed by City Commissioners Jo Ann Hardesty and Chloe Eudaly—including the complete defunding of two Portland police units, the Transit Police and the Gun Violence Reduction Team—as well as a call to reduce Multnomah County's jails budget and disarm campus police at Portland State University.

"This is bigger than any single person," protest leader Devin Boss said. "As long as we band together, we become a strong force that can't be stopped."

Then the group began marching—starting at Stark and 13th Avenue, they walked and chanted more than 2 miles north to Irving Park.

As protesters walked through neighborhoods in Northeast Portland, people came out of their homes and onto their porches to watch and support the protest. Others stood along sidewalks holding signs. Dozens of residents from the retirement community at Holladay Park Plaza banged on pots and pans and waved to the crowd from their patios while the crowd waved back.

Once they reached Irving Park, the crowd knelt in solidarity for nine minutes to honor the death of George Floyd, a black man whose killing by Minneapolis police started a national uprising. The crowd chanted, "I can't breathe!"—among Floyd's last words.

"If that was hard for you to raise your hand and say those words for that long, think about that man," a speaker said. "That's what we're here for."



A father and his daughter on the outskirts of the protest that sprawled across Chapman Square, outside the Justice Center.

Boss encouraged the audience to watch the video of Floyd's death.

"Watch the video, feel a fraction of that pain we feel," Boss said. "I want you to cry. I want you to hurt. Gain some empathy, some perspective."

At 9:15 pm, the hip-hop artist Swiggle Mandela shared stories of friends and family who have been assaulted by the Portland police and then performed a song for the audience. This is the largest crowd he's had the chance to perform for, he said.

The final speaker of the night introduced herself as Kinsey from Portland Civil Rights Collective. "It's an honor to be here at this point in history," she said. "We're going down in the books, baby."

Speakers hinted at big plans for upcoming protests but offered no specifics.

"This is not stagnant. We're disrupting traffic in different areas," one speaker said. "We want to be in different parts of the city to stress out the cops. Because if we were all over the place, then they've got to be all over the place. It's strategic."



About [Latisha Jensen](#)

Latisha Jensen grew up in Bellingham, WA and studied journalism and Spanish at Washington State University. She has freelanced for The Spokesman-Review, Washington State Magazine and Portland's Street Roots. She loves to dance and cook vegan food.

About [Alex Wittwer](#)

Portland Police Deployed a “Long Range Acoustic Device” Friday Morning for Crowd Control

The move came amid calls for a ban on the use of tear gas at ongoing protests.



Portland police officers outside the Mark O. Hatfield federal courthouse on June 2, 2020. (Wesley Lapointe)

[By Nigel Jaquiss](#) |

Published June 5

Updated June 5

Early this morning, Portland police officers used a sonic weapon to drive away protesters.

Speaking to reporters early Friday afternoon, Portland Police Bureau Assistant Chief Chris Davis said sometime after 1:30 Friday morning, officers in the sound truck that broadcasts communication to protesters came under attack.

Davis said the officers in the truck then deployed a tool called a "long range acoustic device," or LRAD, which Davis said "will emit a tone that is very hard to be around."

News reports say the device can generate a sound of more than 150 decibels that can be aimed and projected over long distances.

LRADs were originally developed as a tool to deter pirates but [has been adopted by military and some police forces as a crowd control device.](#)

The Police Bureau has used an LRAD before, Davis said today, but he did not specify when. "It's very rare," Davis said. "We haven't always found it to be effective. It's not something we use often because of mixed results."

[Use of the device comes at a time the bureau is under heavy criticism for its use of CS gas, a form of tear gas, against an uprising that protests the police killing of black people.](#) City Commissioners Chloe Eudaly and Jo Ann Hardesty have both called for a ban on tear gas.

Mayor Ted Wheeler said today after Davis spoke that he is open to such a ban but wants an alternative crowd control measure that isn't worse.

"It's ugly and it looks ugly," Wheeler said of the use of tear gas. "I stand with those who say we should ban the use of tear gas. I would support the discontinuation of tear gas or CS gas provided there were viable options for dispersal that don't involve higher uses of force."

Critics have argued the LRAD is not a good alternative, [saying the intense sound the device emits can cause permanent damage.](#)

A federal lawsuit is pending in New York [challenging the use of LRADs by that city's police department.](#) which reportedly began using them as early as 2004. New York appealed the case all the way the U.S. Supreme Court, arguing officers should be shielded by the doctrine of qualified immunity, [but the Supreme Court disagreed and sent the case back to lower courts for trial.](#)



About [Nigel Jaquiss](#)

News reporter Nigel Jaquiss joined Willamette Week in 1998. He covers politics.

Portland Police Have Used Three Controversial Weapons Against Protesters in the Past Two Weeks

The city is being sued for all three.



A protester washes out her eyes after being encountering chemical irritants. (Wesley Lapointe)

[By Tess Riski](#) |

Published June 10

Updated June 10

An uprising in the streets of Portland over the past two weeks was intended to draw attention to police violence against black people. It's succeeding—in part because police repeatedly deployed gas, smoke and other military-grade crowd control devices in quantities rarely seen even in this fractious city. The images of police spraying and beating demonstrators alarmed much of the city. More than 2,300 people filed complaints with the city's Independent Police Review in a

single week. At least six protesters and a nonprofit have sued the city. These three weapons are drawing the most scrutiny and backlash.



WHOSE STREETS: Portland police have used a range of crowd control devices. (Wesley Lapointe)

TEAR GAS, OR CS GAS

What is it? A potent, aerosolized chemical agent that is typically sprayed out of a canister.

Why is it used? To disperse large crowds of people by causing intense burning in the eyes, throat, lungs, and on the skin..

What could go wrong? Exposure to the gas can cause coughing or even retching, and the effects get worse the harder someone breathes. So protesters who've been gassed and run away from the source may begin to cough even more.

Who wants rid of it? Worldwide, many people. The Geneva Conventions designated it a chemical warfare agent after World War I, and in 1993, the nations who signed those treaties banned the use of gas during war. In Portland, numerous public officials have called for its ban, including City Commissioners Jo Ann Hardesty and Chloe Eudaly. Mayor Ted Wheeler told police last week to use it only if they felt their safety was threatened.

Who's suing over it? On June 5, a black activist group called Don't Shoot Portland sued the city of Portland in federal court to halt the use of tear gas on protesters. Teressa Raiford, founder of Don't Shoot Portland and a former mayoral candidate, decried the use of CS gas: "We're out screaming for justice for Black people and asking the state to stop its violence against us," Raiford said, "and the city responds by using tear gas when we're in the middle of a pandemic of respiratory disease."

A Portland couple named Andy and Samira Green have also sued. The Greens say they were sprayed with tear gas shortly after 9 pm on June 2. The two now suffer from migraines, coughing and fear, says the lawsuit filed in Multnomah County Circuit Court on June 8. Samira Green is pregnant.



(Wesley Lapointe)

FLASH-BANGS

What are they? Explosive devices, often ejected from a grenade launcher.

Why are they used? To disorient people with loud bangs and bright flashes, and, ultimately, to disperse crowds.

What could go wrong? If used as intended, police aim the devices in the air, where they detonate. But activists allege police sometimes aim them directly at protesters. Getting hit with a flash-bang, also called a "concussion grenade," can be fatal. A ProPublica investigation found that between 2000 and 2015, at least 50 Americans were maimed or killed by police use of flash-bangs. A Portlander named Anthony Cantu suffered a traumatic brain injury after getting hit with one during a 2018 protest. His attorneys argued that if it weren't for his thick bicycle helmet, he probably would have died.

Who wants rid of them? They're very common in police departments nationwide. The Portland Police Bureau said it would [halt the use of flash-bangs in 2018 pending an internal review](#) of the dangers they posed to protesters. But a bureau representative now tells *WW* the devices deployed this week are different from the ones used in 2018.

Who's suing over them? Julia Leggett filed a lawsuit against the city in Multnomah County Circuit Court on June 7 after a concussion grenade exploded near her right leg while she was walking away from police during a June 5 protest. "The grenade exploded near Ms. Leggett's right leg, shredding her pants," the lawsuit says, "producing hematoma, and requiring immediate medical attention, causing her pain, discomfort and distress."



May 31, 2020. (Wesley Lapointe)

RUBBER BULLETS

What are they? The name is somewhat of a euphemism. "These kinetic energy (KE) rounds are rarely made of rubber these days, and some even have metal components, just like conventional bullets," *Fast Company* reported. They are often shot from grenade launchers or modified paintball guns. Don't confuse them with pepper balls, projectiles that are shot from similar weapons but usually cause less severe injury.

Why are they used? To inflict serious pain on someone who poses a threat. Rather than piercing the skin, they're intended to strike with blunt force, but from a distance.

What could go wrong? They can kill or blind someone. More recently, a freelance photographer in Minneapolis was blinded in one eye by a rubber bullet while covering a protest May 29.

Who wants rid of them? Some advocacy groups, like Physicians for Human Rights, have called for rubber bullets to be banned. But they remain common in police departments throughout the United States.

Who's suing over them? Brandon Farley, a conservative videographer who regularly films protests, is suing the city, saying an officer shot him in the knee with a rubber bullet during a June 4 protest. Farley was then sent to the hospital for his injury, the complaints says, which has caused him "pain, discomfort and distress."



About [Tess Riski](#)

Tess Riski covers prisons, the alt-right movement and more. She has previously written for the Miami Herald, the Wall Street Journal and the New York Times. Tess recently graduated from the Columbia Journalism School, where she was a Stabile fellow in investigative journalism. She is originally from Seattle.

Portland Reporter Pens First-Person Account of Being Pepper-Sprayed While Filming an Arrest

Donovan Farley, a longtime contributor to WW's Arts & Culture section, says he was filming an arrest when he was pepper-sprayed in the eyes.



At 11:36pm, Police at the Justice Center began firing smoke grenades just outside the fence at the Justice Center, while police cruisers began surrounding the protest from all sides. (Alex Wittwer)

[By Rachel Monahan](#) |

[By Aaron Mesh](#) |

Published June 7

Updated June 8

A Portland freelance reporter has penned an account of being beaten and pepper-sprayed by police officers while trying to film them making an arrest last night.

Video taken from a helicopter by *WW*'s news partner KATU-TV around 11:45 pm on June 6 shows a person filming police in Chapman Square, until an officer turns to him, hits him with a baton and twice pepper-sprays him in the face.

Donovan Farley, a longtime contributor to *WW*'s Arts & Culture section who has also written for national publications such as *Playboy* and *Rolling Stone*, says he was that person. His account matches what's shown in the helicopter video.

Farley says in his account that he approached the scene because he heard a protester say he could not breathe as police officers were forcefully arresting him on the ground. Farley alleges the methods police used to make the arrest resembled those that Minneapolis police applied that killed George Floyd.

"As the man sputtered and spit and gasped, I, for reasons that I'm sure are clear, shouted to get the fuck off his neck," Farley recalls. "This is the moment a fourth officer approached, reaching for his baton."

Farley says he believes officers targeted him because he was filming the arrest.

"Simply: I was chased and assaulted because I was a journalist who caught law enforcement behaving in the exact illegal fashion that started this nationwide uproar," he writes.

A representative for the Portland Police Bureau tells *WW* the bureau will "look into this matter and get back to you once we collect more information."

Mayor Ted Wheeler's office confirmed police were investigating. "The mayor fully supports the media and their important work covering the ongoing demonstrations and protests," says Wheeler spokesman Tim Becker.

Last night, police took an aggressive approach to clearing protesters from a fence surrounding the Multnomah County Justice Center. After protesters hurled objects over the fence at police, officers used smoke and explosives to clear demonstrators from downtown, violently dispersing the crowd while making at least 50 arrests.

In the hours after that crackdown, [several accounts have emerged from journalists who say they were shoved, beaten or pepper-sprayed by officers](#). Most of these reporters are freelancers who [move close to police lines to capture video of conflicts](#). At least one of them, Cory Elia, went to the hospital.

WW has not been able to independently verify all of these accounts. But Farley's narrative is bolstered by video that matches much of what he describes.

The actions by police Saturday night have ratcheted up the pressure on Mayor Wheeler to curtail police use of force on protesters.

City Commissioner Chloe Eudaly today renewed her call for banning tear gas, and said she may support barring police from using all less-than-lethal force. "The appropriate response to this national uprising is not violence—it's action from our elected leaders," she wrote on social media.

Sarah Iannarone, Wheeler's challenger in the November election, called police attacks on the press "unacceptable in a democracy."

Below is Farley's first-person account, which he agreed to allow *WW* to publish.

Tonight I was seriously assaulted by the Portland Police Department in the course of covering the protests. If you've been following my work you know this is not the first time. This was very different. Nothing that I have experienced was close to tonight. At the end of the protest, when the police charged and forced everyone to disperse, I was doing a journalist's duty: observing and staying out of the way of the phalanx of law enforcement and clouds of gas. All of the protesters had scattered, the park was essentially empty minus the police.

Suddenly I heard a man shouting those words that by now should be so familiar to us all: "Officer! Officer! I can't breathe man!" I jogged about ten feet away to a scene of three cops with their knees on a man—and one, of course, had his knee on the man's neck. As the man sputtered and spit and gasped, I, for reasons that I'm sure are clear, shouted to get the fuck off his neck. This is the moment a fourth officer approached, reaching for his baton.

We exchanged the usual "GET THE FUCK OUT OF HERE!" and "I'm press!" with an added "Get off that fucking guy!" For this, I was absolutely crushed in the lower thigh by the cop's baton. Three inches lower and my knee explodes, but this sort of blow is to be expected. However as I turned to hobble-run away, he began swinging his baton at the back of my shoulder, neck and head area. As I am very familiar with American law enforcement, their techniques (the actual ones) and their feelings of impunity when it comes to violence, I expected a couple of blows and tensed my shoulders so when they came I was fine. What I did not expect was the cop to keep chasing me—we had now traversed about 15 feet, he was chasing me—and to start doing sword type stabs at my head and neck. When he finally landed one it hit me directly between my shoulders where your neck meets your back. As everyone who has ever had a neck injury or almost had one knows, every cell in my body tensed up involuntarily as that sort of injury can end you. Though egregious, this was not the issue. The issue was as soon as I involuntarily spun around and said "Hey my nec—" the officer shot me directly in the face with not the handheld can of mace, but the crowd control mace that looks like a fire extinguisher and is meant for, well, a crowd. He was so close—one inch from my eyes—and the burst was so intense that for

the first second I thought he had taken out the big canister and punched me with it.

He definitely did not have the mace out when he first struck me, so as he was following me he reached for it. This was not a reaction under pressure, I was no threat. He thought this out.

I stumbled away through the park and have no recall of how I did so or how I crossed two streets without getting hit by a car, but I eventually fell over on a side street where I poured two containers of tear gas solution mix into my face and then vomited into my face mask. As I sat there totally blind and in the most unbelievably searing pain of my life a different cop started screaming at me to get the fuck up and move, and I, from my grotesque puddle, shouted "I'm press and I can't fucking s—" before vomiting again.

Fortunately some antifa kid, who I could not see, ran over to me despite being warned not to and scooped me up and helped me away from the cops. I was so covered in tear gas he said he couldn't see after helping me, and he touched me for all of five seconds. Before he ran off he said "Man are you sure they didn't hit you with a baton in the face? Holy shit your eyes!"

I stumbled around downtown in that state for awhile, 95% blind and holding my arms out mumbling ohfuckohfuckohfuck until a random photographer (SHOUT OUT TO JEFF!) corralled me, gave me water and drove me home. That was two hours ago. I still can't see right and the pain remains tremendous.

I have a video of the man with cops on him, and I'll share more about this after speaking with my editor, but I got a taste of what law enforcement across America is doing to the press. Simply: I was chased and assaulted because I was a journalist who caught law enforcement behaving in the exact illegal fashion that started this nationwide uproar. There can be no equivocations about it. I was purposefully harmed to send an extremely painful message of intimidation.

Well those dumb bastards should have shot me, because I'm not going anywhere. This has only redoubled my determination.



About [Rachel Monahan](#)

Rachel Monahan joined Willamette Week in 2016. She covers housing and City Hall.



About [Aaron Mesh](#)

Aaron Mesh is WW's news editor. He's a Florida man who enjoys waterfalls, Trail Blazers basketball and Brutalist architecture.

Protester Files Lawsuit Alleging Portland Police Intentionally Launched a Projectile at His Arm and Abdomen

The plaintiff's attorney says the lawsuit is likely to be "the first of many" alleging police brutality during the recent protests.



May 31, 2020. (Wesley Lapointe)

[By Tess Riski](#) |

Published June 5

Updated June 5

A protester who attended a June 2 demonstration in Portland against police killings filed a lawsuit against the city today, alleging that a Portland police officer intentionally launched projectiles at him during the protest.

The protester, named Philip Elias, says that an officer "used a military-style weapon to launch projectiles into Mr. Elias' arm and abdomen, leaving rings of severe dark bruising on his body, causing him pain, discomfort and distress," according to the complaint filed in Multnomah County Circuit Court.

Elias is suing the city for battery and seeking up to \$250,000.

"As alleged in this complaint," the lawsuit says, "the City of Portland police officer intentionally launched projectiles into Mr. Elias and attempted to and did cause harmful, offensive physical contact with Mr. Elias, causing Mr. Elias pain, discomfort and distress."

Elias is represented by Portland civil rights lawyer Michael Fuller, who called the lawsuit "the first of many police brutality complaints" that his law firm, Underdog Law, plans to pursue.

"These complaints will continue until Mayor Ted Wheeler stops using military-style weapons against peaceful protesters," Fuller said.

Reached by email Friday, city attorney Tracy Reeve said the office is unable to comment on pending litigation.



About [Tess Riski](#)

Tess Riski covers prisons, the alt-right movement and more. She has previously written for the Miami Herald, the Wall Street Journal and the New York Times. Tess recently graduated from the Columbia Journalism School, where she was a Stabile fellow in investigative journalism. She is originally from Seattle.

Protester suing city of Portland for battery

by KATU Staff

Saturday, June 6th 2020

AA

KATU

PORTLAND, Ore. — The [city of Portland is facing another lawsuit](#) from a protester who claims an officer intentionally launched projectiles at him at a protest on Tuesday.

The protester, a man named Philip Elias, says an officers used a "military-style" weapon to launch projectiles into his arm and abdomen, resulting in bruises.

Now he is suing the city for battery and seeking up to \$250,000.

RELATED: Don't Shoot PDX, others suing Portland to end use of tear gas

Elias' attorney, Michael Fuller, told KATU News he has been contacted by several protesters looking to file lawsuits.

"We have been contacted by several peaceful protesters that have been attacked by military style weapons by the Portland police over the last several days," Fuller, with Underdog Law Office, said. " This individual ended up with large scarring on his abdomen and his arm."

Fuller also says it is still unclear what his client was hit with, but that his story is consistent with what he is hearing from other folks.

"My client hopes that by filing this lawsuit, he might create a change to protect other peaceful protesters in the future," Fuller said.

The city says it does not comment on pending litigation.

Report accuses ex-West Linn Police Chief Terry Timeus of racist, sexist and homophobic remarks, behavior

Updated Feb 20, 2020; Posted Feb 20, 2020



Terry Timeus, former West Linn police chief. (Oregonian file photo) LC- THE OREGONIAN

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By [Maxine Bernstein | The Oregonian/OregonLive](#)

A confidential report released this week [in the wake of the wrongful arrest scandal](#) tied to former West Linn Police Chief Terry Timeus accuses Timeus of making racist, sexist, anti-Semitic and homophobic statements and sleeping with an informant when he worked as a Lake Oswego police officer.

The report -- filled with allegations of unprofessional conduct by Timeus -- was delivered to West Linn City Hall on Feb. 12, 2008, three years after West Linn hired Timeus as its chief without a background check. [Timeus retired from West Linn in October 2017 amid allegations](#) that he drove drunk while off duty.

The report's release is the latest development in [a burgeoning controversy](#) stemming from the West Linn police investigation of a black Portland man ordered by Timeus to help a fishing buddy in 2017. The case has unleashed a torrent of unsavory dealings tied to police involved in the arrest, including Timeus, and [has spurred a federal civil rights investigation](#) of West Linn's handling of the case and at least four other related investigations.

West Linn had kept the 100-page report, written in 2008 by a retired police chief from a neighboring county, under wraps until the city's lawyer made it public late Wednesday.

It lists 17 allegations, first reported by [The Portland Tribune](#), that were raised by a former Lake Oswego officer who had worked with Timeus when Timeus also was an officer in Lake Oswego.

[The report](#) describes Timeus dating a woman who had become an informant for the Regional Organized Crime and Narcotics Task Force and his "gay-bashing" of a hotel clerk with whom he was haggling over the price of a hotel room in Portland where he had taken the informant.

Ex-Lake Oswego Officer Eric Losness complained that Timeus asked him on the job if he knew what the term "NILO" stood for and he said Timeus told him it was an acronym for "(Racial slur) in Lake Oswego."

Officers who were questioned when the city ordered an investigation into the allegations said they heard the term "MILO" used in the past for "Mexican in Lake Oswego," the report says. Timeus told the investigator that he never used the term "NILO" but he had heard other Lake Oswego officers use it many years earlier.

In another incident, when police were called to a report of a cross burning on the lawn of a Jewish family's home in Lake Oswego, Timeus raised suspicion that the victim might have had done it herself to get attention, according to the report. Timeus admitted he voiced that concern but said it wasn't intended to be anti-Semitic.

Other allegations included that Timeus made grossly inappropriate remarks about homosexuality, including statements about "subordinate officers needing to perform oral sex on him to get on his good side" and told Losness that he was getting turned on when he saw Losness eating a banana in front of him. Losness also claimed Timeus made derogatory remarks about Timeus' own lesbian sister, which Timeus denied doing.

Timeus admitted having dated a woman who became an informant while he was a member of the Regional Organized Crime Network. A supervisor described moving Timeus off the special team back to his regular Lake Oswego police assignment because he had become "too comfortable" and his work had become "sloppy," the report says.

Losness claims that Timeus made frequent remarks about "...subordinate male officers needing to perform oral sex on him to get on his good side." Losness used an example of a photograph of himself during a "pig bowl football game" where he was kneeling down to get the ball with his mouth open and Timeus remarked that he must be practicing for his next trip under his (Timeus') desk. Another example cited by Losness was a comment Timeus made during a briefing session when he observed Losness eating a banana and saying that he (Timeus) was "getting turned on..." and said Losness could practice on him.

Former Lake Oswego police Officer Eric Losness had submitted to West Linn City Hall a package of allegations against Terry Timeus, once he became chief of West Linn. West Linn had a former McMinnville police chief investigate.

Timeus also admitted to having an intimate relationship with a Lake Oswego community service officer while he was a captain in the Lake Oswego department and was counseled by the city's human resources director about it.

In 2004, when a Lake Oswego officer pulled over a car containing two women in a traffic stop and the two women began to perform sexual acts on one another, the primary officer called a second officer to the scene to watch and tried to contact Timeus so he, too, could watch, the report says.

Timeus wasn't able to respond but later told the two officers that if something like that ever happened again and they didn't summon him, he'd terminate them, according to the report.

The investigator, former McMinnville Police Chief Rod Brown, confirmed that encounter occurred and Timeus didn't dispute his statement, saying he undoubtedly made it in jest, the report says.

Kim mann, a former Lake Oswego police union leader who later joined the Clackamas County Sheriff's Office and was interviewed in the investigation, confirmed that Timeus had told him about an incident he had at a Portland hotel where Timeus had taken the woman informant.

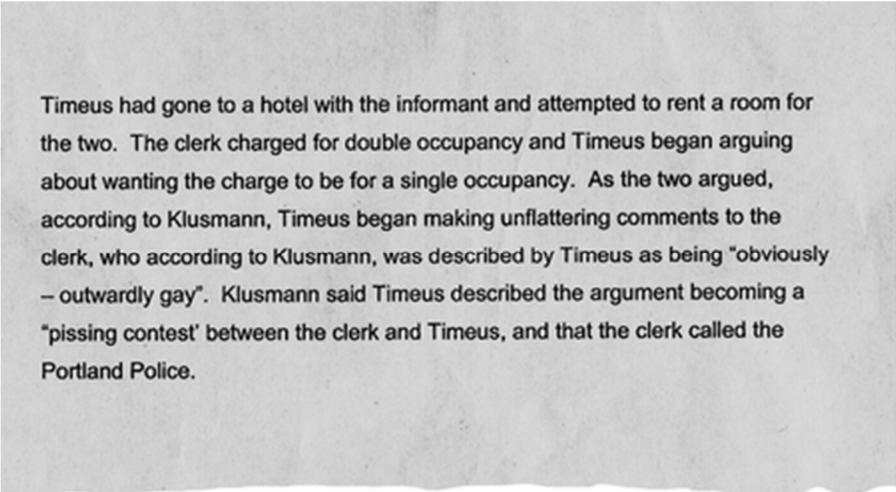
According to Klusmann, Timeus told him that he got into a dispute with the hotel clerk over getting charged for double versus single occupancy, had made unflattering remarks about the clerk and flashed his police badge at the clerk.

Timeus described the clerk to Klusmann as being "obviously - outwardly gay," the report says.

When Portland police were called in, a lesbian officer who responded also was targeted with derogatory comments from Timeus and made a complaint about Timeus to Lake Oswego police, Klusmann told the investigator.

Timeus maintained that Klusmann's account was "overblown" and that the hotel clerk and Portland officer had overreacted.

"Klusmann said he was surprised that Timeus was not terminated from Lake Oswego over this incident," the report says. Klusmann said he viewed Timeus "as being very lucky in retaining his job."



Timeus had gone to a hotel with the informant and attempted to rent a room for the two. The clerk charged for double occupancy and Timeus began arguing about wanting the charge to be for a single occupancy. As the two argued, according to Klusmann, Timeus began making unflattering comments to the clerk, who according to Klusmann, was described by Timeus as being "obviously – outwardly gay". Klusmann said Timeus described the argument becoming a "pissing contest" between the clerk and Timeus, and that the clerk called the Portland Police.

Kim Klusmann, by then a lieutenant in the Clackamas County Sheriff's office, confirmed for the investigator that Terry Timeus, while a Lake Oswego officer, had taken an informant to a hotel room in Portland and got into a dispute with a clerk, where he made homophobic comments to the clerk. Klusmann had previously worked for Lake Oswego police.

In response to an allegation that Timeus watched pornographic tapes in front of suspects after the evidence was seized during a search warrant, Timeus said it was a Portland Police Bureau search warrant and that Portland police officers had viewed the tape in the presence of suspects, according to the report. Timeus did admit to looking at a photo at work of an ex-wife who was in a wet T-shirt contest, according to the report.

Losness, who made the complaints, said Timeus had bragged to him that when he was a member of the Regional Organized Crime Network in the early 1990s there were prostitutes and drugs provided aboard a party yacht in Portland.

The investigator sustained two of the 17 allegations:

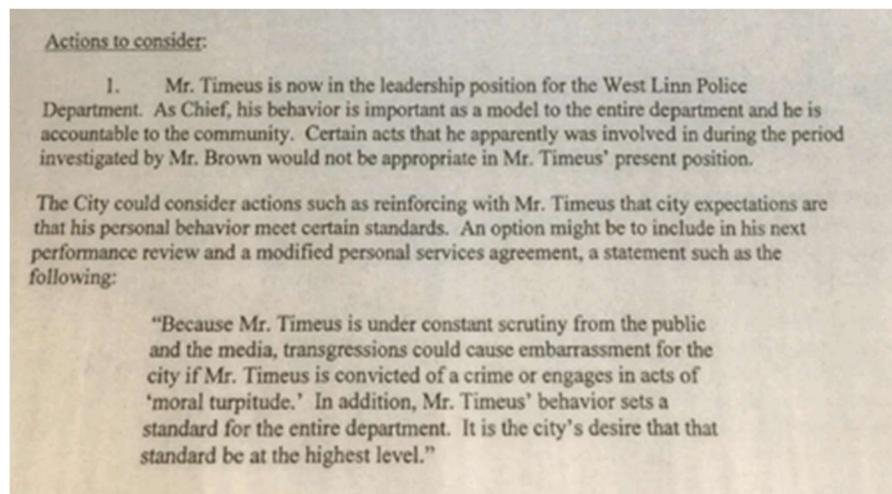
-- That Timeus had abused his supervisory authority at Lake Oswego by not seeking discipline of the officers who had delayed a DUII arrest to essentially view a live sex show between the two women in the stopped car and for Timeus asking them to call him quicker the next time so he could watch as well.

-- That Timeus made sexually inappropriate and gay-bashing remarks as a Lake Oswego officer and viewed sexually inappropriate images at work.

"The consequence of such behavior, had it been corrected at the time, would have most likely been in the range of verbal counseling to a verbal or written reprimand," Brown wrote in his conclusion. "Repeated offenses would have resulted in increasing levels of discipline, but short of that there would most likely have been nothing injurious to Timeus' career advancement."

Dan Duncan, who was Lake Oswego police from 2003 through 2010, was one of two people who wouldn't answer the investigator's questions, saying he didn't want to say anything about any current or past Lake Oswego officers, concerned it could be used against him by the man who initially filed the complaints against Timeus.

Timeus was hired by Lake Oswego police in January 1986 and was promoted to sergeant in 1994, lieutenant in 1998 and captain in 2004, before he resigned in 2005 and was hired by West Linn police.



In the May 12, 2008 memo, city attorney Tim Ramis recommended the West Linn city manager reinforce to Chief Terry Timeus the city's high expectations as chief and that it's important he recognizes his behavior should be a model to the police department. He should be informed that his past actions would not be appropriate in his current position as West Linn's chief, Ramis wrote.

West Linn's city attorney sent City Council members a memo in 2008, summarizing the allegations but kept the investigative report confidential, even from the mayor and council.

[In a May 12, 2008 memo](#), West Linn city attorney Tim Ramis informed then-city manager Chris Jordan of the completion of the investigation into Timeus and noted that none of the allegations involved actions by Timeus while at West Linn and that all occurred more than three years earlier.

Ramis, who still works as the city's attorney, recommended that Jordan reinforce the city's high expectations of Timeus as chief, that it's important Timeus recognized his behavior should be a model to the police department and that his past actions wouldn't be appropriate in his current position.

Ramis also suggested that the police department could emphasize appropriate workplace behavior with training, focusing on "avoiding behavior that offends individuals because of gender or sexual orientation."

Timeus received more than \$123,000 in a separation agreement when he retired in the fall of 2017. He had been hired as West Linn's police chief by city manager Jordan, who had previously worked in Lake Oswego.

In 2009, the Lake Oswego Review newspaper sought a copy of the investigative summary shared with the City Council, but the city denied the public request. The Clackamas County District Attorney's Office, in turn, [denied the Review's appeal](#), saying the document was in the city attorney's law firm office, which claimed attorney-client privilege.

Still, the District Attorney's Office found that arrangement questionable.

"Independent of the merits of this case or the legal analysis of the public records issues, the manner in which this matter was handled has the appearance of being designed to prevent public disclosure of the document contrary to public policy which favors public access to government records," Senior Deputy District Attorney David F. Paul wrote in response in February 2009.

Independent of the merits of this case or the legal analysis of the public records issues; the manner in which this matter was handled has the appearance of being designed to prevent public disclosure of the document contrary to public policy which favors public access to government records.

Sincerely,



David F. Paul
Senior Deputy District Attorney

Senior Deputy District Attorney David F. Paul wrote, "...the manner in which this matter was handled has the appearance of being designed to prevent public disclosure of the document contrary to public policy which favors public access to government records."

Teri Cummings, current president of the West Linn City Council, referenced the report at a council meeting Tuesday night and obtained it for the first time Wednesday night.

She said if she had known the details of the investigation she would have "absolutely not" allowed Timeus to remain as head of West Linn's police department. She said when she questioned Jordan, the city manager at the time, why another law enforcement officer had conducted the 2008 investigation of Timeus, she said Jordan screamed at her.

Attorney Paul Buchanan, who filed the federal racial discrimination and wrongful arrest suit against West Linn police, including Timeus, on behalf of Michael Fesser of Portland, said he was disturbed to learn of the confidential report on Timeus.

West Linn police arrested Fesser in February 2017 on a theft charge after Fesser had complained to his boss of workplace harassment because of his race. Fesser's boss, the owner of a Southeast Portland towing company, was Timeus' friend. Theft charges against Fesser were later dismissed. West Linn settled a federal lawsuit filed by Fesser for \$600,000 last week.

"This was not provided to us in the litigation," Buchanan said. "It is concerning to me that this material was not disclosed."

-- Maxine Bernstein

Email at mbernstein@oregonian.com

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Research Says Violent Cops Cause Violent Protests

by [Matt Baume](#) · Jun 5, 2020 at 11:11 am



When crowds see police as unfair, unpredictable, and a threat, people no longer regard cops as legitimate authorities and are more likely to disobey. CHICCODODIFC/GETTY IMAGES

[Originally reported by our sister organization, The Stranger.—eds]

You will be shocked, simply SHOCKED, to learn that after decades of researching effective methods for police response to large crowd actions, researchers have found — and you're never going to believe this — that when cops show up in military gear and get aggressive, they actually make protest violence *worse!*

That's one of the findings in [“New Directions in Protest Policing,”](#) a 2015 paper that reviews decades upon decades of police history and the conclusions of multiple separate commissions. Police that dress like they're going to war, who try to control First Amendment expression rather than facilitate it, and who act in arbitrary ways can inflame violence and jeopardize their own safety and that of the public.

The paper was written by Edward R. Maguire, an Arizona State University professor in the School of Criminology and Criminal Justice, and it dives all the way back to the nation's founding and the civil unrest that led to the creation of the United States.

He notes that in the last 50 years, police responses have shifted between a couple of different models: In the '60s and '70s, there was the “escalated force” model, which assumed that protesters would be compliant if they saw that they were hopelessly outmatched by the police; that was followed in the '80s and '90s by the “negotiated management” model, in which police remained in close communication with protesters so that neither side was surprised by the other; then the '90s gave rise to the “command and control” model in which police saw their role as dominating protests no matter how much force is required.

We have Seattle police to thank, in part, for the development of “command and control” (Miami played a role as well). The 1999 WTO protests in Seattle were decentralized, and police had few protest leaders to communicate with; so they launched into mass arrests and deploying chemical agents. Gosh that sounds familiar.

As it turns out, when crowds see police as unfair, unpredictable, and a threat, people no longer regard cops as legitimate authorities and are more likely to disobey. So when Fargo's [deputy police chief is caught inciting riots](#), for example, or when Colorado police are seen [firing the first shot at people](#) who are just standing around, they're endangering everyone.

So what's a better approach? According to the paper, there's a bunch of steps cops should take instead of showing up for war: They should view their role as facilitating the protest, rather than regulating it; communicate with protesters throughout by taking off the riot gear and walking with the crowd; and differentiate between bad actors and peaceful protesters.

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These lessons aren't exactly rocket science or brand new. Accounts of Seattle PD's mistakes in 1999 read as though they could have been written in the last few days:

“Members of the public, including demonstrators, were victims of ill-conceived and sometimes pointless police actions to ‘clear the streets,’” wrote a Seattle City Council committee after the WTO actions. “Inquiry found troubling examples of seemingly gratuitous assaults on citizens... by officers who seemed motivated more by anger or fear than professional law enforcement.”

Norm Stamper, the Seattle Chief of Police who was forced to resign afterwards, said, “We used chemical agents, a euphemism for tear gas, against nonviolent and essentially nonthreatening protesters. The natural consequence of which [is] that we were the catalyst for heightened tension and conflict rather than peacekeepers.”

Schrag: Open Oregon calls for police misconduct records to be public

- Jun 24, 2020

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Outraged demonstrators on our streets are pushing elected officials at all levels to consider a host of criminal justice reforms — a ban on tear gas, mandatory use of body cameras and a full reassessment of local law enforcement agencies' budgets and responsibilities.

We'd like to add another: more transparency about police conduct.

Open Oregon, a member of the National Freedom of Information Coalition, shares the frustration of those stymied in their efforts to hold police agencies accountable.

And while calls for reforms have reached new heights, the lack of police accountability has plagued the system for decades.

In February this year, Michael Fesser, a black man, got a \$600,000 settlement after his lawyers presented evidence that cops in the predominantly white Portland suburb of West Linn had harassed and falsely arrested him.

This occurred under the leadership of Chief Terry Timeus, who, years earlier, had been the subject of a wide-ranging misconduct complaint. A 100-page investigation of Timeus, paid for by the city in 2008, was hidden from the press at the time and Timeus continued to rise through the ranks.

What we still don't know — because West Linn, like all Oregon police departments, keeps most personnel information secret — is how many officers quit, were forced to leave or were bought off when they complained about the ongoing internal problems.

“I’m aware of at least five who were paid to leave because they wanted to hold Timeus accountable and wanted a new chief,” says reporter Lee van der Voo, a former Open Oregon board member.

In 2017, The Oregonian/OregonLive published findings from a two-year investigation showing that dozens of Oregon police officers who had been fired for inept work (or worse) were still certified law enforcement officers with the ability to carry a badge and a gun.

After many challenges, The Oregonian/OregonLive won the right to see the misconduct records. But later, a Department of Public Safety Standards and Training (DPSST) official spelled out in an email to the Portland Police Bureau a way to keep those records from reporters in the future.

The lesson the public agency overseeing police certification had apparently learned? Figure out new ways to hide.

Two statutes are at the heart of why it can be so difficult to hold police in Oregon more accountable. One public records exemption keeps complaints confidential if police are disciplined. A separate state statute keeps investigations confidential if police are cleared of wrongdoing.

Police unions have even made these exemptions part of their contracts.

In both cases, records can still be disclosed if someone can successfully argue release is in the public interest. But “public interest” is not defined in law, and requestors must argue the right to see a record without knowing what the record contains.

To rebuild public trust, we must have proposals for public oversight.

Specifically:

- Findings of misconduct — either by state or local jurisdictions — should be by default available to the public.
- Findings of serious misconduct and terminations for cause should be posted online in a searchable database maintained by the state.
- DPSST decisions to withdraw or retain someone's police credentials should be presumptively available to the public.
- Public bodies should be required to disclose any settlements related to police conduct, whether settled out of court or by insurance companies on the public body's behalf.

Police are given the ultimate authority of government: the power to detain, the power to maim and even the power to kill. With that power must come the trust it will be used responsibly.

That trust today is perilously thin, particularly among black Oregonians. It will take many bold reforms to restore that trust.

Adding more transparency and accountability must be among them.

John Schrag is the executive editor of the Portland Tribune. The column was submitted by Schrag, Shasta Kearns Moore, Therese Bottomly, Emily Harris, Justin Mitzimberg and Dawn Albright on behalf of Open Oregon. Open Oregon is a nonprofit dedicated to education and advocacy on Oregon's public records and public meetings law.

U.S. Department of Justice to take over criminal investigation into wrongful arrest of black Portland man

Updated Feb 19, 2020; Posted Feb 19, 2020

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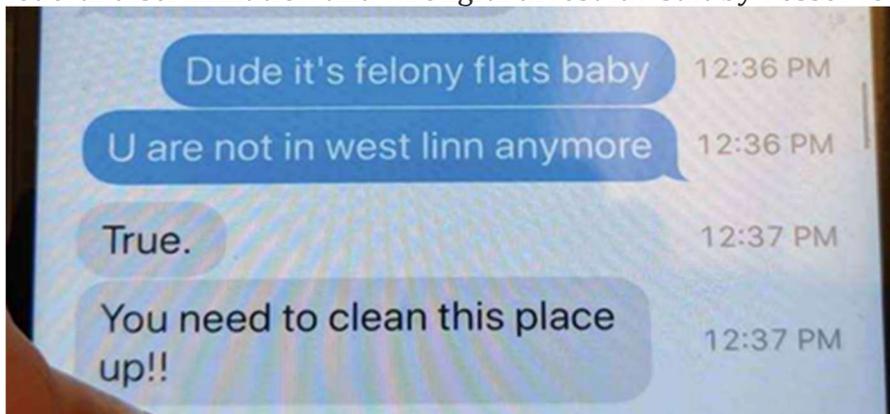
Michael Fesser racial discrimination, retaliation case

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By [Maxine Bernstein | The Oregonian/OregonLive](#)

The U.S. Department of Justice will be leading a civil rights investigation into the 2017 wrongful arrest of Portland resident Michael Fesser.

The announcement Wednesday comes a week after [three members of Congress urged a federal inquiry](#) into wrongdoing by West Linn police in building a questionable theft case against Fesser, who is African American. The case led West Linn last week to settle a federal discrimination and wrongful arrest lawsuit by Fesser for \$600,000.



'Old-boy-style racism' by small-town cops leads to \$600,000 payout to Portland man
West Linn's former police chief Terry Timeus had his officers work as his "personal posse" to initiate an unwarranted, racially-motivated surveillance and arrest of a black Portland man, as a favor to the chief's fishing buddy in a case that had no ties to the town they policed.

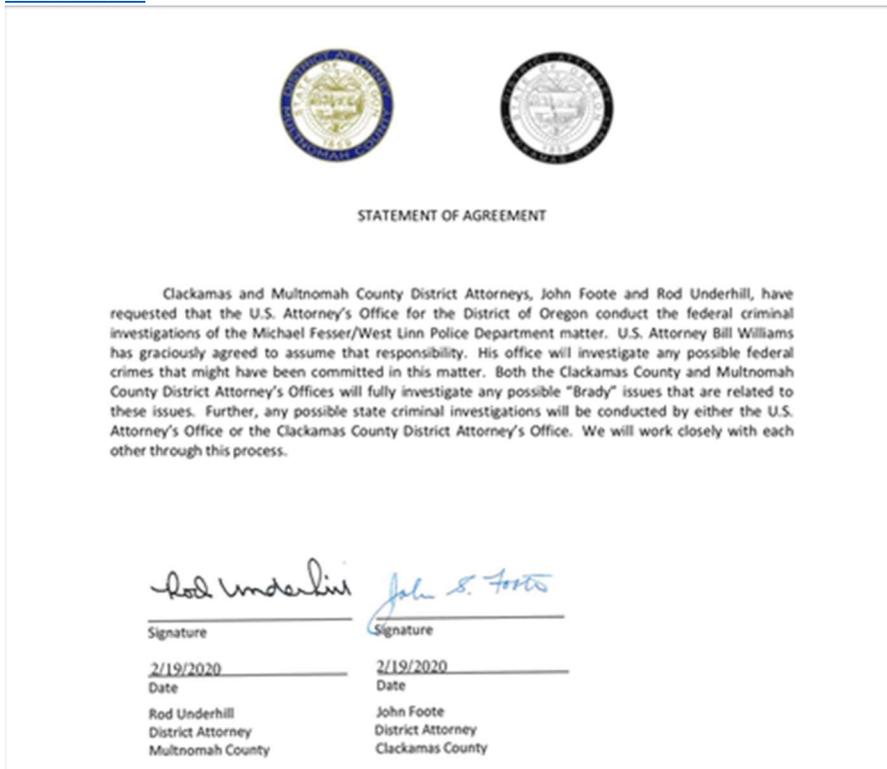
Oregon's U.S. Attorney's Office is investigating whether any federal crimes were committed in the case. Fesser's allegations cross two counties and involved both West Linn and Portland police departments.

The U.S. Attorney's Office declined comment "while our investigation is ongoing," said spokesman Kevin Sonoff.

Clackamas County District Attorney John Foote and Multnomah County District Attorney Rod Underhill said they will continue their inquiries to determine if credibility concerns raised in the case about the involved officers should trigger a so-called Brady notice. That refers to an obligation under the 1963 U.S. Supreme Court ruling in Brady v. Maryland that requires prosecutors to disclose to defense lawyers any material that could impeach the credibility of a government witness.

The two district attorneys decided to defer the criminal inquiry to U.S. Attorney Billy J. Williams' office.

He "graciously agreed to assume that responsibility," Foote and Underhill [said in a joint statement](#).



"We will work closely with each other through this process," it reads.

If there's a need to do any follow-up investigation for potential state crimes, it will be conducted by either the U.S. Attorney's Office or the Clackamas County District Attorney's Office.

"We will work closely with each other through this process," Foote and Underhill said in their statement.

Fesser's litigation uncovered that West Linn police pursued surveillance and the arrest of Fesser in February 2017 as a favor to a fishing buddy of then-West Linn Police Chief

Terry Timeus. Timeus' buddy was Fesser's boss, Eric Benson, owner of A&B Towing in Southeast Portland.

Fesser, now 48, argued that the arrest was retaliation for his complaints about a racially hostile work environment at the towing company. Theft charges against Fesser ultimately were dropped, and Benson and his company paid out \$415,000 to Fesser to settle a separate discrimination and retaliation suit.

"I am very pleased and encouraged that leaders of many governmental entities are making clear that the police power must not be abused and used for personal and prejudicial purposes," said Fesser's attorney, Paul Buchanan. "And that when that happens, those responsible must be accountable."

-- Maxine Bernstein

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Use of outside agencies during Portland protests sparks questions over accountability and transparency

Updated 1:11 PM; Today 7:02 AM



Police officers from multiple agencies have helped Portland police respond to protests that occur nightly outside the Multnomah County Justice Center in downtown Portland. Beth Nakamura/Staff

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By [K. Rambo | The Oregonian/OregonLive](#)

Portland officials often tell protesters shot with less-than-lethal bullets, dispersed with chemical agents and subjected to other types of force to file any complaints about police conduct with a small city oversight office.

In the dark of night, protesters gathered downtown often have no idea what police agency is behind the use of force. At least 11 different agencies have policed the nightly protests since the Minneapolis police killing of George Floyd in late May. Outside agencies are subject to Portland police leadership but likely are not governed by the same policies.

If the city oversight office — the Independent Police Review — discovers an officer who is the subject of the complaint does not work at the Portland Police Bureau, the city of Portland has no authority to hold anyone responsible.

The exact roles of outside police agencies at the nightly protests, which often culminate in clashes between police and protesters near the downtown jail, is unknown. Portland police have yet to provide specific details about such agencies [requested by The Oregonian/OregonLive](#) June 5. However, public records obtained by the news organization confirm some outside agencies have used chemical agents and use of force on Portlanders.

Portland police said they could not provide a full accounting of use of force by outside agencies during protests, because the demonstrations are “still an active incident.” Police also have not released a definitive list of assisting agencies.

Lt. Tina Jones, a Portland police spokesperson, said the bureau has not maintained a centralized list of all the agencies who have assisted Portland police. Jones said she could not provide start dates for each agency because “there is not a document that compiles the information.”

However, department directives say they must compile that information, and the director of the Independent Police Review confirmed Monday his office has been receiving use of force data from police. Documents detailing use of force are provided “in batches” multiple times a week, director Ross Caldwell said.

Independent Police Review has already opened more than 30 investigations into alleged misconduct by Portland police during protests, Caldwell said. He expects that number to grow.

But when the oversight office receives a complaint about an officer who works at a different agency, the file is closed and sent to the agency that employs the officer.

In a June 3 press release, Portland police confirmed eight agencies had helped police protests: Multnomah County Sheriff’s Office, Clackamas County Sheriff’s Office, Washington County Sheriff’s Office, Port of Portland Police, Vancouver Police and Gresham Police, Oregon State Police and Oregon National Guard.

Jones disclosed to [The Oregonian/OregonLive](#) Thursday that Clark County Sheriff’s Office and Washougal Police, a department 25 miles away in Washington, had also helped. She said she told [The Oregonian](#) of all assisting agencies she is aware of or has been notified about.

The addition of help across the state line means not only are police held to disparate departmental standards, but also to different statewide conduct rules.

In response to requests for information from [The Oregonian/OregonLive](#), Oregon State Police and Port of Portland Police confirmed officers they employ were involved in use of force against protesters. Records requests to Multnomah County Sheriff’s Office and Gresham Police have not been fulfilled.

Chris Liedle, a spokesperson for the sheriff’s office, did confirm to [The Oregonian/OregonLive](#) Sunday that deputies have at times fired foam tipped bullets at

protesters. The actions came under scrutiny after a protester was [hit in the back of the head](#) early Saturday morning near the downtown jail. Jones, the Portland police spokesperson, told The Oregonian/OregonLive that Portland police did not fire at protesters during that incident and were not stationed in the area of the incident. For Independent Police Review investigators facing an unprecedented number of complaints over police misconduct, confusion over officer names and agencies slows the process, Caldwell said.

Many officers from different departments wear similar uniforms and body armor further obscures what would be identifying characteristics. Caldwell said the oversight office has access to personnel records and video footage that typically allows them to identify the officers involved, but that can be time-consuming.

Caldwell said investigators have sometimes been unable to identify officers who are the subject of complaints. It is most common when a third party reports what happened or when tear gas and other less-lethal distance weapons are discharged multiple times by multiple officers, Caldwell said.

Some police tactics also make it more difficult for protesters and investigators to identify police and the agencies that employ them. The Oregonian/OregonLive reported earlier in June that Portland police have been told to cover their name badges. Some of the badges are covered with internal personnel numbers.

Two outside reviews of Portland police crowd control policies made several recommendations to improve transparency and safety, but Caldwell said many of the same concerns persist.

The [2018 review](#), by the Independent Police Review, said Portland police should update their mutual aid agreements with outside agencies to ensure other agencies are following the city's use of force guidelines.

The [2014 review](#), by the Citizen Review Committee, said Portland police should update agreements to require outside agencies to wear name badges.

Portland police declined to provide copies of the agreements without a formal records request. The Oregonian/OregonLive filed a formal request Thursday for the agreements. Caldwell said he was not aware of any recent changes to mutual aid agreements.

The bureau's current [crowd control directives](#) say Portland police is responsible for overall tactics and approving use of force. The directives include not firing munitions without at least two warnings when possible, not firing munitions indiscriminately into a crowd and say officers [should not interfere with media](#) or legal observers doing their respective jobs.

"The bureau expects assisting agencies to act in accordance with the lawful orders of the bureau (incident commander), however, their members' conduct is subject to the outside agency's policies and procedures," the directives read.

-- K. Rambo

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Washington County awards \$625K settlement to Albert Molina, man assaulted by deputy

Updated Jun 23, 11:31 PM; Posted Jun 23, 6:57 PM



A Washington County Sheriff's Office vehicle is seen in a photo posted to the agency's Facebook page.

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By [Jayati Ramakrishnan | The Oregonian/OregonLive](#) and [Maxine Bernstein | The Oregonian/OregonLive](#)

The Washington County board of commissioners voted Tuesday to authorize a \$625,000 payout to settle a lawsuit brought by a former inmate whose skull was fractured in what appears to have been an unprovoked attack by a county sheriff's deputy in the jail's booking area in 2018.

In a prepared statement, the board condemned Washington County sheriff's deputy Rian Alden's conduct that "needlessly injured" and traumatized Albert Molina, 45.

"For that we're truly sorry," the statement read.

The settlement was reached days before the county district attorney's office is expected to go before a grand jury to seek a felony second-degree assault indictment against the deputy, Rian Alden. Oregon law caps payouts in suits against municipalities to \$700,000.

The case has spurred the Washington County District Attorney's office to reform how it handles similar cases in the future, officials there said.

Molina was accused of riding a bike while intoxicated and was being booked into the Washington County Jail March 30, 2018.

A jail video released by Molina's attorneys shows Alden directing Molina to stand against a back wall so he can take his booking photo. Molina appears to salute or gesture at Alden a few times. Alden gestures at Molina, as if trying to instruct him. Molina holds a hand up near his chest, making another gesture at Alden and appears to say something to him.

Within seconds, Alden runs out from behind the desk, slams Molina to the wall, appears to grab his neck, pins him to the ground and straddles him. Three other deputies come over, and one appears to help Alden hold Molina down. Almost immediately, some other staff come into the room with medical equipment. Alden continues to hold Molina down, face down.

Molina's attorneys first filed a lawsuit against the county in 2019 after the alleged assault took place, citing major injuries and medical expenses that exceeded \$135,000. He spent 19 days in the hospital, including five days in the intensive care unit.

The lawsuit listed Molina's injuries from the assault, including a traumatic brain hemorrhage, a skull fracture, injuries to the tissue near his spine, a loss of consciousness, hearing loss and headaches.

The case was initially brought to the county district attorney's office for review in 2018.

Molina's attorney, Jason Kafoury, said he appreciates the county's commitment to improving oversight of the sheriff's department and jail. He called for further scrutiny on local law enforcement, and more attention to the violence prisoners face. He also asked the Oregon Legislature to establish an independent, state-wide unit to investigate serious injury and death cases.

"It is important that all parties appreciate just how far short they have fallen up until now and how the case of Mr. Molina illuminates those failings," he said.

The decision not to prosecute Alden was made after neither of the outside investigators – from the Multnomah County Sheriff's Office and the Oregon State Police -- nor the district attorney's office sought or obtained Molina's medical records that documented serious injuries, Washington County Chief Deputy District Attorney Bracken McKey told The Oregonian/OregonLive.

"We got this one wrong, and we own that," McKey said. "There's no excuse for this when it comes to our office's initial decision not to prosecute and not getting all the information we needed to get."

Former Senior Deputy District Attorney Megan Johnson signed the [initial decline to prosecute memo](#) dated Sept. 10, 2018. The memo contended the video showing Alden attack Molina was “of minimal value.”

That same video, along with Molina’s medical records, is now being used to seek a felony indictment against Alden for second-degree assault.

Johnson has since left the district attorney’s office and works for a law firm in Portland. Johnson did not return a message seeking comment.

In the decline to prosecute memo, Johnson explained why the office would not pursue second-degree official misconduct charges against Alden.

“Mr. Molina has stated he has no recollection of his arrest or anything that transpired at the jail,” wrote Johnson, who at the time handled the district attorney’s misdemeanor unit.

Johnson also referenced the accounts of other witnesses, Alden’s co-workers, in the memo.

“The few witnesses on scene are inconsistent in what they saw and heard,” she wrote. “The video is of minimal value because it captures only one view and has no audio feed.” She followed up the memo eight days later, clarifying that she did review two separate video views of the jail incident.

The renewed interest in the jail assault case came after the district attorney’s office saw an article on [OregonLive.com](#) in early June about an investigation into Alden for an alleged racist email, McKey said.

“It’s unfortunate that it took a racist email for us to review any cases we had with the guy,” McKey said.

Alden joined the Washington County Sheriff’s Office in 2007. Before that, he worked for the Malheur County Sheriff’s Office from 2004 to 2006.

The Washington County Sheriff’s Office learned of the email allegation involving Alden May 31 and placed him on paid administrative leave the next day. The sheriff’s office said the email appears to be over 16 years old and was sent in 2003, four years before the deputy started working for the agency.

The email is filled with racist slurs and at one point said, “Oh, I’m sorry, that was Racist, but I guess I am.”

Alden’s attorney, Dan Thenell, called it unfair that the district attorney’s office is prosecuting Alden after previously choosing not to and after an internal affairs finding that his force didn’t violate policy.

Thenell said he believes the district attorney’s office is using former senior deputy district attorney Johnson as a “scapegoat.”

“The video does not show what a person perceives,” Thenell said. “This is all about politics because of what happened in Minneapolis to George Floyd.”

The case has led the Washington County District Attorney Kevin Barton to change his office’s handling of any alleged use of force case involving an officer or sheriff’s deputy.

Going forward, any allegations of use of force involving an officer or sheriff’s deputy will only be handled by the district attorney’s major crime team that consists of the two chief deputy district attorney and one senior deputy district attorney, according to McKey.

The prosecution team will ensure all medical records are obtained, and prosecutors consult with use of force experts who are outside of the agency that employs the officer whose actions are under review, McKey said.

Changes to the sheriff’s office



Sheriff Pat Garrett, speaking Tuesday outside the county commissioners' board room, said that his office's internal affairs investigators, trainers and use of force experts were involved in the determination that deputy Rian Alden committed no policy violations in his jail encounter with Albert Molina in 2018. "It wasn't a rubberstamp," Garrett said. "There was some spirited debate." The sheriff called the matter then "a close call."

The sheriff's office also is making internal changes in its review process, Sheriff Pat Garrett said Tuesday.

"I own this," Garret said. "I will not be pointing fingers at anybody else. Part of being responsible is taking steps to fix it."

The sheriff's office now will reach out to outside experts on any allegations of use of force and is considering calling in a national expert to review the office's use of force policies.

Garrett said he was the one who decided to bring in the outside detectives in 2018.

"When I first saw the video, it was difficult to watch," Garrett said, referencing his reaction when the case first came before him in 2018. "I thought, we've got to get someone outside to look at this."

After the district attorney's office declined to prosecute, internal affairs investigators from the Washington County Sheriff's Office reviewed the incident to determine whether Alden violated any sheriff's office policies in an administrative review. Garrett said sheriff's trainers and use of force experts were involved in the determination that there were no policy violations by Alden.

"It wasn't a rubberstamp," Garrett said. "There was some spirited debate." The sheriff called the matter then "a close call."

In the county's initial answer to Molina's civil suit, Washington County Counsel Christopher Gilmore wrote in court records that Alden's force was justified and that he acted in self-defense in response to Molina's "drunk and disorderly behavior, his verbal statements attempting to solicit a fight, his physical gestures in moving towards Deputy Rian Alden with his fists clenched."

Alden wrote in his use of force report that Molina suffered a "minor" head injury in a report approved by sheriff's Sgt. Shane Siemiller. According to Alden, Molina "took up a fighting stance and challenged" him to fight. Alden said when he asked Molina to turn for a side booking photo, that Molina responded with a vulgar remark, followed by "What's up? and flipped him off, the report said. He suggested that "What's up?" is a question gang members use 'to challenge someone to fight,' though he had no idea if Molina was involved in a gang.

After Alden slammed Molina against the wall and then took him to the ground, another deputy present, Josie Kringelhede, wrote in a report that he pressed an emergency duress pager. Other deputies present noticed Molina went unconscious and was bleeding from his nose. Molina regained consciousness but couldn't answer questions beyond a yes or no. He was taken by ambulance to Legacy Emanuel Medical Center.

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West Linn police sergeant showed ‘troubling pattern of deceit’ in wrongful arrest of Portland man

Updated May 29, 2020; Posted May 29, 2020



“Quite simply, the WLPD decided to initiate a criminal investigation when there was no actual evidence that a crime was taking place,” the Clackamas County District Attorney's report said. The report followed a review of the 2017 West Linn police arrest of Portland resident Michael Fesser.

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By [Maxine Bernstein | The Oregonian/OregonLive](#)

West Linn Police Sgt. Tony Reeves, who was the lead investigator in the wrongful arrest of a black man in Portland, will never be called to testify in any criminal court case again in Clackamas County and should have his police certification revoked, Clackamas County's district attorney ruled Friday.

The decision came after the District Attorney's Office investigated the unfounded West Linn police arrest of Michael Fesser in 2017.

It is the first inquiry completed of more than a half-dozen local, state and federal investigations launched after The Oregonian/OregonLive reported in February that [the city of West Linn paid \\$600,000 to Fesser](#) to settle his civil rights suit against its police force.

The DA's investigation found that Reeves colluded with then-Chief Terry Timeus to pursue an unsupported arrest of Fesser for a personal friend of the police chief's. The friend was Fesser's employer at the time.

The investigation also found that Reeves withheld key evidence, engaged in an illegal recording of Fesser, deleted racist and vulgar text messages he received from Fesser's boss on his cellphone and disclosed Fesser's confidential attorney-client information to Fesser's boss.

West Linn police targeted Fesser, using " inappropriate and offensive investigative tactics, and lacked transparency, honesty and any sense of fair play," said the district attorney's [42-page report obtained by The Oregonian/OregonLive](#).

The report, signed by Chief Deputy District Attorney Chris Owen and two senior deputy district attorneys, described a "troubling pattern of deceit by omission" in an attempt to "mislead" and arrest Fesser for alleged theft as a favor to the chief's friend -- Eric Benson, the owner of A&B Towing Co. in Portland.

The inquiry "lacked any pretense of being thorough and objective," the report said.

Fesser's civil litigation against West Linn police and his boss uncovered that Benson was a fishing buddy of Timeus and a West Linn resident. Fesser said the arrest was in retaliation for his complaints about a racially hostile work environment at the towing company.

Theft charges against Fesser ultimately were dropped, and Benson and his company paid \$415,000 to Fesser to settle a separate discrimination and retaliation suit.

Reeves failed to document in his reports the personal relationship between Benson and Timeus and the racist text messages Benson exchanged with him. Reeves also didn't disclose his seizure of a confidential letter between Fesser and his employment discrimination lawyer from Fesser's car that discussed Fesser's racial discrimination claims against Benson.

Benson admitted in a civil deposition that Reeves handed him the letter after Fesser's arrest, yet Reeves told an investigator he didn't remember if that occurred. Timeus also was aware that Reeves, then a detective, had shared the confidential legal document with Benson, the report said.

"This is intolerable," the Clackamas County report said.

Reeves has been on paid administrative leave since Feb. 12.

Timeus had Reeves initiate the 2017 investigation into Fesser. Timeus retired Nov. 1, 2017, but his police certification was never revoked, despite questionable conduct throughout his career. The district attorney is now recommending that Timeus also lose his certification.

Timeus' "failure of leadership created a culture that allowed this to happen," the report said.

The findings trigger a so-called Brady notice, an obligation under the 1963 U.S. Supreme Court ruling in *Brady v. Maryland* that requires prosecutors to disclose to defense lawyers any material that could impeach the credibility of a government witness.

Clackamas County prosecutors are reviewing 40 active criminal cases in which Reeves played a role and will dismiss any that can't be proven without his testimony, according to the report. The office is also reviewing 500 closed criminal cases in which Reeves played a role to determine if any of those need to be dismissed.

"There's no place for this kind of behavior in law enforcement," District Attorney John Foote said. "Frankly, there's no place in civilized society for the racial misconduct in this case."

In a [letter to West Linn's acting police chief](#), Foote said "for years now we have heard of unrest and dysfunction in the West Linn Police Department under the leadership Chief Timeus. However, the level of misconduct that has been uncovered in this matter is deeply disturbing and totally unacceptable."

Reeves lied in July 2018 to a West Linn police investigator when he said there were no racial or homophobic text messages or emails exchanged between him and Fesser's boss, the report said. He had previously deleted the text messages from his police cellphone, but Fesser and his lawyer obtained a copy of them from Benson's phone during civil litigation. The texts were replete with racist, derogatory and crude messages, according to the cell phone evidence.

Reeves told an internal affairs investigator that he got rid of the text messages because the case was closed, but they had been deleted before prosecutors in Portland presented the case to a Multnomah County grand jury, the Clackamas County report found. Reeves also never informed Multnomah County prosecutors of the text messages.

The racist text messages from Benson revealed his "strong motive to fabricate these allegations to avoid civil liability in a racial discrimination suit." Reeves' responses by text message also were "unprofessional" and displayed a "far too familiar banter," the report said.

What Reeves omitted from his sloppy and inadequate reports on the case was "stark and concerning," and done in "bad faith," with no explanation as to why West Linn got involved in an alleged Portland theft case outside of West Linn city limits or any mention of Benson's friendship with the chief, according to the report.

"Quite simply, the WLPD decided to initiate a criminal investigation when there was no actual evidence that a crime was taking place," the report said.

Depositions and records from Fesser's suits against West Linn and Benson revealed West Linn police, with civilian help, made a surreptitious audio recording of Fesser at work in Portland without a warrant or court order, then arrested him without probable

cause with the help of Portland police officers. They also seized Fesser's cash and cellphone in addition to the personal legal document without a search warrant, according to the records.

"Their conduct was not merely negligent, inadvertent or result of a momentary lapse of judgment," the district attorney's report said. "It reflects negatively on their honesty, judgment and sense of fair play that every suspect and victim deserves."



Michael Fesser, pictured here with his lawyer, Paul Buchanan, at the start of a community meeting held Wednesday night at De La Salle High School in North Portland to discuss issues of injustice around policing. "This is a very important step toward accountability," Buchanan said of the Clackamas County DA's report. March 11, 2020. Beth Nakamura/Staff

Publicity about Fesser's claims against West Linn police and his settlement prompted at least four separate investigations.

The U.S. Department of Justice is continuing to conduct a civil rights investigation into the police actions.

The Oregon Department of Public Safety Standards & Training has tapped an outside lawyer to look into the role played by Michael Stradley, a former West Linn police lieutenant who enlisted the help of Portland's police gang enforcement officers in the arrest of Fesser and most recently was working as a training supervisor for the state's basic police academy. Stradley remains on paid leave from the police academy.

West Linn's City Council contracted with the California-based OIR Group to investigate how city officials handled Fesser's lawsuit against police. The city is paying the firm up to \$50,000.

Current Chief Terry Kruger, who had vigorously defended the police investigation and arrest of Fesser in two closed executive sessions of the City Council, was placed on paid administrative leave in April while OIR Group inquiry occurs. [Kruger also had a personal relationship with Fesser's boss](#), West Linn emails obtained by The Oregonian/OregonLive revealed.

The city is paying \$28,500 a month in salary and benefits to Reeves and Kruger while they're on leave.

Reeves' lawyer David Lesh did not return messages seeking comment Friday about the district attorney's report.

West Linn Acting Police Chief Peter Mahuna said in a statement late Friday, "I firmly believe the West Linn Police Department will become a better and more professional police department as a result of this investigation and the others still underway. We have a long way to go in earning back the confidence and public trust we've lost."

Fesser's lawyer Paul Buchanan said he was encouraged by the district attorney's thorough review and conclusions.

"This is a very important step toward accountability," Buchanan said. "As we're seeing in Minneapolis, if accountability for police abuse and racism is not vigilant and ongoing, more and greater abuses will occur. We still need accountability for West Linn Police Department's current leadership and their decision to vigorously defend this egregious abuse of their police power for a year and a half, and for former Lieutenant Stradley."

Stradley had Portland police gang enforcement officers assist with Fesser's arrest, contending Fesser had gang ties, though Stradley, a retired Portland police lieutenant, hadn't had contact with Fesser for more than two decades.

"I'm hopeful that the investigations into those actions, which are ongoing, will be as searching as the one conducted by the Clackamas D.A., and that the willingness to hold those individuals accountable will be present in those investigations as it was here," Buchanan said.

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