

## **The Oregonian**

# **Portland's Bill to Curb Arbitrators from Overturning Certain Police Discipline May Not Help City**

*By Maxine Bernstein  
February 28, 2019*

Even if Oregon lawmakers adopt Portland's bill to bar arbitrators from overturning police discipline under certain circumstances, the city might not be able to benefit from it.

A six-year-old city agreement with the police union could stand in the way.

The legislation would bar arbitrators from overturning discipline if it's in line with a police agency's discipline guide.

But when Portland's then-Mayor Charlie Hales and the president of the Portland Police Association signed an agreement on the adoption of a police discipline guide in December 2013, the agreement included this sentence:

"Notwithstanding the city's use of a Discipline Guide, the just cause and due process disciplinary standards under parties' collective bargaining agreement still apply and are not modified or supplanted by the discipline guide."

Michael Selvaggio, a lobbyist for the Oregon Coalition of Police and Sheriffs, read the clause Tuesday to members of the Senate Judiciary Committee as Senate Bill 383 was introduced.

The city of Portland agreed when adopting its police discipline guide that it "would not supplant" the collective bargaining agreement's discipline process, Selvaggio said. He argued that the bill would do just that.

Portland Police Chief Danielle Outlaw, Portland's Chief Deputy City Attorney Mark Amberg and Rob Bovett, legal counsel for the Association of Oregon Counties, testified in favor of the bill.

Committee chair Sen. Floyd Prozanski, D-Eugene, signaled he'd support an amendment that would ensure "whatever agreements are in place won't be adversely impacted" by the bill as he sent it to a work session.

Portland city officials would have to renegotiate the 2013 agreement with the police union and drop the clause in question for the proposed bill to take effect, the union argues.

Portland's city attorney disagrees.

"The city believes that the current legislative proposal would be fully compliant with the just cause and due process disciplinary standards under the current PPA contract," City Attorney Tracy Reeve said.

The city adopted a police discipline matrix as a condition of its settlement agreement with the U.S. Department of Justice over police use of force against people with mental illness.

Amberg told lawmakers that he believes the guide upholds a basic principle that supervisors must have just cause to discipline an officer.

He said it sets out reasonable penalties for misconduct and ensures that similarly situated employees are treated the same. He argued that some arbitrators aren't familiar with police work and their decisions often undermine police accountability.

He cited the 2014 arbitration ruling that overturned then-Chief Mike Reese's demotion of Todd Wyatt from captain to lieutenant. The arbitrator instead ordered a 60-day suspension without pay for Wyatt but reinstated him to the higher rank with back pay. A Portland police review board had found Wyatt inappropriately touched several female employees and escalated an off-duty road rage confrontation. Wyatt has since retired as a police captain.

The city and police union representatives have haggled over the years about whether the police discipline guide is advisory or must be followed to the letter. One clause in the guide allows the chief or police commissioner to "deviate from this guide as conditions and circumstances warrant."

Selvaggio said if the city isn't happy with arbitrators' rulings, "I'd suggest the city attorney choose different arbitrators."

Outlaw testified that the disciplinary system, to be considered fair by employees and trusted by the community, "has to be predictable and consistent."

"Arbitration is not," she said. "This essentially defeats the purpose of the guide."

The bill would direct arbitrators to determine whether the city appropriately applied its discipline guide and not allow arbitrators to make their own subjective assessments of what is fair, she said.

The Oregon Association Chiefs of Police, as well as the Oregon State Sheriffs' Association, support the bill, Outlaw told lawmakers. She called it a "small, deliberate and thoughtful step in the right direction."

"It makes everyone follow the same playbook when making decisions," she said.

## **The Portland Tribune**

### **At the heart of the latest Portland police dispute? Meet Ryan Lee**

*By Nick Budnick  
February 28, 2019*

#### **Whistleblower created strategies now under scrutiny after texts with right-wing organizer surface.**

Behind renewed controversy over whether Portland police help white supremacists at protests is the brainchild of a Chinese-American whistleblower cop.

Assistant Chief Ryan Lee has for years been the leading architect of the Portland Police Bureau's philosophy of crowd control. He's researched and pursued changes to how Portland maintains order during protests — even successfully pushing the agency to abandon the term "crowd control" for the less authoritarian "crowd management."

Now, however, the 46-year-old manager's strategies are under intense scrutiny. Earlier this month, the bureau disclosed text messages between Lee's chosen successor to lead protest responses, Lt. Jeff Niiya, and Joey Gibson, a right-wing organizer with the group Patriot Prayer. They show friendly sounding information-sharing, some of it attacked as questionable.

Police critics called the texts confirmation of their longtime suspicions. Portland City Commissioner Jo Ann Hardesty accused the police of "collaborating" with Patriot Prayer and providing "aid and support for their hate marches."

One left-wing protest group, Rose City Antifa, said the texts "only served to prove what has been known to many for some time," that the city of Portland has worked "in collusion with far right groups."

Now an outside review will scrutinize what amounts to Lee's handiwork — the bureau's crowd control efforts and tactics — for bias, while an internal disciplinary investigation looks at Niiya, the officer elevated to fill Lee's job when Lee was promoted less than a year ago.

The review will try to unravel a question that affects all Portlanders: Have Portland police practices inadvertently encouraged right-wing protesters and the high-profile protest street brawls that, in 2017 and 2018, sapped police resources and made headlines nationwide?

At a recent listening session at Maranatha Church in Northeast Portland, while numerous speakers blasted the police and especially the rapid response team that has been Lee's focus, the assistant chief watched intently.

It wasn't the first time Lee's been under pressure.

### Blowing the whistle

One night in January 2002, then a probationary trainee police officer, Lee responded to a noise complaint at a downtown nightclub. He said hello to two departing off-duty cops on his way inside.

Upon finishing his work inside, he came out — only to realize that while he'd been in the club, the two off-duty cops had been savagely beating a man outside it.

The man's offense? He'd pushed one of the off-duty cops inside the club in response to a comment about his suspenders, reports later showed. The cops followed him outside to exact a gruesome revenge.

When Lee, a Coast Guard veteran from California, heard about the assault from eyewitnesses, he tracked down the man and took photos of his face: one eye swelled shut, his nose broken. Lee ordered the two off-duty cops to sit in the back of his squad car, like any other defendants.

Then, a lieutenant on duty ordered that no reports be written about what Ryan had seen. Later a sergeant, fearing retribution, sent an anonymous letter detailing the cover-up. At first, it remained a secret.

Local prosecutors who read the letter feared the police union would block the investigation. They lured Lee to their offices under a pretext, so the union would not be informed. There, two detectives ambushed Lee and grilled him about the beating. He told them everything.

It was a bad time in the Portland police bureau to be a whistleblower. A couple of years before, in response to another scandal, a Portland cop was reported as saying he had a "bullet" for every "rat snitch" police whistleblower. Portland cops used the terms "no cover" or "slow cover" for a life-threatening practice of not responding when an unpopular coworker called for backup.

For Lee, the grumbling and potential threats became so intense that he was transferred to another precinct for his own safety.

"It was a lot of pressure," recalled Lee, adding, "I had a young child, and I didn't need my wife stressing while I was at work."

Six cops were disciplined following a lengthy investigation of the nightclub beating and attempted coverup, as was later detailed in *The Oregonian* and other media outlets. The off-duty cops, Craig Hampton and Grant Bailey, became the first Oregon cops ever charged with a Measure 11 mandatory minimum sentence.

At that point, to defuse internal tensions, the Chief's office did something unprecedented. All officers had to watch a roll call video narrated by the detective who investigated the case. The video "walked through the entire incident start to finish, which eventually changed the way the incident was perceived Bureau-wide, said Bob Gorgone, a retired police captain.

"Ryan stood up to the groupthink of the time and did the right thing," Gorgone added. "He took the heat and internal harassment that resulted from initial lack of information to the rank and file."

Lee said he was raised to believe in service and honor by his Chinese-American father and Caucasian mother, who taught adaptive physical education to children with special needs.

She was from Alabama, and her family's lore of the Civil War had been passed down that her county had sought to "secede from the confederacy because they didn't believe in slavery," Lee recalled, calling it "one of the big moments of pride in the family history ... I grew up hearing values of human equality ... You have to do what's right."

When cops riot

Lee had joined the bureau in September 2000, just four months after what became a momentous episode in the bureau's history: A May Day march sparked what some called a police riot — one that resulted in widespread injuries to protesters who'd done nothing wrong. The city's review of the incident faulted the police.

Other, similar missteps dominated the next few years of protests as crowd control efforts were frequently marked by tactical mistakes and outright police misconduct.

Retired Captain Larry Graham remembers coverage of a protest from those times, news choppers filming from above while what looked like "wilding" — a term for unprovoked attacks on strangers — went on below.

"Cops were running around with their batons out, basically chasing people. It looked like a damn wilding. It was embarrassing," he said. "It was before all the crowd control (tactics were) put together. It was just a bunch of people chasing a bunch of other people, with sticks."

Meanwhile, organized "black bloc" tactics gained popularity in Portland, referring to protesters who bring makeshift armor and weapons to rallies to battle police. In 2002, group of masked teenagers rushed a line of police motorcycles, one bashing a cop in the head with a metal rod.

Lee, with a few years under his belt, joined the crowd control unit, and he and several of his colleagues started researching tactical improvements on their own.

He became a sergeant, then a lieutenant — one who, according to current and former coworkers, developed a reputation for a willingness to make decisions when his higher-ups would not.

His fans within the bureau liked that he was blunt and unafraid, but his critics said he was abrasive and a stickler.

Graham, the retired captain, said Lee's caring side and community involvement showed as he climbed the ranks, investing time helping kids learn self-defense and also teaching at Portland State University. "He was always putting in more and more and more hours."

Chief Danielle Outlaw in April 2018 took the unusual step of jumping Lee two ranks to be part of her command team, which Gorgone considers an unusual move to reward competency over seniority.

"It's been obvious to me that he doesn't make his decisions based on politics or what's popular," said Gorgone. "He does it based on whether it's the right thing to do."

Lee's observation is more personal: "I am the first Chinese-American to ever serve in the chief's office, despite the fact that the city of Portland once had the largest Chinese population in the United States."

National expert

Lee became known for his research and expertise on crowd control, and was invited to speak at national conferences.

The National Institute of Justice named Lee to a special advisory committee on protest management, and then paid for him and four other cops to travel around Europe to gather information on advanced police crowd control tactics there.

Lee successfully pushed the bureau to abandon the term "crowd control," rewriting directives to focus on "crowd management" — working with the public rather than controlling them.

Key to the more refined model was a protest liaison who builds rapport with group leaders, persuading them to self-police and expel protesters who are more interested in violence than expressing their First Amendment rights.

In 2017, when the public TV show "PBS NewsHour" needed an expert to interview in the wake of a violent far-right rally in Charlottesville, they contacted Lee, who said politics should play no role.

"While I may personally find the content of somebody's speech personally reprehensible, my role as the police officer is to facilitate that lawful and peaceful expression of somebody's First Amendment right," he told PBS. "To try and give them a platform for it while at the same time weighing those governmental interests to keep the peace, to maintain law and order and to meet the public's expectations of what they want from their police force."

That strategy — and the perception that one side gets preferential treatment — is at the heart of the present controversy.

One-sided communication?

Gibson, who himself is half Japanese, denies that his Patriot Prayer group is part of any white supremacist or extremist movement, though he says hateful people show up on both sides.

What's not in dispute is that over the past two years, Gibson is widely viewed as having figured out how to exploit Portland's rules to make sure most of the arrests made are left-wing counter-protesters, not his followers.

The HBO show "Vice" devoted part of an episode to how Gibson has become a master of provoking backlash while his members avoid arrest — something the organizer acknowledged to the Portland Tribune recently.

"I'm willing to take a beating to get it on camera so the country can see what's going on with them," Gibson said of his critics, often called "antifa" or "antifascist."

Meanwhile, left-leaning groups have generally not been as eager as Gibson to buddy up to cops — and some of them lack the hierarchical structures that produce the sort of leaders that Portland police are trained to cultivate relationships with, to defuse violence.

One "antifa" member who shared information with Portland police in 2017 to try to reduce violence was ostracized, setting an example to others for what happens to those who talk to cops.

For cops, these dynamics— along with Gibson's effort to get permits for his protests — help explain why they get accused of favoritism by Gibson's critics.

Still, Zakir Khan of the Oregon Council on American-Islamic Relations points to the lopsided tally of arrests made by Portland cops of left-leaning protesters versus their counterparts as evidence that something is wrong.

Similarly, Dan Handelman of the groups Peace and Justice Works and Portland Copwatch thinks the liaison tactics pushed by Lee are fraught with issues. He thinks Niiya — Lee's officer whose texts have made headlines — should have maintained more of a professional distance from Gibson. The chatty texts, Handelman contended, sent the wrong message.

Handelman, who has monitored and participated in protests for decades, added he hasn't seen any improvement in local cops' crowd control tactics over the years.

As for how Niiya, who is Japanese-American, Lee, who is Chinese-American, and Outlaw, an African-American, could be jointly facilitating white supremacists at protests, Handelman said it's less about personal intent than it is an institutional problem.

Activists often point to a draft city of Portland report revealed by Willamette Week showing that one lieutenant felt Patriot Prayer protesters were "much more mainstream" than the other side — suggesting bias.

So was that lieutenant Ryan Lee?

Lee told the Portland Tribune that is something he can't comment on given the reviews under way.

But does he agree with the sentiment the anonymous lieutenant expressed?

"No," Lee said.

How about the criticism that Portland police on at least one occasion turned their back on Gibson's group and instead faced counter-protesters, creating the appearance of bias?

Lee said he hasn't seen that occur, but contends it's easy for either side to cherrypick photos or incidents that support their side.

Has he looked into why police detectives seemingly are not as good at getting charges filed against right-wing protesters who've been caught on video engaging in violence, as compared to left-leaning ones??

Lee said detectives are under a different assistant chief, but generally speaking that is a conversation he would have.

In light of the fact that Gibson has seemingly been more successful than his left-leaning critics in taking advantage of the approach used by Lee and the police bureau to further Patriot Prayer's cause, does the bureau have a responsibility to change its tactics?

Lee, whose records show he has been an unaffiliated voter since moving here nearly 20 years ago, is skeptical and says it would be inappropriate to keep score based on politics.

There are people on both sides who seek to provoke a reaction, Lee said. But the police must remain apolitical and focus on unlawful behavior rather than speech that, while hateful, is not a crime. To do otherwise, Lee said, "is a slippery slope" for democracy.

Now he waits to see if the city's outside review agrees.

## **Sources: Fritz blasts Infill Project Headed to City Council**

*By Jim Redden*

*February 28, 2019*

### **Plus, Portland and Metro oppose Courtney density bill, and only one weather forecaster predicted three winter snow storms.**

Commissioner Amanda Fritz has come out strongly against the residential density increases proposed in the most recent Residential Infill Project, or RIP, recommendations.

In an interview in the March issue of the Southwest Community Connection — a sister publication of the Tribune — Fritz said the concept of rezoning single-family neighborhoods to allow a fourplex on nearly every lot is "absolutely appalling."

Fritz said, "We don't have a shortage of multifamily units, what we have is a shortage of single-family homes. So if they're looking at making it easier to build more multiple units, that's the opposite of what we need,"

The Planning and Sustainability Commission — on which Fritz served for six years in the 1990s — is expected to vote to send the current RIP recommendations to the City Council on Tuesday, March 12. The council is expected to vote on them this summer.

#### Courtney's density bill hits opposition

Although the Portland Bureau of Planning and Sustainability and Metro support increasing residential density to accommodate population increases, they both oppose a bill introduced by state Senate President Peter Courtney, D-Salem, that would result in massive housing increases along transit lines and around MAX stations.

Senate Bill 10 would require metro-area cities to allow up to 75 housing units per acre within a half-mile of a transit line; up to 75 units per acre within a quarter-mile of a transit line; and up to 140 units per acre within a quarter-mile of a light-rail station.

Only between eight and 18 units per acre currently are allowed in most such areas in Portland.

The Portland Bureau of Planning and Sustainability and the elected regional government have submitted written testimony against the bill, which had its first hearing before the Senate Committee on Housing on Monday. Both said it was unnecessary and conflicted with existing land-use plans that already are working.

And the weather winner is ...

Although relatively little snow fell in the Portland region on Sunday and Monday, it made Kyle Dittmer the most accurate of the meteorologists who offered predictions at the 26th annual Winter Weather Forecast Conference, which was held at the Oregon Museum of Science & Industry on Saturday, Oct. 27.

Dittmer is a hydrologist-meteorologist for the Columbia River Inter-Tribal Fish Commission, who also teaches at Portland Community College.

He was the only forecaster who predicted a "neutral" winter that would produce three storms that would dump around 5 inches of snow on the valley floors. The other forecasters predicted warmer and drier conditions this year — thanks to the weather phenomenon known as "El Nino" in the Pacific Ocean.

Dittmer wins nothing but bragging rights, however. The annual forecasts are a good-natured affair hosted by the local chapter of the American Meteorological Society and regularly covered by the Portland Tribune. The only prizes distributed are those won at the raffles that raise money to support the group.

## **Council Delays, Changes Quake Warning Requirements**

*By Jim Redden*

*February 27, 2019*

### **Only city-owned unreinforced masonry buildings must now post warning signs by March 1 as city considers options for private owners.**

Portland's City Council voted to delay and change controversial earthquake warning requirements for unreinforced masonry buildings on Wednesday.

The council delayed requiring that owners of URMs post signs warning they may not be safe in a major earthquake from March 1 to Nov. 1, 2020. The only exception are city-owned buildings, where the signs are still required.

The council also eliminated a requirement that the owners file a letter with the city agreeing to post the signs with the titles to their buildings. And the council eliminate a requirement that owners notify their existing tenants of the potential danger.

The vote on an ordinance introduced by Commissioner Jo Ann Hardesty came after many owners complained for months about the requirements, which were approved last October. They said the requirements would reduce the value of their buildings, making it difficult to rent and refinance them, and prompt many to be demolished for redevelopment.

"No one wants buildings to fall down and hurt people during an earthquake, but we don't want to hasten demolitions of buildings, either," said Hardesty, who explained the delay will give city officials time to develop incentives to encourage owners to strengthen their buildings against earthquakes.

Some owners have also filed a lawsuit in federal court to block the requirements. A federal judge issued an injunction before vote preventing the city from enforcing the requirements until May 1. A hearing in the case is scheduled for April 25.

Hardesty was not on the council when the requirements were approved. She succeeded Commissioner Dan Saltzman, who voted for them, in January. After Saltzman left, Mayor Ted Wheeler and Commissioner Amanda Fritz were the only members of the council to still support them.

The vote was 3 to 1, with commissioners Chloe Eudaly and Nick Fish supporting joining Hardesty in support of the ordinance. Fritz voted against it, and Wheeler was absent.

The Bureau of Emergency Management, which Hardesty oversees, is recruiting a task force to study and make recommendations on the issue. The Office of Management and Finance is



creating a work group to propose financial incentives to encourage URM building owners willing to do the upgrades.

## **Portland Streetcar Service Planned to Montgomery Park**

*By Jim Redden*

*February 27, 2019*

Project expected to begin this year, according to 2018 Annual Report presented to the City Council on Wednesday. Portland Streetcar is poised to extend service to Montgomery Park in Northwest Portland this year.

The extension would provide service to more than 45 acres with redevelopment potential, including 24 acres in the former ESCO industrial site. It would also provide a transit link to Forest Park.

The project was awarded a \$1 million transit-oriented development planning grant by the Federal Transit Administration that will fund land use planning, traffic analysis and a rezoning strategy for the area.

Portland Streetcar officials discussed the project with the City Council when they presented their 2018 Annual Report on Wednesday morning.

"With proper planning, Northwest Portland has the potential to welcome new employment opportunities, industrial uses, housing, transportation investments and technologies that improve safety and access for local residents and industrial businesses," said the report.

Portland Streetcar is also planning to purchase three American-built streetcars to meet ridership demand, which is expected to grow to 20,000 riders per day by 2025, the report also said.

Commissioner Jo Ann Hardesty expressed surprise that the project was so far along. She has requested information on how low-income people experience the streetcar system, and whether it is used to meet daily needs or for fun.

Hardesty also said the city's needs are more important than the potential profits that property owners along the planned extension will make. The officials replied the property owners would agree with that.

According to the report, since the eastside loop opened in 2012, job growth in areas around new streetcar stations has outpaced the rest of Portland by more than threefold. Employment-based development along the newest Central Eastside alignments continues to grow, delivering on the promise made by the city for a jobs-focused district connected by transit within the central city, the report says.

The passage of the transportation funding package by the 2017 Oregon Legislature funded a new low-income fare program across the region in 2018 that allows residents living at less than double the federal poverty level to ride the Portland Streetcar and TriMet bus and MAX at a reduced cost, the report says.

You can read the report [here](#).

You can read a previous Portland Tribune story on the extension [here](#).

## **The Portland Mercury**

# **Portland City Council Passes Amendments to Controversial Earthquake Safety Policy**

*By Blair Stenvick  
February 27, 2019*

The Portland City Council voted Wednesday to amend a controversial earthquake safety ordinance.

The original ordinance, passed in October, requires owners of unreinforced masonry buildings (URMs)—old brick buildings that would be lethal in the event of an earthquake—to place signs alerting occupants of their danger and notify tenants about it.

The cost to seismically upgrade a URM can range from hundreds of thousands to millions of dollars, and many URM owners are independent businesses or individuals who say they can't afford that cost without a loan. The original ordinance also required those URM owners to sign an enforcement agreement that many opponents said would have put an encumbrance on the property title—potentially devaluing the property and making it difficult to finance a loan.

There's been debate among city commissioners and other stakeholders as to whether that encumbrance exists and what its implications might be. But the amendment passed Wednesday eliminated it, and also pushed back the ordinance's enforcement date from this March to November 2020.

"I've heard some real wild conspiracy theories as I've worked through this process, and ... I thought it was important to do my own due diligence," said Commissioner Jo Ann Hardesty, who introduced the new ordinance, at Wednesday's council meeting. "I feel I have an obligation to slow the process down."

The original ordinance drew opposition from a coalition that includes the NAACP of Portland, Portland Tenants United, Music Portland, and other groups. That coalition has indicated that they would prefer the ordinance be repealed, rather than amended. But Hardesty said she hopes to work "many impacted communities" during the delay in enforcement, so they can come up with a compromise and a plan to help finance structural improvements to URMs.

It's unclear how those improvements could be publicly financed, though the city council does back a bill currently in the Oregon Legislature that would fund URM seismic upgrades across Oregon. The city is convening a new URM work group that might look into other financing options.

"I hope we're able to come back with a proposal that we can get all the city council to get behind," Hardesty said.

Commissioner Amanda Fritz called the concerns about a possible title encumbrance "an absolute disgusting amount of misinformation," though she noted that she does "support removing the recording requirement, particularly since it was so mis-messaged."

Commissioner Chloe Eudaly called the debate around the URMs, which has embroiled council meetings since last summer, "one of the most frustrating, fruitless conversations that I have had in my last two years on city council." She and Commissioner Nick Fish both declined to vote on the first ordinance in October, despite being present for that council meeting.

“We have yet to achieve clarity, but we really need to,” Eudaly said. “There are no easy answers.”

Fish said that while the risk URM's pose in the event of an earthquake are clear, he was grateful for the opportunity the delay would give the city to further engage the Black faith community, independent businesses, and “mom and pop” landlords, all of whom would be particularly impacted by the new policy.

“The unintended consequences of our otherwise laudable action could lead to disastrous consequences,” he said about the original ordinance.

Mayor Ted Wheeler was absent from Wednesday’s meeting, but voiced his support for Hardesty’s changes at last week’s council meeting.

## **Hall Monitor: Portland's Roots**

*By Alex Zielinski  
February 28, 2019*

In January, Portland made history by welcoming its first African American woman to city council. By February, that victory seemed like a distant memory. Rather than a celebration of past achievements, Portland’s Black History Month acted as a reminder of how deep Portland’s racist roots reach. It’s worth a recap.

On February 1, a group of outside police investigators published a blistering report on Portland Police Bureau’s recent officer-involved shootings. Along with suggesting that police were wrong to fire at Quanice Hayes, the Black teenager fatally shot by PPB in 2017, analysts underscored the need for PPB to acknowledge the legitimacy of the African American community’s distrust of police—and work harder to repair that relationship.

Then, on February 6, Portland City Council begrudgingly voted to hand a \$100,000 settlement to a Portland cop who was fired after “joking” about killing Black people shortly after Hayes’ death. The payoff came with a guarantee that former sergeant Gregg Lewis would never work for the city again, but Black Portlanders and longtime copwatchers saw the settlement as little more than a shrug at systemic racism.

A day later, city commissioners voted on a resolution to denounce white supremacy and alt-right activity in Portland. An obvious statement against Vancouver, Washington’s, alt-right faction Patriot Prayer, the resolution was seen as a victory for communities of color. Members of Patriot Prayer, however, showed up to testify before the vote, including an older white man who assured commissioners that “racism is no longer a problem” in Portland. After the vote passed unanimously, one man shouted from the audience: “What about racism against whites?”

Then, a records request by the Mercury and Willamette Week found hundreds of text messages between PPB Officer Jeff Niiya and Patriot Prayer goon Joey Gibson. The messages, which show Niiya’s enthusiasm to protect members of the extremist group, support a suspicion held by many progressive Portlanders: that Portland cops, the majority of whom live outside city limits, are far more lenient with members of Patriot Prayer when they hold violent rallies downtown than they are to the local groups who counter-protest those events.

It’s well known that Patriot Prayer’s membership includes so-called “Proud Boys,” members of a national group with racist, anti-immigrant, and anti-LGBTQ tendencies. To many, a police

alliance with Patriot Prayer is an alliance with people who aggressively espouse and promote racism.

In response to public outcry following the text message dump, the city held a listening session in a historically Black church, where PPB's top brass sat quietly as community members yelled over each other's comments and scuffled in the pews. As white activists yelled "Racist!" and "Nazi scum!" at each other, the Black moderator Kory Murphy shook his head. "Funny," he said. "You guys didn't have a reaction like this when my folks were under attack." Later, an African American woman reminded the majority-white crowd that Black Portlanders have been dealing with police bias for decades. "But now you pay attention," she said.

The kicker: On February 22, a Multnomah County grand jury chose not to indict the officer who fatally shot Andre Gladen, a legally blind Black man with schizophrenia. It didn't come as a surprise. In an unusual gesture, Mayor Ted Wheeler and PPB Chief Danielle Outlaw took a meeting with Gladen's family the same day—allowing family members to ask questions and express their frustrations. Asked how she felt leaving the meeting, Andre's mother Donna put it bluntly: "The same way I went in. Angry."

## **The Portland Observer**

### **Police Forfeit Benefit of Doubt Argument**

*By Lakayana Drury*

*February 27, 2019*

#### **Commitment to accountability is what's needed**

Our city made national news with the explosive release of text messages between a police lieutenant and leader from Patriot Prayer, an alt-right group with white supremacist sympathies. Was this an egregious breach of protocol or just a misinterpretation of standard conduct? It depends on who you ask.

I spoke with a police officer who said there weren't enough facts to determine the situation. I spoke with community members who sent me articles showing that this was just standard police procedure. I spoke with others who were alarmed but not at all shocked. What concerns me most was how quickly and confidently people were willing to extend the benefit of the doubt to police.

Who is afforded the benefit of the doubt in our country? At face value it would seem that everyone should be afforded the benefit of the doubt. But when we take a closer look we see that the benefit of the doubt is closely tied to privilege and dominant culture.

In light of the text incident, I was alarmed by the number of people who were willing to give the Portland Police Bureau the benefit of the doubt. Considering the history of Portland as a safe-haven for white supremacists, the fact that the police bureau is under a Department of Justice settlement for excessive use of force, and its troubled history of race relations, why are Portland police given the benefit of the doubt that this was just another gross misunderstanding?

The fact is that black people and young black men in particular are never given the benefit of the doubt in our country. Trayvon Martin was not given the benefit of the doubt when he was walking home with a bag of skittles and ice tea, minding his own business. Tamir Rice was never given the benefit of the doubt when he was shot and killed by the police in a park in Cleveland, Ohio before it was later discovered that the suspicious object he was holding was a toy gun.

Quanice Hayes was not given the benefit of the doubt as he crouched down on all fours here in Portland. Jermaine Massey was not given the benefit of the doubt when he was speaking on the phone with his mom in a Portland hotel lobby. Black people are never afforded the benefit of the doubt; not at Starbucks, not when we are holding our personal belongings, not when we are in school. So why are we so willing to be lenient with the police and willing to consider the situation and facts when that same right is not afforded to black people and people of color? From jokes about shooting black people, to use of force when other options are available, the Portland Police Bureau is continually given the benefit of the doubt. In the larger scale of society, white people and white men in particular and white culture as a whole are also always given the benefit of the doubt. Whether it be clothing that masquerades with racist imagery or politicians that make racially charged comments or white people who commit crimes, the benefit of the doubt is always extended to them immediately and insulates them from criticism.

On the other hand, black people are almost always presumed guilty or in the wrong. For whites, the benefit of the doubt is a matter of a slap on the wrist or jail time, for blacks, it can often be life or death. I challenge us as a community to replace that benefit of the doubt with the commitment of accountability. The benefit of the doubt is an unearned privilege that must be rejected and further damages the relationships within the community. Accountability holds us responsible and unites communities.

The commitment of accountability means that instead of asking, “In this situation, was the officer overly friendly with a leader of an alt-right group?” to instead asking, “How does PPB hold its officers accountable and reform policies to stand against white supremacy?”

Accountability isn’t just about disciplining the individuals who committed the act as much as it is about changing the policies, systems and culture that gives those individuals the power to act in the first place. The benefit of the doubt protects individuals whereas the commitment of responsibility challenges institutions and systems and holds individuals responsible for their actions.

I am less concerned with the individual officer in this incident and more concerned with how PPB plans to change policies and institutional culture so that it firmly stands against white supremacy. I am less concerned with the officers on the street and more concerned with the policies that shape how they respond to calls and what behaviors are tolerated. The benefit of the doubt focuses on intent and commitment to accountability centers on the impact.

The impact of the “text incident” is that it fuels the narrative that PPB is not to be trusted in communities of color and that they are colluding with or at the least sympathetic to alt-right organizations. Many in the city are working to improve relationships between the police and the community including myself, and events like this make our work that much more challenging and lead us to question how invested police are to this process. The Portland Police Bureau must take the commitment to accountability seriously and focus not only on explaining the context of the messages and disciplining those involved but more importantly make a clear statement on where it stands in regards to white supremacy. They should not shy away from the incident nor deflect blame but step boldly into the situation and firmly clarify where they stand.

The community should not have to doubt whether its police force stands against white supremacy and to have any doubt should alarm us all. PPB must focus on policy reform, transparency and work culture to change the current power dynamics. At every opportunity they should reject the benefit of the doubt argument which weakness trust and does not address institutional racism and bias. White community members must also reject the benefit of the doubt plea and not hand it out whenever controversy arises. The police must realize the racial roots of this benefit and realize that this benefit is not extended to their black neighbors.

The benefit of the doubt argument is tone deaf and privileged. White people must be allies to communities of color as we work to dismantle systems of oppression and demand the commitment of accountability from our institutions and leaders. We in the black community do not want the benefit of the doubt either. We want to benefit from life: To work, play, sit, talk and live like everyone else. That benefit starts with a commitment to accountability.

## **Police Cleared; Family Responds**

*February 27, 2019*

### **Mayor, police chief promise additional review**

The family of a legally blind and mentally challenged black man who was shot and killed in an officer-involved shooting met with Mayor Ted Wheeler and Police Chief Danielle Outlaw Friday hours after a Multnomah County Grand Jury found no criminal wrongdoing against the police officer involved in the shooting.

The jury determined the police officer was acting in self-defense on Jan. 6 when Andre Gladen, 36, threatened the officer with a knife and was shot and killed. Police were first called to a report that Gladen was sleeping on a porch in the 9600 block of Southeast Mark Street and then he ran inside the home when police arrived and refused to leave, authorities said.

The officer apparently fired three shots from a lethal weapon after first using a taser that was unsuccessful in subduing Gladen. Members of Gladen's family, who live in Portland, claim he was not armed. They said police should have seen that he was confused and suffering a mental health crisis, and they should have de-escalated the confrontation. Gladen suffered from schizophrenia and was in town from Sacramento, Calif., visiting a cousin, the family said.

Police Chief Outlaw and Mayor Wheeler, who is Portland's Police Commissioner, met at City Hall with Gladen's family, at their request. Outlaw said she is awaiting additional information from the Grand Jury transcripts, but reassured the family that "a thorough investigation and review" would be done.

As is standard procedure for use of force instances, the Portland Police Bureau will conduct an internal review of the entire incident and the case will go before the Police Review Board, which is comprised of community members, police members, and representatives from the Independent Police Review Division, officials said.

Police anticipate releasing investigative materials that were not part of the internal review to the public on or about March 8.

## **OPB**

## **Firefighting Foam Contaminated Northeast Portland Groundwater**

*By Tony Schick*

*February 27, 2019*

For years, firefighters and airfield crews trained to ward off flames by spraying thousands of gallons of foam fire suppressants, which eventually seeped into groundwater and could threaten

to contaminate the Columbia River and a well field that supplies drinking water to the city of Portland.

Recent testing uncovered high levels of an unregulated class of harmful chemicals at two different sites in Northeast Portland, according to documents obtained by OPB under Oregon's public records law.

One of those sites is the Portland Fire & Rescue Bureau training facility that sits a block from the Columbia Slough and within the boundaries of the Columbia South Shore Well Field, where the Portland Water Bureau draws from wells to supplement drinking water out of the Bull Run Watershed during summer months or emergencies.

The other location is the Portland Air National Guard Base, about a half mile west of the city's well field at its nearest point. In 2017, testing showed similar contamination at the Portland International Airport's fire training pits nearby, as first reported by the Portland Tribune.

These chemicals are known as per- and polyfluoroalkyl substances, or PFAS. They are used in everything from rain boots to nonstick cooking pans and have been linked to an increased risk of cancer, liver damage, asthma, thyroid disease and problems with fetal development.

And they have emerged as a nationwide threat to drinking water safety, one that federal regulators have drawn criticism over for not acting on them sooner.

"I know these compounds should not be there," said Joyce Dinglasan-Panlilio, a University of Washington professor who has been studying PFAS since the late 1990s. "So I'd want it to not be there. So I would be really concerned if even a small amount of it is detected in water."

Documents obtained by OPB show that in Oregon, concerns have been expressed internally within environmental agencies about PFAS concentrations in Northeast Portland that far exceeded federal health advisory levels.

These regulators have questioned whether the contamination found in Portland has the potential to migrate offsite and contaminate the Columbia River, the Columbia Slough, private wells and — in the absolute worst-case scenario — a well field used to provide drinking water for more than 600,000 people in the Portland metro area.

### Officials Say Water Is Safe

To date, city and state officials say they have not found any indications of an imminent threat to the city's drinking water.

Groundwater sampled for PFAS in 2014 and 2015 had no detections of the chemicals. Neither did 2018 samples from the well nearest the contaminated fire station.

"Our drinking water is safe," said Douglas Wise, groundwater protection program manager for the Portland Water Bureau.

Wise said his bureau had not detected contamination in areas of the well field where it has its primary wells for drinking water, but it is near areas the city might tap for drinking water in the future.

"It's a pretty high priority right now because it's new, and because there's uncertainty," Wise said. "Both because of the newness of the contaminants and the discovery, we want to keep our focus there."

The highest concentrations detected at these sites were several times higher than the health advisory level for drinking water set by the U.S. Environmental Protection Agency and even higher still than the more protective limits recommended by the Center for Disease Control.

These chemicals are considered harmful at relatively minuscule levels — on the scale of drops in a swimming pool. The EPA’s health advisory level is just 70 parts per trillion. The CDC and other researchers made recommendations closer to single digits.

According to a site report released in October, preliminary testing at the Portland Fire & Rescue training facility found PFAS in all four sample wells. The highest concentration was 1,600 parts per trillion.

In January, the Air National Guard finished its site investigation. PFAS was present in surface water at 1,500 parts per trillion. The highest groundwater sample exceeded 40,000 parts per trillion.

“Oh wow. That is really high,” Harvard researcher Xindi Hu said when told of the results. In 2016, Hu authored a study that found PFAS affects the drinking water of more than 6 million Americans.

Elsewhere in the Northwest, PFAS chemicals have been found in Washington at Naval Air Base Whidbey Island, Fairchild Air Force Base in Spokane and in Oregon at Kingsley Field Air National Guard Base in Klamath Falls.

In some cases, contamination from the use of firefighting foam has been much higher than what’s been documented in Portland.

“If people are drinking water that’s connected to the watershed being polluted, especially since these compounds are not regulated, and people who are on private wells don’t have their water tested regularly, then there is potentially very high risk,” Hu said.

#### Chemicals Could Migrate

Officials with DEQ and the Portland Water Bureau said they are confident Portland’s drinking water will be unaffected.

Groundwater moves relatively slowly, they said. It takes more than a few hard spots of rain for contamination to travel long distances. Several layers of silt and clay separate the Water Bureau’s wells from the contaminated aquifer.

“We’re not trying to downplay the fact that there is contamination present,” Dan Hafley, project manager for the Department of Environmental Quality, said. “But it’s all about the potential for that to get to a point where it might actually have a harmful effect on humans or wildlife.”

However, Hafley said, the perfluorinated chemicals in question are known to be highly persistent in the environment, meaning they don’t break down easily. They are also highly mobile, meaning contamination spreads.

Environmental assessments done in the area found the groundwater flows primarily west and northwest, according to interviews and documents. DEQ and Water Bureau officials say that means contaminated groundwater should flow away from, not toward, the city’s wells, which are to the east. But the local flow direction can vary greatly depending on drainage ditches, river levels and other factors, documents show.

Pumping groundwater, as the city of Portland has done 17 times in the past 10 years, is also known to change natural groundwater flow. The Water Bureau says pumping in its deep aquifer wells is unlikely to affect the shallow groundwater where contamination was detected.



A northwest flow would carry contamination away from the well field but toward the river and slough, which has already been the target of cleanup efforts costing potentially up to \$2 million. There has been a detection of PFAS where stormwater near the airport discharges into Columbia Slough, according to DEQ records.

There is also the issue of wells in the area beside the city's. The National Guard alone, in an inventory of wells within a 1-mile radius of its base, identified more than 150 of them. The majority are monitoring wells not used for drinking water, but records show some are used for domestic drinking water consumption. Those wells have not yet been tested for PFAS as part of cleanup efforts.

### Cleanups Underway

The Port of Portland, which operates the airport, along with the Air National Guard and Portland Fire & Rescue, have each entered into voluntary cleanup agreements with Oregon's DEQ. Officials continue to monitor and investigate contamination at each site to determine the full nature and extent of the problem.

Portland Fire, which had been spraying up to 100 gallons per year of the foam since the mid-1990s, immediately suspended that training following preliminary test results in 2017, spokesman Rich Chatman said. The bureau also hired a company to dispose of the foam it had stored on site, which it finished last month. It has more site sampling planned this month.

Col. Christopher Lantagne, commander at the Portland Air National Guard Base, said the base has switched to foams containing lower concentrations of PFAS. It also plugged trench drains at its aircraft hangers to prevent chemicals from entering the city's wastewater treatment system.

Lantagne said there is evidence of PFAS leaving the base in stormwater, but he doesn't yet know where it goes downstream. Because of that, and because of the base's proximity to a large population and the city's well field, the base in Portland is one of six National Guard bases across the country that the U.S. Department of Defense targeted for an expanded investigation.

## **Portland Delays Sign Requirement For Buildings Vulnerable To Big Quakes**

*By Amelia Templeton  
February 27, 2019*

In a 3-1 vote, the Portland City Council has agreed to delay until November 2020 a requirement that owners of unreinforced brick and stone buildings post signs warning the buildings may be unsafe in an earthquake.

The vote was 3-1, with Commissioners Jo Ann Hardesty, Nick Fish and Chloe Eudaly in favor of the delay. Commissioner Amanda Fritz opposed it, and Mayor Ted Wheeler was absent.

The controversial requirement was originally set to take effect for most property owners next week, though building owners sued the city over it, and a judge had ordered the city to hold off on enforcement.

The City Council approved the new requirements in a 3-0 vote last year, with Eudaly and Fish deliberately abstaining from voting.

A magnitude 9.0 earthquake off the Northwest coast could hit at any time. How can we prepare for this impending and unpredictable disaster?

Hardesty, elected last fall and now in charge of several critical public safety bureaus, put the brakes on the placarding after building owners objected. Opponents included members of the arts and music communities, African-American church leaders and historic preservationists.

At a public hearing last week, they had urged the council to go further and repeal the original placarding ordinance outright.

“Though I appreciate the votes that were taken prior to me getting here, I feel I have an obligation to slow the process down and make sure that as we roll it out again, we are rolling it out in a way that is a cooperative effort,” Hardesty said Wednesday.

The amended rules also eliminate a recording requirement many property owners objected to and had characterized as a title encumbrance. The mayor had disputed that characterization, and said it was simply an attempt to document the placarding requirement.

The amended rules do not delay the placarding requirement for publicly owned buildings. The city itself is one of the largest owners of unreinforced masonry buildings in Portland, and will post the signs on its properties by March 1.

While Hardesty led the charge to delay the placards, she made it clear that she didn’t fully buy the opponents’ arguments.

“I’ve heard some real wild conspiracy theories as I have worked through this process,” she said. “This was a ‘taking,’ ‘we were trying to put all black churches out of business,’ I’ve heard some crazy stuff.”

Scientists predict there is about a 37 percent chance of a devastating magnitude 7.1 or greater Cascadia subduction zone earthquake over the next 50 years.

Eudaly and Fish joined Hardesty in favor of delaying the placards, though both expressed frustration that the seemingly minor step of putting up a sign had triggered such conflict.

Eudaly called the issue “one of the most frustrating, fruitless conversations I’ve had in my two years on City Council,” and noted that she strongly favors tenants of unreinforced buildings getting notified that their homes or businesses may be unsafe in an earthquake.

Fish lamented the “over-the-top rhetoric” of opponents of the signs even as he cast his vote to delay requiring the signs.

Fish said he believes the council erred by requiring the signs before setting a timeline for old buildings to be brought up to new seismic standards — and a plan for how to pay for that work.

“The central question is, ‘Can we structure a system of grants and incentives to protect as many of the vulnerable URM buildings as possible while protecting public safety?’” Fish said.

Oregon legislators have introduced a bill that would use \$20 million from lottery bonds to help building owners cover costly earthquake retrofits. That amount would cover a tiny fraction of the buildings in Portland that need upgrades.

Fritz, who voted against the delay, said she feared the city is kicking the can down the road when it comes to earthquake preparation.

# **Portland Adopts Civil Rights Protections For Atheists, Agnostics**

*By Amelia Templeton*

*February 27, 2019*

Portland is the second city in the United States to adopt legal protections for atheists and agnostics.

The Portland City Council voted unanimously Wednesday for Commissioner Amanda Fritz's plan to extend the protections against religious discrimination in the city's civil rights code to people who do not believe in a god or gods. Mayor Ted Wheeler was absent for the vote.

Thirty-one percent of Oregonians identify as religiously unaffiliated, according to the Pew Research Center.

"The proposed changes to our civil rights code may seem like a minor tweak, but they are significant for the many many Portlanders who identify as non-religious," Fritz said.

"Remarkably, I have not received one email against this proposal."

Portland's civil rights statute bars employers, landlords and places of public accommodation from discriminating against a person on the basis of factors including race, religion, gender and age.

The city ordinance includes an exemption for religious facilities.

Madison, Wisconsin, was the first city to adopt civil rights protections for atheists and agnostics.