

The Oregonian

Portland Cops Can No Longer Carry Knives Exposed on Their Outer Vests After Fatal Police Shooting

*By Maxine Bernstein
February 27, 2019*

Portland police are now banning officers from carrying open knives in their outside ballistic vests, noting that they are “easily accessible by suspects.”

The new rule comes in the wake of the Jan. 6 fatal police shooting of Andre Gladen, a 36-year-old legally blind man who ran inside a stranger’s home. Gladen was found holding a dagger-type knife that he had grabbed from the vest of the officer who ended up killing him, several law enforcement sources said.

The rule, signed last week by Police Chief Danielle Outlaw, was distributed to officers on Monday.

“It was created after proactively identifying a shortcoming in policy,” Outlaw told The Oregonian/OregonLive on Tuesday.

The Portland Police Bureau has declined repeatedly to acknowledge that the knife Gladen dropped after he was shot belonged to Officer Consider Vosu. Outlaw and Mayor Ted Wheeler didn’t share any information about the knife with Gladen’s parents and siblings, who met with them last Friday – a day after the rule went into effect.

Outlaw said the bureau still awaits the grand jury transcripts related to the Gladen shooting and that the police administrative investigation into the shooting hasn’t concluded.

Police released a photo of the knife two days after the deadly encounter. It shows a double-sided 3 1/2-inch blade with finger rings. It costs about \$100, according to retail postings.

The new ban followed a review by the bureau’s Training Division of equipment and pouches officers carry in their outside vests. Lead instructors from firearms, patrol procedures and control tactics participated in the review.

A Multnomah County grand jury found no criminal wrongdoing by the officer involved in the shooting. The grand jury transcripts are expected to be made public in two to three weeks, and the bureau’s investigative reports will be released by March 8, according to the bureau.

Police instructors on control tactics noticed that knives placed on the outside vests are generally exposed and visible. Police typically carry them to cut clothing, ropes or seat belts on emergency calls.

But now, officers no longer can carry knives, scissors, trauma shears or seat-belt cutters on their outside vests, unless they’re concealed inside a pouch. The body of the knife or sheath shouldn’t be exposed or visible, according to the memo signed by the chief.

The bureau also said officers no longer can carry extra magazines of ammunition for handguns or AR-15 rifles on the outside vests, with the exception of officers from the Special Emergency Reaction Team and traffic officers who ride motorcycles.

The outside vests should be reserved for holding handcuffs, police radios, phones, hobble restraints and tourniquets, according to the three-page training memo that went to officers.

The memo also described some drawbacks of the outside vests in potentially interfering with an officer's ability to draw a weapon effectively. Police firearms instructors noticed during annual review training that officers sometimes had to modify their movement to draw their guns to accommodate the gear and pouches placed on the vests.

Yet the trainers also said they recognized the benefits of an outer vest, which is much cooler to wear during hot weather, compared to wearing the vest beneath an officer's shirt. The bureau is continuing to allow officers to choose whether they wear their ballistic vest in or outside their shirt.

"Our Training Division looks at best practices and certain times we have to adjust based on certain events," said Officer Daryl Turner, president of the Portland Police Association, the union for the rank-and-file officers. He declined comment on the Gladen case.

The Jan. 6 shooting occurred after Southeast Portland resident Desmond Pescaia called 911 about a stranger sleeping on his front stoop. Gladen told Pescaia that he had been released from a hospital and someone was after him, trying to kill him. It looked like Gladen had a hospital-type gown sticking out of his shirt or pants and he had no shoes on, Pescaia said.

Pescaia offered to help Gladen, but he wouldn't leave and fell asleep on the porch of the home in the 9600 block of Southeast Market Street.

When the officer arrived, Gladen burst into Pescaia's home through the open front door, Pescaia said. According to Pescaia, Vosu followed and struggled to handcuff Gladen, who had slipped on the living room floor. Gladen then kicked the officer off him and into a rear bedroom.

The officer first fired his Taser at Gladen, who stood in the entry to the bedroom. Gladen fell but got back up, and after several orders to stand down, the officer fired multiple shots from his handgun, Pescaia said.

Pescaia saw a knife fall from Gladen's right hand and land beside Gladen, he said.

Gladen, who suffered from paranoid schizophrenia, had been at Portland Adventist Medical Center less than half a mile away before he showed up on Pescaia's doorstep, his family said.

His family has retained a local lawyer and a Chicago-based civil rights lawyer, who are evaluating whether to file a lawsuit in the case.

Willamette Week

The Latest Flashpoint in the Debate Over Portland's Housing Costs? Bike Parking.

*By Sophie Peel
February 27, 2019*

The City Council will vote in March whether to expand bike parking requirements for developers.

As a sign of how far Portland's transportation priorities have shifted, the battle at City Hall is no longer about how many spaces developers must create for cars—but how many for bikes.

Currently, the city requires 1.5 bike parking spots per unit in new residential developments in inner Portland.

The City Council will vote in March whether to expand bike parking requirements for private developers.

The proposal would expand the geographical boundaries for developments required to have 1.5 bike parking spots per unit for residential buildings. And it would require more spaces than are currently available—a number calculated by square footage—for commercial and retail buildings.

The new requirements would be Portland's biggest step in years toward increasing the slice of commuters who travel by bicycle. Supporters say it's a critical part of reducing carbon emissions.

But increasing bike parking conflicts with another civic priority: lowering housing costs. If passed, the requirements could restore some of the construction costs the city has tried to mitigate during the housing boom by slashing requirements for car parking.

The cost of adding bike parking spaces is, of course, a fraction of that for car parking spaces: A bicycle parking spot costs as little as \$200 to add to a building, while auto parking spots start at \$10,000.

"It might cost the developer, but for the household who is able to reduce their car-owning expenses, it will be a huge benefit," says Jillian Detweiler of the Street Trust, a transportation nonprofit supporting the proposal. "[Cycling] won't work if we don't provide the infrastructure to support it."

Chris Smith, a member of the Portland Planning and Sustainability Commission, says the benefits of the bike parking minimums outweigh the costs. (The commission was slated to discuss details of the proposal Feb. 26.)

"Car parking has a ton of negative externalities: congesting the streets, adding air toxins," Smith says. "Driving is something we're trying to move away from, biking is something we're trying to move toward."

But others are skeptical. "At a time when our city is experiencing a housing emergency," wrote Andrew Hoan, president of the Portland Business Alliance, in a letter to the City Council in October 2018, "this proposal seems to run counter to efforts to make living here more affordable."

Hoan has since softened his stance, citing amendments to the proposal. "Portland is a bike town and needs bike parking," he tells WW. "We also need housing. We will continue to monitor how this new proposed code meets the needs of our community."

City planner Eric Engstrom says it's hard to know whether adding a bike parking requirement would increase housing costs in the central city—though he's confident it would take relatively small tweaks for larger buildings to meet the new standards. "It wouldn't take much to convert a few car parking spots to fit the requirements," Engstrom says.

Early opposition to the plan to increase bike parking has softened as amendments and changes to the proposal were floated to the planning commission. Gwenn Baldwin of Oregon Smart Growth penned a letter late last year to the Bureau of Transportation, proposing that in-unit bike storage count toward meeting the requirements.

"We need to avoid a regulatory structure that pits bikes, housing and retail against each other for the same space," she wrote.

One of the recent amendments submitted to the planning commission partly echoes Baldwin's hopes. It proposes that in-unit bike "nooks" count toward somewhere between 20 and 50 percent of the required bike parking.

The city has set a goal that 25 percent of total commutes in Portland be by bicycle by 2030. Right now, the number hovers between 6 and 7 percent.

A vision of the future is on display at a new apartment and shopping complex in Northeast Portland, where on a recent wintry day, the city's biggest indoor bike parking lot was about half full.

The Cycle Station in the Lloyd District has 600 bike parking spaces available to shoppers, visitors, and residents of the nearby Hassalo on 8th apartment complex for a monthly fee.

The complex itself has around 225 reserved bike parking spaces for its 657 residents. Combined, that's 1.8 spots for every dwelling unit—20 percent more than the 1.5 bike parking spots per unit currently required by the city in new developments.

Not all of those spaces are in use. (Hassalo's managers could not be reached for comment.) But transportation wonks hope more supply will coax more demand.

Smith says upping the requirement for bike parking would entice the 60 percent of bikers he calls "interested and concerned" riders who don't use their bikes consistently to make biking the method of choice for getting around the central city.

"I'm worried about the line cook in the fast-food restaurant who can't bike to his job because of lack of spaces," Smith says.

The Daily Journal of Commerce

OP-ED: Unreinforced Masonry Notice Requirements and the Scarlet Letter

*By Stephanie Holmberg and Garrett Stephenson
February 26, 2019*

The saga involving Portland's regulation of unreinforced masonry (URM) buildings continues, pitting building owners against the city over newly required warnings to tenants and the public about safety in the event of a major earthquake. As most participants in this industry are aware, the city this past fall issued an ordinance that requires owners of URM buildings to clearly and conspicuously label them as such. With that requirement comes the attendant concerns of future marketability of the building to tenants and potential buyers.

This has understandably left many building owners looking for solutions, but unfortunately, best practices have been very difficult to identify because the city's URM placarding program is anything but settled. Perhaps the easiest course to set is the wider one: before fretting about the potential impacts from a URM label, owners may be well served by taking the time to discover whether their building is, in fact, unreinforced.

Ordinance No. 189201 requires URM building owners to post by March 1, 2019 (or by Nov. 1, 2020 for nonprofit building owners), a placard that states: "This is an unreinforced masonry building. Unreinforced masonry buildings may be unsafe in the event of a major earthquake." Similarly, building owners must provide this same notice to existing tenants.

The ordinance also requires the following term to be included in all lease or rental agreements executed after March 1, 2019: “This building, which you are renting or leasing, is an unreinforced masonry building. Unreinforced masonry buildings have proven to be unsafe in the event of an earthquake.”

While the ordinance was scheduled to take effect on March 1, 2019, a federal judge recently ordered that implementation of the ordinance be delayed by two months, until May 1. That order was entered in connection with a lawsuit filed by a group of masonry building owners against the city in December 2018 (Masonry Building Owners of Oregon, et al v. Wheeler, et al).

In that case, the building owners allege that the ordinance forces them to engage in compelled speech, in violation of the First Amendment to the United States Constitution. In other words, the building owners argue that by requiring them to notify existing tenants, the public and prospective tenants of their buildings’ possible instability in the event of an earthquake, the ordinance violates the building owners’ right to refrain from speaking. The building owners argue this right is not outweighed by the city’s purported interest in protecting its citizens. The building owners also argue the ordinance is impermissibly vague in violation of the due process clause of the 14th Amendment.

Whether the ordinance withstands this legal challenge (or others) remains to be seen. But if the ordinance is implemented as planned, URM building owners will need to comply. So, if the ordinance goes into effect, what should a concerned building owner do?

Simply stated, if the building is not properly on the city’s URM inventory, the building owner does not need to do anything. Before worrying too much over the prospect of slapping a scarlet letter on one’s building, an owner should confirm it is actually unreinforced. Oregon law (as of the date of this article) does not affirmatively require an owner of a commercial building to pay for and/or perform seismic upgrades, except in connection with a change of building occupancy classification or certain building renovations. However, such renovations or even work not triggering seismic upgrades may have pushed a building far closer to being reinforced than the building’s owner and the city appreciate.

Title 24 of the Portland City Code defines unreinforced masonry as: “adobe, burned clay, concrete or sand-lime brick, hollow clay or concrete block, hollow clay tile, rubble and cut stone and unburned clay masonry that does not satisfy the definition of reinforced masonry as defined herein. Plain unreinforced concrete shall not be considered unreinforced masonry for the purpose of this Chapter.”

The roots of the city’s inventory started with a visual survey of buildings fitting this description, and goes back some 20 years. While the city has taken steps to update the inventory periodically with building permit and inspection information, it is almost certainly not 100 percent accurate.

An owner who has previously performed seismic upgrades to its building should evaluate whether those upgrades are sufficient to declassify the building as “unreinforced masonry,” thus requiring removal from the city’s inventory. Sometimes, the reinforcement needed is not as costly as building owners assume, and may include such steps as tying the walls to the foundation, tying the roof to the walls, and reinforcing roof parapets. Owners should consult a licensed architect to look at the building’s history and its current state to determine whether the work performed over the years meets the city’s relevant reinforcement requirements.

If an architect determines that the seismic upgrades are likely enough to get the building removed from the unreinforced masonry inventory, the owner can file a code appeal with the Portland Bureau of Development Services. While this process is not always straightforward, if

successful, the building can avoid receiving a label as a forever potentially bad place to be during an earthquake. And more importantly, the owner can obtain some level of confidence that the building need not be subject to the requirement for a full bevy of costly upgrades likely still to come from City Hall.