

## **The Oregonian**

# **Mayor's Office Seeks Ex-FBI Agent's Advice on Outside Investigation into Alleged Biases by Portland Police**

*By Maxine Bernstein  
March 1, 2019*

Mayor Ted Wheeler's staff this week consulted with a former FBI agent before the mayor formally taps an independent investigator to examine alleged bias by police in their handling of city protests.

Michael German, a 16-year FBI veteran who became an agency whistleblower and now serves as a national security expert, had recently appeared before the mayor and City Council to recommend that Portland pull police out of the FBI-led Joint Terrorism Task Force.

The Mayor's Office reached out to German "to have him help set the frame of the investigation and develop the scope of work given his experience," said Eileen Park, the mayor's spokeswoman.

Then Wheeler will release a request for proposals under an expedited timetable to identify an investigator, but Park didn't say what the timetable would be.

"If police and their representatives feel they did the right thing, they should welcome a full investigation," German said.

German is a fellow at the Brennan Center for Justice in New York University's School of Law. He also worked as policy counsel for national security and privacy for the American Civil Liberties Union in Washington, D.C. He left the FBI in 2004 after reporting deficiencies in FBI counterterrorism operations to Congress.

The city's consultation with German comes in the wake of the mayor's promise for an independent investigation into police handling of demonstrations after the release of hundreds of text messages and emails between the bureau's crowd control liaison, Lt. Jeff Niiya, and Joey Gibson, leader of the right-wing Patriot Prayer group.

The communications sparked outrage among some community members, who said the lieutenant's friendly banter with Gibson was evidence that officers have protected right-wing protesters over counter-demonstrators, such as antifa. The mayor called the texts "disturbing" and said they crossed the boundaries of acceptable police work.

German said he participated in a phone call Monday night with members of the mayor's staff and suggested any investigation look at two issues: whether there's actual bias in the police response to different demonstrators, and if not, whether there's an appearance of bias.

"I certainly believe there's enough to justify a broad investigation to learn more about the police practices," German said Thursday.

He said he can't conclude anything from the text messages alone.

"I used to do undercover work and sometimes you have to pretend you're being nice to people to get the information you want," German said.

He suggested an investigation should examine all police intelligence that Portland officers get on protesters from the Joint Terrorism Task Force, the U.S. Department of Homeland Security and the state Department of Justice's Oregon Terrorism Information Threat Assessment Network

Fusion Center. The center monitors public safety threats, collects data and shares information with federal, state and local law enforcement.

It should examine videos of demonstrations, police reports, arrests, police communications with demonstrators and whether those are shared with supervisors, he said.

German also recommended that it look into allegations that police worked with Patriot Prayer's so-called "security" to help make arrests, as alleged during one protest.

"It's going to require a significant buy-in by the police leadership," German said.

It may seem that German is an unorthodox consultant for the mayor. Wheeler didn't want the city to pull out of the Joint Terrorism Task Force but he lost the vote. German testified that the FBI doesn't follow its own rules that restrict certain investigations because of a lack of independent oversight, and urged Portland's withdrawal from the task force. He said the withdrawal might push the federal agency to tighten its standards.

While Niiya's texts and email exchanges created an outcry, some outside policing experts and Niiya's union president said they showed the lieutenant was simply following police policy on crowd control communications. He was helping the bureau get information about Patriot Prayer, they said, and sharing it with his command staff and the mayor's senior adviser, as text messages showed. Rallies and marches by Gibson and his group have repeatedly devolved into bloody brawls between Patriot Prayer followers and counter-protesters.

Other texts showed Niiya reaching out to counter-protesters, but many of them were reluctant to communicate with him and expressed distrust of police.

The police chief has promised a separate internal bureau investigation into Niiya's communications with Gibson. Niiya has been restricted from communicating with Gibson or serving as a crowd control liaison for the bureau while the independent inquiry is underway, a standard practice taken by the bureau when conducting internal investigations.

## **Portland Delays Earthquake Warning Sign Ordinance**

*By Elliot Njus  
February 28, 2019*

Portland will delay a policy to require warning signs in unreinforced brick and concrete buildings that could collapse in an earthquake.

The Portland City Council voted 3-1 Wednesday to push back until November 2020 the signage requirement it had only passed in October, before Jo Ann Hardesty replaced Dan Saltzman on the council and as commissioner of the fire and emergency management bureaus.

"We didn't earn the trust of the people that were require to actually do these upgrades," Hardesty said at a hearing earlier this month. "We didn't provide enough information early enough to ensure that people thought this was a joint effort rather than something that was being shoved down their throat."

The replacement ordinance adds a new requirement, however, that owners of unreinforced masonry buildings provide the warning to potential tenants on lease applications.

The policy was set to take effect March 1, but a judge had already ordered a temporary injunction prohibiting its enforcement until after he heard a lawsuit filed by owners of affected buildings.

The lawsuit, brought by a nonprofit coalition of brick building owners, developer John Beardsley's company and building owner Jim Atwood, asked the court to rule the ordinance unconstitutional under free-speech and due-process rights. A judge is scheduled to hear arguments in April.

The National Association for the Advancement of Colored People also opposed the policy, in part because it would apply to a number of predominantly black churches in North and Northeast Portland and advance displacement of black residents, the group said.

The policy didn't require building owners to make seismic upgrades, which all agree would be expensive and likely require the buildings to be vacated for the duration of the work.

Instead, it called for the city's more than 1,600 unreinforced masonry buildings to have a sign prominently posted with the disclosure: "This is an unreinforced masonry building. Unreinforced masonry buildings may be unsafe in the event of a major earthquake."

It would also require a disclosure be filed in county records along with the deed, which owners said would be an "encumbrance" that would make it difficult to secure financing for needed repairs.

Opponents had asked the City Council to scrap the ordinance altogether.

"Placards are wrong. It's a false narrative, and it's fearmongering," said Angie Even, an unreinforced masonry owner and an activist on the issue. "I don't understand why we're not talking about a repeal."

But Hardesty said the year would be spent speaking to impacted communities and identifying strategies to pay for seismic upgrades, which she said were "absolutely critical."

Commissioner Amanda Fritz cast the lone "no" vote Wednesday, saying she believed the city had a duty to inform residents of the potential danger posed by vulnerable buildings. Mayor Ted Wheeler was absent from Wednesday's meeting.

"I view the placarding ordinance as a way to build public awareness of the issue, and support for solutions," Fritz said.

Experts say a major earthquake and tsunami is inevitable along the Cascadia subduction zone, a fault that lies off the Pacific coast.

A worst-case quake could kill thousands and leave hundreds of thousands homeless. But even a more minor quake could cause brittle unreinforced masonry buildings to crumble.

## Willamette Week

# Portland's New Ride Hailing Dispatch Service For Disabled Residents Might Be Imperiled By a New Bill in State Legislature

*By Elise Herron  
February 28, 2019*

**The bill's sponsor says she'll draft an amendment to protect the program for hailing wheelchair-accessible vehicles.**

The Portland Bureau of Transportation just launched a program that makes it easier for people with disabilities to hail rides on demand. But city officials warn a bill in the Oregon Legislature could snuff out the program.

The bill's sponsor says she'll draft an amendment to protect the program for hailing wheelchair-accessible vehicles.

PDX WAV—which was launched today by PBOT and City Commissioner Chloe Eudaly—is a dispatch service that connects callers with wheelchair accessible taxis, Ubers or Lyfts located within a 30 minute radius.

Part of the goal of PDX WAV is to get transportation companies to place more wheelchair accessible vehicles, which can cost anywhere from \$55,000 to \$80,000 on city streets.

PBOT spokesman Dylan Rivera says Portland currently has just 170 wheelchair accessible taxis and ride-hailing vehicles in operation, and many are used exclusively to fulfill contracts with schools, hospitals and other providers.

"Taxi companies have a financial incentive to service those contracts first," Rivera says. "Customers who want one ride here and there are low priority."

PBOT's solution is an all-hours phone line, 503-865-4WAV, run by Ride Connection, a mobility equity nonprofit, that connects customers to taxis. Portland Uber and Lyft customers hailing a wheelchair accessible ride can now find one via the respective apps. The service is paid for via the city's 50-cent surcharge on Uber and Lyft rides and annual permit fees paid by taxi companies.

But the funding mechanism is imperiled by a bill that was recently proposed in state legislature, HB3023, which would override the city's power to regulate Uber and Lyft and give regulatory responsibility to the Oregon Department of Transportation.

Rivera says the bill could also open up the possibility for transportation companies to charge disabled app users surge prices, which the city currently prohibits.

The bill's sponsor, Rep. Susan McLain (D-Hillsboro), says an amendment to the bill is being drafted which could keep the WAV program intact with a 10-cent per ride Uber and Lyft surcharge.

"This amendment would ensure that Portland is able to continue their WAV program and that any city or metro area with a population of 100,000 or more would be able to create and manage similar accessibility programs," McLain says.

To incentivize local transportation companies to make wheelchair accessible vehicles more available, PBOT plans to pay Uber and Lyft \$15 per PDX WAV ride provided. That money would go directly to the companies, not individual drivers.

"We're going to provide payment to the company and let each company and its drivers decide how the money is shared," Rivera says.

Lauren Alexander, a spokesperson for Lyft, says the company is "a proud PDX WAV partner," and that "the proposed statewide bill allows all Oregonians to enjoy the benefits of ridesharing, including earning opportunities for drivers, reductions in impaired driving, and increased economic activity for local businesses."

Nathan Hambley, Uber's regional spokesperson, says the company "supports ensuring that any new state regulations do not prevent these important efforts to expand access to wheelchair accessible vehicles."