

The Oregonian

No criminal charges filed against police officer who fatally shot teen Quanice Hayes

By Samantha Matsumoto

March 21, 2017

A Multnomah County grand jury found no criminal wrongdoing by the Portland police officer who [fatally shot](#) Quanice Hayes, a 17-year-old suspected in an armed robbery in February.

The grand jury heard testimony for two days before returning its decision Tuesday that the shooting was justified in the case that has drawn [local protests](#) over another death of a young African American man at the hands of a police officer.

Police said they found a replica gun on the ground beside Hayes after Officer Andrew Hearst [shot him](#) on Feb. 9 at a home in Northeast Portland.

An autopsy showed Hearst shot Hayes once in the head and twice in the torso, police said in a statement. Toxicology tests showed Hayes had cocaine, the tranquilizer benzodiazepine and the painkiller hydrocodone in his blood, police said.

Hayes' family has decried the circumstances of the shooting and media coverage.

"Neither robbery, theft, menacing, property damage or any crimes like this are punishable by death," a cousin, Terrence Hayes, said to a crowd outside a City Council meeting [earlier this month](#). "Oregonians have been deceived into believing that an officer can execute another Oregonian just because he may or may not be guilty of a crime."

The family plans a news conference Wednesday to respond to the grand jury decision. Hayes' mother, Venus Hayes has said her son was a good kid and did not deserve to die how he did.

"Quanice was not a thug or a gang member or some homeless street kid," she said earlier this month. "He was a vibrant, ambitious teen who like most kids was at times a little rebellious. He was my child. His life mattered."

Police released their first detailed account of their search for Hayes that morning.

A man told police that he was robbed at gunpoint outside the Portland Value Inn, located at 1707 N.E. 82nd Ave., Portland police spokesman Sgt. Pete Simpson said in the statement. The victim told police that a man put a gun against his head and held him hostage for 30 minutes, then took his Oregon Trail food stamps card and a piece of clothing.

He told police the robber was a black man in his 20s, wearing a dark hoodie and jeans and armed with a gun. He told police that the man then walked toward Northeast 82nd Avenue.

About 7:30 a.m., police responded to a reported car prowler near the Banfield Pet Hospital on Northeast 82nd Avenue. The prowler matched the description of the robbery suspect, Simpson said.

Shortly after, police officers found Hayes in the side yard of a home in the 8300 block of Northeast Tillamook Street, Simpson said. Hayes told police he lived there, then ran when officers checked with the resident, Simpson said.

Officers noticed Hayes was holding his waistband as he ran, Simpson said.

Police believed Hayes was the same person involved in all three incidents, Simpson said. Hayes left a small bag and items on the ground near the Tillamook address, he said. Some of the items were from the car break-in at the pet hospital, he said.

About 9:20 a.m., officers found Hayes in the alcove of a home in the 8300 block of Northeast Hancock Street, which had a broken window large enough for a person to enter, Simpson said.

Officers ordered Hayes to come out from the alcove. He started to crawl out, then stopped and got up on his knees, Simpson said. Officers told Hayes to keep his hands up, but he reached toward his waistband multiple times, Simpson said.

Hearst, an officer with the Police Bureau for seven years, shot Hayes three times with his patrol rifle, believing Hayes had a gun, Simpson said. Hayes died at the scene.

Multnomah County District Attorney Rod Underhill said in a statement that he has met with Quanice Hayes' mother and other family members "to share my sympathy over the death of their loved one."

"I further recognize the impact on Officer Hearst, his family and co-workers as well as our community as we collectively move forward," he said.

His office will release the transcripts of witness testimony before the grand jury testimony as it has in other police shooting cases, Underhill said. The proceedings typically are secret.

"Many questions surrounding the details of this incident exist and I have asked that the preparation of the official transcript be expedited," he said. "It has been my experience that questions about the incident, evidence and the process will be answered soon through a careful reading of the official transcript."

Police shootings of black men nationwide have been the subject of intense debate and scrutiny. Michael Brown, an unarmed 18-year-old from Ferguson, Missouri, was shot and killed by a police officer in 2014, spurring protests across the country.

Portland police have shot and killed [19 people](#) in the past decade. Hayes is the first black person to be fatally shot by a Portland police officer since officers shot and killed 25-year-old [Keaton Otis](#) in 2010.

Otis was in the middle of a mental health crisis when officers shot him, but a grand jury later ruled the shooting justified. A federal investigation in 2012 found Portland police had a pattern of using excessive force against people with mental illness, including Otis.

Hearst was one of three officers who [fatally shot a man in 2013 outside Portland Adventist Medical Center](#). Merle Hatch, 50, had a mental illness diagnosis and had tried to access the hospital for psychiatric care. He was carrying a broken telephone handset and told hospital staff that he had a gun. A grand jury also found no wrongdoing in that case.

City Council to declare Portland a 'sanctuary city'

*By Jessica Floum
March 21, 2017*

In a symbolic show, the Portland City Council on Wednesday will declare Portland a "sanctuary city" for undocumented immigrants. The council will officially declare the city's unwillingness to help the U.S. Immigration and Customs Enforcement agency find and deport immigrants.

In Oregon, it is already illegal for cities to use their resources to help enforce federal immigration laws.

The proposal comes about two and a half months after President Donald Trump [pledged to limit funding](#) to sanctuary cities and two and a half months after Mayor Ted Wheeler took office.

"The City of Portland will remain a welcoming, safe place for all people," Wheeler said in statement.

The declaration will affirm many of the actions Portland has already taken to support its immigrants and call for training to help city officials interact with federal immigration officials in ways that are appropriate and protective to immigrants.

Portland city code already prohibits denying benefits and discriminating against people based on race, religion, color, national origin, English proficiency, gender, age and disabilities.

In January, Portland Police Chief Mike Marshman told Portland Police Bureau employees that his officers would not enforce federal immigration laws, citing a state statute that exempts cities and states from spending their own resources to enforce federal immigration rules.

The City Council in February [awarded \\$50,000 to a Portland-based nonprofit](#) to help immigrants with legal challenges, including deportation.

If passed Wednesday, the new resolution will direct the Bureau of Human Resources, the Office of Equity and Human Rights and other city bureaus to develop a program to train staff. That training will teach them how to respond to federal immigration officials requesting information on city employees or Portland residents.

The resolution also will commit the city to working with regional, state and federal partners--[including school districts](#)--to help immigrant communities.

Wheeler emphasized in January that being a sanctuary city does not mean harboring criminals.

"I am proud to live in a city that is willing to take a stand to protect its residents regardless of immigration status by affirming our standing as a Sanctuary City," Commissioner Chloe Eudaly said in a statement. "We must act together with the county and state to build a wall of resistance around our neighbors to prevent Trump's deportation agenda from terrorizing communities and tearing apart families in Portland."

About [14,500 refugees](#) have resettled in Oregon since 2002, according to the written proposal. Most refugees come to Oregon from Ukraine, Burma, Bhutan, Iran, Iraq and Somalia.

'We can do better,' Portland housing director says of bogus statistics

*By Brad Schmidt
March 21, 2017*

Portland's top housing official, Kurt Creager, announced Tuesday that his bureau will use better data when requesting public money from the City Council.

Creager's comments came in response to a story by The Oregonian/OregonLive that found [housing officials used bogus statistics](#) to help justify a nearly \$500,000 program.

The Portland Housing Bureau claimed in official budget documents that 400 apartment complexes in east Portland had outstanding code violations and needed repair. [But the actual number at the time was 19](#), The Oregonian/OregonLive found.

"We are committed to integrity in the data," Creager told the City Council during a budget work session Tuesday.

Portland housing officials initially defended the accuracy of the city's estimates.

But when pressed by The Oregonian/OregonLive, officials could not provide any documentation to show how figures were calculated. Officials also initially pegged the need at 100 properties with 400 units but later increased it to 400 properties with 2,000 units.

Both figures were wrong, according to The Oregonian/OregonLive's analysis, which matched the city's list of code violations with a government database of multifamily properties. When asked why Portland didn't do such a review, Creager told a reporter: "Maybe you have more time than we do."

In comments to the City Council, Creager did not address how his bureau reached conclusions included in its 2016-17 budget request, nor why the numbers grew without documentation.

In a [written statement provided to the City Council](#), housing officials said they are committed to developing projects that are "grounded in data." They pledged "the same rigorous data sourcing and careful analysis" used to create other reports.

During Tuesday's hearing, Creager also maintained his stance that code-violation data, tracked by the Bureau of Development Services, are incomplete because they're based on complaints. Many people don't complain, he said.

Even so, Creager said employees will now reconsider code-violation numbers to possibly include statistics from the U.S. Census Bureau and the Portland Bureau of Planning and Sustainability. He said any new statistics will be subject to peer review.

"We can do better than we have," Creager told the City Council, "and I commit to you that we will."

Judge temporarily bars Portland from enforcing parts of lodging tax code against HomeAway

By Maxine Bernstein

March 20, 2017

A federal judge on Monday temporarily restricted the city of Portland from enforcing some of its lodgings tax regulations against HomeAway vacation rental websites.

Requiring HomeAway to provide information to the city -- including customer names, listings and rental addresses and potentially lengths and prices of stays arranged through its websites -- without a subpoena or other legal process would violate the federal Stored Communications Act, U.S. District Judge Michael W. Mosman ruled.

The federal law prohibits a provider of a remote computing service or electronic communication service from divulging a record or other information on a subscriber or customer to any governmental entity without a legal process or order.

HomeAway operates HomeAway.com and VacationRentals.com, where travelers looking for a place to stay can find listings of homes or apartments for rent.

HomeAway doesn't manage, operate, lease or own the accommodations listed by third-party hosts, according to court records.

"We tell customers we're going to keep their information private," HomeAway lawyer Ambika Doran told the judge. "If we don't do that, we suffer the loss of good will."

The court ruling is the latest development between the city and HomeAway, which have been battling for years over whether HomeAway should have to collect lodging taxes on behalf of its users.

In June, a judge dismissed the city's lawsuit against HomeAway that sought to collect \$2.5 million for alleged taxes, penalties and interest. HomeAway successfully argued that the city ordinance didn't apply to it. The city estimates that HomeAway markets about 400 properties within Portland.

In late January, the city enacted a new ordinance that specifies short-term rental operations in the "sharing economy" such as HomeAway, Airbnb and others are subject to the city's regulatory and tax codes, including the city's transient lodgings tax.

HomeAway then sued the city in federal court.

City lawyers argued Monday that the information they seek from HomeAway isn't barred by federal law.

Deputy City Attorney Denis Vannier said the Stored Communications Act doesn't protect information from private parties making short-term rentals on the HomeAway websites because the information becomes part of HomeAway's business records. He argued those records should be subject to city inquiries.

Without the physical address of the listings and contact information for the owner or host, the city has a "difficult time in ensuring that the permitting process has been complied with and the applicable lodgings tax is being collected without cooperation from sites like HomeAway," according to Thomas Lannon, director of the city's revenue division.

The city cited the example of an airline, which discloses passenger names, addresses, credit card numbers and flight itineraries of passengers to the government under certain circumstances, even if people buy the tickets online or through the airline's website.

Mosman said he didn't agree with the city's stance. The information the city wants from HomeAway is "the sort of information protected" under the federal act, the judge found.

Mosman said the preliminary injunction will remain in effect until the case goes to trial. A date for trial hasn't been set.

The city also conceded in this latest case that its ordinance requiring operators of short-term rentals to comply with certain requirements in advertising shouldn't be applied to HomeAway. City code had required that HomeAway and other hosting platforms be restricted from publishing an ad for a short-term rental property without first registering with the city.

HomeAway's lawyers argued that such a requirement violated the Communications Decency Act, which prohibits laws that treat websites "as the publisher or speaker of any information" provided by a third party.

"The Court ruled today only to temporarily restrain the City from enforcement against one platform while the case continues; a ruling on the merits is not expected for some time," Lannom said. "The City will continue to enforce the provisions of its code at the host level."

The judge has yet to rule on HomeAway's request to prevent the city from requesting its records for the purposes of conducting an audit.

HomeAway is a subsidiary of the travel company Expedia, which is based in Bellevue, Washington. It also owns the vacation rental website VRBO, which [has also faced fines from the city](#).

Willamette Week

The 5 Meanest Things Said to Portland City Council Last Week

By Rachel Monahan

March 22, 2017

Portland Mayor Ted Wheeler is testing the limits of the First Amendment—because protesters are testing his patience.

Nearly every Wednesday morning for two months, a ragtag band of gadflies has successfully shut down City Council meetings. The enraged shouting began in January, after four homeless people and a stillborn infant were found dead in the streets. The violent arrests of anti-Trump protesters and the police killing of black teenager Quanice Hayes have added fuel to the rage in council chambers.

Last week, Wheeler led the City Council in unanimously passing an ordinance that allows the city to exclude protesters for up to 60 days if they repeatedly disrupt city business.

The public wasn't allowed to testify at the March 15 vote. But the council's loyal enemies had their say anyway.

"We're all about to witness something that goes down. I hope that everybody across the United States and across the world can see what you guys are about to do." —Mimi German, ostensibly during public comment about the city purchasing a new asphalt grinder.

"You guys are some of the worst people I think I've ever sat in front of. Clearly your hands are full with murdered black children and houseless dying on you. How many bodies so far during your term, mayor? You're clearly overwhelmed and unfit to do the job." —Star Stauffer

"This council and the Portland police are a terrorist organization."
—Cameron Stark

"When you are rude to us, we get pissed, and when we get pissed, you don't have a meeting. You are rude, Miss Ratched [pointing to City Commissioner Amanda Fritz]. You are all vulnerable, every one of you. What is the matter with you? Where is your soul? What happened to you? You arrogant son of a bitches." —Joe Walsh

"We told them it was clearly unconstitutional."
—The American Civil Liberties Union of Oregon, on Twitter

A Developer Offers the Portland Mayor 300 Apartments at a Deep Discount—and Waits for a Reply

By Rachel Monahan

March 21, 2017

Last fall, as Portland voters pondered whether to pass an affordable housing bond, incoming Mayor Ted Wheeler pledged to build low-income apartments faster and cheaper than in the past.

Now a developer has brought a proposal to the mayor to do just that—and was met with a month of silence.

Rob Justus of Home First Development is Portland's most vocal critic of the high cost of affordable housing. Justus, whose company has completed 200 units in East Portland and has projects underway in North Portland, Bend and Sisters, wants to build 300 apartments and sell them to the city for \$100,000 apiece.

That's roughly half what the city projected it would spend per unit using the \$258 million housing bond approved by voters in November.

Justus and his business partner outlined their proposal in a Feb. 13 email to Maurice Henderson, Wheeler's chief of staff, on which he copied the mayor. The proposal for the 300 apartments encompasses roughly 10 projects, with 375-square-foot units built close to public transportation.

The email came with a three-page slide show that listed in bullet points the benefits to the city: "Rapid development," "lower cost per unit, more units" and "reduced risk for the city."

"If we can build units at lower cost, you can create more units," Justus says. "We need to get as many units as possible."

After a month of silence, and an inquiry from WW, Wheeler's office replied to Justus on March 21 to request a meeting. The mayor's spokesman, Michael Cox, was noncommittal.

"Any proposal that promises more units at a lower cost should be treated with interest," Cox says. "It must also be evaluated alongside other good proposals."

Justus' idea tests Wheeler's promise to spend public housing dollars more efficiently, even as the mayor prepares this month to appoint a committee to oversee projects funded by the bond.

Justus has floated a development idea to the city before. In 2015, he offered to build 1,000 units for former Mayor Charlie Hales at \$85,000 per unit if the city could come up with a \$20 million down payment. Hales went so far as to mention the idea in a State of the City address two years ago, but that idea, as with many others under Hales, fizzled without follow-through.

Justus, a for-profit developer, has in the past cut costs by building in less expensive parts of town, and reduces expenses by not paying union wages, or meeting energy-efficiency standards or taking large development fees. He says the lower construction costs would help make his latest buildings affordable to people earning less than \$20,000 a year, with rents no higher than \$500 a month.

That slice of the population—residents making 0 to 30 percent of area median income—is the most in need of affordable housing, and the people most likely to be on the streets.

"If we really want to see improvement in terms of homelessness, we have to focus our subsidies on very low incomes," says Ed Blackburn of housing nonprofit Central City Concern. Blackburn and Justus agree: That could mean cutting costs by building smaller units.

In the past decade, the city has paid up to \$514 per square foot for government-subsidized apartments, in part because it chose projects in the central city that include social services managed by housing nonprofits ("[Roofless](#)," [WW](#), Sept. 28, 2016).

Wheeler pledged that if voters passed a housing bond, he would get more apartments through public money.

But the first deal after the bond passed gave no indication the city was serious about reducing the cost of projects it finances.

In December, the Portland Housing Bureau agreed to spend \$37 million in bond money to buy and restore the Ellington Apartments in Northeast Portland—a project that drew criticism from the bureau's former director.

A month after that deal, Wheeler halted any purchases using bond money so the city could set consistent standards for bond purchases.

The Housing Bureau has already asked the city attorney to evaluate what's known as a "turnkey" approach: having private developers build housing to city standards and selling it on completion.

And that's what Justus is offering: He'll build units without city subsidy, then sell the finished apartments to the Housing Bureau.

Justus' methods have drawn criticism. His proposed projects would be exempt from paying prevailing wages to unionized workers.

But that would not be unique in the world of affordable housing. A 32-unit, low-income housing project in Southeast Portland's Lents neighborhood built last year by housing nonprofit the Native American Youth and Family Center, funded in part by the Housing Bureau, was given an exemption from the prevailing wage standard.

Dave Carboneau, Justus' business partner, says Home First's offer lets the city focus exclusively on lowering the cost of building affordable apartments—in part so the city can make them available to those needing them most.

"The big push is to focus on people who are at risk of homelessness and are living in substandard environments," Carboneau says. "That's what we're doing."

Office of Neighborhood Involvement Director Given \$143,811 to Resign

*By Rachel Monahan
March 21, 2017*

The longtime bureau director of the Office of Neighborhood Involvement [abruptly announced her resignation earlier this month](#) without explanation, but a severance agreement obtained under a public records request shows she was offered a year's salary in exchange for her resignation.

Amalia Alarcón de Morris agreed to resign or retire as of March 20 in exchange for a year's salary. That's not a unique severance package for bureau directors who [are nudged out](#).

Commissioner Chloe Eudaly "was interested in change at the bureau," says chief of staff Marshall Runkel. "In recognition of years of service, Council approved being able to offer these severance packages."

Runkel says Alarcón de Morris has earned "universal respect in the community."

City bureau directors are at-will employees, meaning they can be fired without cause, but a severance is often considered a way to avoid litigation. Runkel says there was no threat of litigation as far as he's aware.

Alarcón de Morris came under fire after a scathing audit in November. Mayor Ted Wheeler called the bureau the most in need of reform (outside of the police bureau) and re-assigned the office to Eudaly.

She did not immediately return a call seeking comment.

David Austin, who is now serving interim director of ONI and was until this week Eudaly's deputy chief of staff, declined to comment on her departure.

"We had our first all staff meeting today," he says. "I think the hardworking ONI staff are eager to look at ways that we can improve on the important work we do. I'm excited about working with the ONI team, and the work ahead, and I think the staff are too."

Grand Jury Rules Police Shooting of Portland Teenager Quanice Hayes Was Justified

*By Aaron Mesh
March 21, 2017*

A Multnomah County grand jury has found a Portland Police officer's shooting of black teenager Quanice Hayes was justified.

The grand jury today decided not to indict Officer Andrew Hearst in the Feb. 9 shooting of the 17-year-old Hayes, who police say had a fake gun on him when he was killed. The case has ignited racial tensions in this city, and renewed questions about the police's use of force in the black community.

The grand jury findings released tonight add new details to the police account of what happened on Feb. 9, when Hearst killed Hayes in a search for a robbery suspect.

Among the key findings:

- Hayes was shot three times—twice in the torso, once in the head—while crouched in the alcove of a home on Northeast Hancock Street.
- Police testimony is not clear on whether Hayes pulled the fake gun on Hearst. The grand jury findings say Hayes reached for his waistband instead of complying with an officer's instruction to keep his hands up, and the replica gun was found next to Hayes on the ground.

- The Oregon State Medical Examiner says Hayes had cocaine in his system—and well as a prescription anti-depressant. “Toxicology results on Hayes’ blood showed numerous drugs including cocaine, benzodiazepine and hydrocodone,” the findings say. “An examination of the replica firearm by the Oregon State Police Crime Lab showed Hayes’ DNA on the [fake] gun.”
- The victim of a carjacking earlier that morning at the Portland Value Inn says he was held hostage at gunpoint for 30 minutes by a suspect matching Hayes’ description. “At the time of the shooting,” today’s findings say, “Hayes had in his possession the robbery victim’s EBT card as well as property stolen from the home on Hancock Street.”

The Portland Mercury

A Business Owner Was Cleared for Killing a Homeless Man Last Month

By Dirk VanderHart

March 22, 2017

JASON PETERSEN never laid a finger on Charlie Win Chan. According to Oregon law, he didn’t have to.

That became clear March 13, when the Portland Police Bureau [announced](#) a grand jury had declined criminal charges against Chan for fatally shooting Petersen—32, homeless, and struggling with schizophrenia—on the afternoon of February 20.

It was foreshadowed by police reports that listed Chan as a “victim” not long after Petersen was found lying in the street with a shot to the abdomen.

And it does not add up to Petersen’s mother, Susan Petersen.

“I can’t understand it,” she says. “I can’t understand that man’s choices. It makes no sense.”

In the weeks since the shooting, Petersen’s death has brought Portland’s difficulties with connecting sick people with mental health care [into stark relief](#). The man’s family says they fought for years to force help upon him, only to be told again and again he wasn’t enough of a threat to himself or to others.

Now dozens of pages of police reports obtained by the Mercury offer the most detailed picture yet of the event that took Petersen’s life. And they give some credence to the belief, voiced by Susan Petersen and others, that a highly charged altercation on February 20 didn’t need to turn fatal.

Petersen confronted the 47-year-old Chan that afternoon in Chan’s place of business: an insurance agency not far from the intersection of SE 82nd and Foster.

Petersen was upset. He’d slept on a covered porch in front of Chan’s business the night before, but had left and come back to find his belongings gone.

Chan was fed up. He and his wife told cops that people frequently sleep in front of their insurance agency, and often have to be told to leave. When the couple arrived at 11 am to find “camping gear and bags” on the porch, Chan threw the items in a dumpster on the property.

Now Petersen had returned, and became “irate” when told his stuff had been tossed. Chan—the sole living witness to the vast majority of the confrontation—told police the man threatened to kill him or burn down the business. According to Deputy District Attorney Adam Gibbs, who handled the case, Chan reported pulling out his cell phone to call 911, but said he was shaking too badly to unlock it.

In any case, Petersen left. Chan’s wife would recall hearing a door slamming in the building. As for Chan, he collected himself, but didn’t call 911. Instead, he told authorities he waited a few minutes then went outside, toting the .22-caliber revolver he is licensed to conceal on his person.

The insurance agent stayed on the front porch for a time, then testified he needed to get something from the rear of the property, Gibbs says. When he rounded the building, he told police, Petersen was laying in wait, “started to come at him with his arms raised,” and threatened again to kill him.

Chan pulled out his gun and told cops he didn’t have time to utter a warning before he shot Petersen one time, striking his pancreas, liver, and aorta.

“Mr. Chan told us he knew he was about to be assaulted by the man, so he pulled out his pistol and fired one shot into the man to get him to stop,” says a report written by Portland Officer Gregory Adrian. “He looked at me and said, ‘I didn’t want to kill him, so I shot low’....”

Petersen stumbled out onto SE 82nd, telling confused drivers he’d been shot and asking for help. He died while being operated on at Oregon Health and Science University. Police didn’t retrieve his belongings from the dumpster until his mother asked about them.

Immediately, cops pegged Petersen as the “suspect” in the incident, very clearly finding credence that Chan was merely acting in self-defense.

“Police had an early view that this may well be a justified case,” Gibbs says, insisting that fact had no bearing on how he presented the matter to grand jurors.

Susan Petersen has her doubts about that. Mostly, though, she’s adamant that it should have never come to this. She wonders why Chan didn’t call 911, as he told authorities he’d tried to do. Or why he didn’t exit his business by a back door to access the back yard instead of leaving, armed, in the direction her son had gone.

“If he would have locked the door and called 911, Jason would still be here,” Susan Petersen, a Vancouver resident, said at a recent meeting in a Portland coffee shop. “Of course he’s gonna be out in that dumpster climbing in it to get the stuff he needs to survive.”

Grand juries are held in secret, and Susan Petersen is convinced that prosecutors and police favored the business owner over Petersen in the hearing (again, Gibbs is adamant that’s not true). She doesn’t think Chan is a murderer, but believes he should face a manslaughter charge in her son’s death.

If the shooting had occurred a decade earlier, that might have been on the table.

Until March 2007, state courts found armed citizens had a “duty to retreat” if possible when they were threatened with harm in public. That changed with an [Oregon Supreme Court opinion](#) that found state law contains no such mandate. Oregon’s so-called “stand your ground” law says that deadly force is justified if a person is confronted by someone “committing or attempting to commit a felony involving the use or threatened imminent use of physical force.”

“All a jury is instructed in self defense [cases] is: Was the use of force reasonable under the circumstances?” Gibbs says.

Combined with Oregon’s permissive concealed weapons policies, gun control advocates say the law is a recipe for trouble.

“One of the reasons we do not support ‘stand your ground’ is it turns anyone with a gun into judge, jury, and executioner in a matter of seconds,” says Penny Okamoto of Ceasefire Oregon. “What about the person shot? What about their right to due process?”

Chan didn’t return messages seeking comment.

Viewed through the lens of his run-ins with cops, Petersen’s altercation with Chan feels almost predictable. Included in a packet of reports on the case are instances in January and early February where Petersen had made menacing comments to employees of businesses on Southeast Hawthorne when asked to move along. In each case, he was jailed and then released.

Also included, oddly, is a report from March 6 in which a police officer interviewed workers at an East Portland flower shop about problems with thefts from homeless people in the area. There is no indication that Petersen has anything to do with the report.

The grand jury’s decision last week isn’t the end for Susan Petersen. She is talking with lawyers, and hoping to file a wrongful death suit against Chan.

She is also haunted by the timing of her son’s death. Petersen had been on and off the streets for months on the day he died—refusing mental health treatment. He’d told family in late 2016 he was traveling to New Orleans, but they’d seen evidence of his recent Portland arrests.

Susan Petersen says that on February 20 she was getting ready to push, yet again, to get her son help.

“The day he got shot, my girlfriend and I were saying, ‘We’re going to go down to Hawthorne,’” she says. “‘We’re going to find him.’”

Gas, Grenades, and Pepper Spray

By Doug Brown

March 22, 2017

The police response to protests in Portland can make the city look like a war zone.

On [January 20, Inauguration Day](#), gas mask-clad police officers in body armor tear-gassed and pepper sprayed nonviolent protesters, blasted painful pepper balls and beanbag rounds, set off pellet-spewing “stinger” grenades, and detonated panic-inducing “flash-bangs” because demonstrators wouldn’t move from downtown streets.

Many of these weapons aren’t new to Portland demonstrations, but police watchdogs and civil rights advocates argue that a wave of heavy-handed Portland Police Bureau (PPB) responses to protests started in the fall—at an October protest outside of City Hall, some say, or a smaller anti-prison labor protest a month earlier. It’s only ramped up, they say, through post-presidential election protests in November, the Inauguration Day protest, and a [President’s Day demonstration last month](#). (Responses to those last two protests—both widely-criticized—were under the tenure of Mayor Ted Wheeler, who campaigned partly on a promise to “actively demilitarize the police force.”)

Between Donald Trump and more-local concerns, it's safe to say large-scale protests have become the norm. Civil rights advocates hope that the PPB's recent response to them isn't.

A chorus of groups are backing major changes to the PPB's policies on crowd control as the bureau solicits public feedback on them this month, urging the cops to cut back on "less-lethal" weapons.

"There are actual steps that can be taken that would make things safer for people," says Nate Cohen, a former EMT who [testified passionately in front of City Council last week](#) on behalf of the group [Empower Portland](#).

Common recommendations from Empower Portland and civil rights groups like the ACLU of Oregon, Oregon Lawyers for Good Government, and the Portland Chapter of the National Lawyers Guild include banning police use of stinger grenades, limiting pepper spray use, and requiring the mayor and police chief to approve when the cops want to set off teargas, among other things.

"We tried to balance the police's responsibility of keeping the public safe," including protesters and bystanders, says ACLU of Oregon Legal Director [Mat dos Santos](#), of a set of policy recommendations from the ACLU and others that he plans to submit to the PPB this week. "There's nothing in [the recommended policy changes] that prevents Portland police from really protecting themselves.... We are not in a situation where police are getting confronted by angry crowds with serious weapons."

Here are some of the main concerns groups have raised:

Teargas

(last protest used: [January 20](#))

"There's no way to control it once it's deployed," Cohen says. "Teargas completely traumatizes your respiratory system, and when you're using it in a crowd-control situation you have no idea who you're using it against. Someone with asthma—you're going to kill somebody. It's a chemical weapon."

As of now, the police bureau's crowd control incident commander, designated by the chief to lead protest policing, has the power to authorize teargas use. Empower Portland and the joint recommendations from the ACLU want the police chief and mayor to personally sign off before it's used (they want the same with flash bangs), and say teargas should only be implemented as a last resort after several warnings.

"If the city is going to use chemical weapons on the public, the decision needs to involve the highest officials," says dos Santos, who tells the Mercury that city and police officials couldn't articulate to him why incident commanders approved teargas on January 20.

Cohen also wants to ban teargas launchers completely: "If you're going to teargas people, at least have the decency to roll it."

Pepper spray

(last protest used: [February 20](#))

While testifying before City Council, Cohen raised concerns about officers using [powerful "Sabre Red" pepper spray](#), an ultra potent brand.

Patrol officers do carry Sabre Red, PPB spokesperson Sgt. Pete Simpson says, but its not used for crowd-control operations.

Still, the ACLU wants to prevent police officers from aiming pepper spray into groups of people, as they did on January 20. It should only be used, they say, on specific people “engaged in seriously unlawful conduct” or on those “actively resisting arrest.”

Stinger grenades

(last protest used: [January 20](#))

The ACLU and Empower Portland say they don’t want stinger grenades used on crowds because, simply put, they’re grenades. An officer pulls the pin and tosses a small black ball, which then explodes and expels rubber pellets (sometimes coated in chemicals) for up to 50 feet in every direction. A number of stinger grenades were used on January 20.

A stinger grenade is a “pain compliance, distraction, and disorientation device for crowd management, and it may be hand-thrown or launched in the general direction of the crowd,” [according to a law-enforcement supply store that sells stingers](#). The site also warns that improper use can lead to death. “Psychologically and physiologically maximize less-lethal force against the most stubborn of crowds,” it says.

“It’s a grenade,” Cohen says. “It’s not a fake grenade, it’s not a smoke grenade—it’s a grenade. It blows up.”

Other “impact projectiles”

(last protest used: [February 20](#))

Portland police officers have recently shot beanbag rounds, rubber bullets, and eye-stinging “pepper balls” at protesters.

Rubber bullets—bulbous, blunt projectiles—should be banned completely, Cohen says. The ACLU wants to prevent officers from shooting any of these at groups of people, which the bureau did on January 20.

Whether or not the recommendations will be taken seriously remains to be seen. [The PPB is taking public comment on its crowd control directives](#) through the end of the month. Dos Santos has met twice with city officials who he said appear, in the wake of the highly criticized police response to the February 20 protest, open to changing the policy. Cohen met with staffers from Commissioner Chloe Eudaly’s office last week.

“I think the city understands they have a problem with the policy as it stands,” dos Santos said. “I think we’re all pleased we finally have their ear on this.”

Hall Monitor: Into the Glue Pot

By Dirk VanderHart

March 22, 2017

I SWORE I'd never write another column about the horse cops. I literally said this last week to a City Hall staffer.

And yet here I am again, with tidings about the Portland Police Bureau's whinnying, shrinking, and heretofore-invincible Mounted Patrol Unit (MPU).

Portland, I think this is the year it finally rides.

In four of the last eight city budgets, the Portland Police Bureau has responded to demands that it offer possible cuts by suggesting eliminating its horse cops. These are the besaddled officers who attract admirers in Pioneer Courthouse Square, convince people who'd otherwise steer clear to approach cops, and act as a clomping, shitting PR campaign for the men and women of the police bureau.

Offering to sacrifice things like the MPU is a well-worn tactic for bureaus at budget time. The mayor nearly always asks for cuts, so reluctant bureaucrats offer up what former Police Chief Larry O'Dea once termed "sacred cows" that will inevitably inspire citizen outcry if they're axed. Citizen outcry can hold powerful sway, come budget time.

Former Commissioner Steve Novick went after the horse cops again and again. In 2015, Commissioners Amanda Fritz and Dan Saltzman seemed open to eliminating the unit. It galloped beyond their reach.

This time around, Chief Mike Marshman—himself a former horse cop—has stuck with the playbook. As part of a possible two percent budget cut to his undermanned department, Marshman has proposed freeing up more than \$1 million by doing away with the unit.

And it looks like he'll have a taker in new Mayor Ted Wheeler, the city's police commissioner, who'll propose a budget late next month. At a budget hearing last week, Wheeler hinted he's willing to chop the dwindling unit in order to help maintain and bolster a community policing presence.

"I don't think it's an equal trade-off," Wheeler said. "I'd rather go toward a foot-based patrol and community policing."

For an idea of how the mayor's reaching that vantage, take a look at the current makeup of the MPU.

The unit's technically budgeted for four officers and a sergeant, but because of the PPB's more than 50 vacant positions, it's not even close. Rather, the MPU today consists of two cops (an officer and a sergeant), eight horses, three stable attendants, and a horse trainer. The animals are housed and fed at a Lake Oswego stable, and driven by trailer into Portland for duty each workday.

The police bureau's voiced hopes to instead keep the horses near the St. Johns Bridge, but the steeds might be fired before that can happen.

"He is likely to recommend a cut to the mounted patrol," said Wheeler's chief spokesperson, Michael Cox, when asked about the mayor's comments in last week's budget hearing. "It is an important service and has value, but there are more urgent areas to spend that money."

To be clear, axing the MPU won't free up \$1 million. The officers in the unit will be transferred to other duties, and will still be on the bureau's payroll.

This could also all change. That aforementioned citizen outcry hasn't failed the mounted patrol yet, and horses are a hell of a drug.

But with any luck, this is my last horse cop column.

The Portland Officer Who Killed Quanice Hayes Last Month Won't Face Charges

By Dirk VanderHart

March 21, 2017

The police officer who killed a Portland teen in an early morning manhunt last month won't face criminal charges in the incident.

A Multnomah County grand jury has declined charges against Portland Officer Andrew Hearst in the February 9 killing of Quanice Hayes, 17.

News of the outcome emerged in Facebook posts earlier this afternoon, as a press conference including Hayes' family was announced for tomorrow morning. It was confirmed to the Mercury by Multnomah County District Attorney Rod Underhill this evening.

While the details of the [morning Hayes died](#) are still fuzzy, news of the grand jury's decision is sure to spark anger amongst community and family members who'd [called for Hearst's badge](#) in the wake of the shooting.

Police say they were responding to a report of a man being robbed at gunpoint in his car the morning of February 9, near NE Hancock and 82nd. The suspect, the PPB said, "was described to police as a black male in his 20s, wearing a dark-colored hooded sweatshirt and jeans..." As officers were investigating that case, dispatchers received a report of a car prowler nearby, the Portland Police Bureau said.

Cops set up a perimeter and began searching the neighborhood. At some point Hearst came upon Hayes, who was Black, and shot him. Police have said the teen had a replica firearm on his person.

Since grand jury hearings are conducted in private, the police bureau's skeletal version of events is all that's known, but the picture will almost certainly be filled in somewhat in coming weeks.

Update: Portland police have issued a [news release](#) about the grand jury's finding, and it offers new detail about the incident.

According to the PPB, the armed robbery suspect on February 9 held the victim "hostage for approximately 30 minutes in the car then stole his Oregon Trail EBT card and an item of clothing." The victim told cops his assailant had a handgun with a camouflage exterior, which is roughly consistent with a gun the PPB circulated photos of after Hayes was killed.

After responding to reports of a car prowler and a report of an "unwanted person" in a yard on Northeast Tillamook, cops say they located Hayes in a side yard. He told officers he lived there, then ran, the release says.

Cops say they tracked Hayes to a home on Northeast Hancock that appeared to have been broken into.

Officers "encountered Hayes crouching" in an alcove at the home, the release says. "Officers believed he was armed with a handgun, as reported by the robbery victim, and was involved in the car prowling and burglary."

Here's the PPB's description of what happened next:

Officers ordered Hayes to crawl out of the alcove, which he started to do, but then stopped and got upright on his knees. Hayes was ordered multiple times by officers to keep his hands up, but made repeated and deliberate motions with his hands to the area of his waistband and pockets. During this encounter, Officer Hearst fired three shots from his patrol rifle at Hayes, striking and killing him. After the shooting, officers approached Hayes to take him into custody and render immediate medical aid. Medical personnel arrived and determined that Hayes was deceased.

A desert tan-colored handgun was found next to Hayes on the ground. It was later determined that the handgun was a realistic-looking replica firearm (photo released).

Cops say they found the stolen EBT card in Hayes' possession. The teen was struck twice in the torso and once in the head.

"Toxicology results on Hayes' blood showed numerous drugs including cocaine, benzodiazepine and hydrocodone," the release says. "An examination of the replica firearm by the Oregon State Police Crime Lab showed Hayes' DNA on the gun."

Original post:

The Multnomah County District Attorney's Office has a practice of releasing the transcripts of grand jury hearings for officer-involved shootings, and the office says it will do so when those become available.

Outcry over Hayes death has reverberated since the shooting, with demonstrators repeatedly [shutting down](#) Portland City Council meetings with calls for justice. Wheeler has repeatedly answered those calls by saying he's reserving judgment about the incident until more facts emerge.

At tomorrow morning's press conference, Hayes family will call for "immediate access" to grand jury transcripts and any other documentary materials, according to a [Facebook event](#) created by the group Don't Shoot Portland.

Hayes was the first African American to be fatally shot by Portland police in nearly seven years, but the death immediately stirred old resentments in a community with its share of racial ugliness in its past. As Wheeler put it in a press conference after Hayes' death: "...when the person who is killed is a black teenager, it touches on deep historical wounds. We can't sit here today and ignore what's happened across our country."

Mercury reporter Doug Brown contributed to this report.