

The Oregonian

State panel recommends penalties for ex-Portland police commander, sergeant

*By Maxine Bernstein
October 7, 2019*

A state committee has recommended revoking for 10 years the police certification of former Portland police Cmdr. Steven Jones, who drove drunk while on call in a police SUV and crashed into a light pole.

Jones eventually resigned instead of being fired.

The same committee has recommended suspending for three years the police certification of former Portland police Sgt. Gregg Lewis for his inflammatory and racial remarks during roll call.

Both former Portland officers were found to have engaged in “gross misconduct,” warranting the loss of their certification for some period, members of the state police policy committee agreed.

Their recommendations will go to the state Board of Public Safety Standards & Training for consideration on Oct. 24.

Lewis made his first public statements about his roll call comments when he addressed the committee before its vote. He and union attorney Anil Karia urged committee members to consider Lewis’ 26-year career with the Police Bureau with no prior discipline and the context of his remarks.

While Lewis said he took responsibility for his statements, he also said he had concerns about the fairness of the internal police investigation and claimed it was “sort of a forgone conclusion as it proceeded.”

Lewis said his remarks were made during a Sunday afternoon roll-call when no command staff are in the precinct and the officer gathering “can be a little bit free-flowing.”

Earlier in the locker room, he and officers had been talking about media coverage of two police shootings in Portland that occurred on the same day. They were discussing some reaction posted online to an Oregonian/OregonLive article, in which a commenter contended officers shoot to wound white people but shoot to kill African American people.

“It was just a hot topic,” Lewis told the committee.

During roll call, Lewis and officers were discussing how to place civil holds on people to take them to a detoxification center when they’re inebriated in public or in parking garages. They were debating when those steps should be taken.

“I was just merely saying, ‘You know, well, you just need to be smart on how you detox people, unless, of course, it’s a black guy and we just shoot them,’” Lewis told the committee.

“It was very flip. It was off the cuff, and it was inappropriate,” Lewis said. “I have accepted that, as a supervisor, I should have known better. It just rolled off, and my mouth got ahead of my brain.”

Under a settlement Portland's City Council adopted, Lewis was allowed to retire in December, after he was reinstated with back pay after his initial firing on Feb. 2, 2018, under the condition that he never wear a city police uniform again.

Lewis had been a sergeant who was rehired after retiring under a bureau program designed to help fill vacancies due to staffing shortages. He was first hired on April 25, 1991, and retired on Oct. 26, 2016, before he was rehired as a sergeant Dec. 1, 2016.

Karia, in a letter to the committee, said Lewis was absolutely not telling his officers to go out and shoot black people. "Rather, he made a sarcastic comment to defuse his officers' concerns about the insidious media accounts of racist officers so that they brushed the 'silly,' 'BS stuff..in the media' aside and focused on their good work for the community," Karia wrote, arguing that Lewis' comments did not rise to gross misconduct.

"Did Mr. Lewis make a bad joke? An inappropriate one at that? Sure. He admitted that his statement was in poor taste and owned it, knowing that City of Portland employment policy (Human Resources Rule) 2.02 exposes employees to strict liability for bad jokes regardless of their intent. Lewis even apologized for his comment, knowing that it could be taken out of context."

But Karia argued that officers interviewed knew Lewis was being sarcastic.

The roll call remarks were reported by two other sergeants and one acting sergeant before the end of their shift to Central Precinct's acting lieutenant, according to records obtained by The Oregonian/OregonLive.

"Did I think that Sergeant Lewis was going to go outside and start shooting black people? NO. Did I think that it was just absolutely unprofessional, ridiculous and has no basis being in the city? Yes," one of the other sergeants told the internal affairs investigator.

Another sergeant, in a memo he wrote to internal affairs, recalled that an officer in roll call exclaimed, "Oh my God!" after Lewis' comments, and that Lewis then laughed, "threw his hands up in the air and said, '(expletive) it, what do I care?'"

Members of the state's police policy committee were divided as to how long Lewis' certification should be revoked, or if it should be stripped from him at all.

Bradley Robertson, a Multnomah County sheriff's deputy, urged his colleagues to consider Lewis' 26-year career with Portland police.

Dale Cummins, Prineville police chief, agreed. "It's unfortunate that in today's world, words speak louder than actions. Unfortunately, he's going to be defined by that statement."

On the other hand, Cummins said the sergeant should have known that if he wants to speak his mind, it can't be during roll call when officers are required to sit and listen.

Oregon State Police Supt. Travis Hampton and Washington County Sheriff Pat Garrett said they found no mitigating circumstances in Lewis' case.

"This is a police roll call in a city that's dealing with this on a day to day basis. This is so inappropriate at any level," Hampton said. "I cannot find any daylight that makes it appropriate, flippant or not. It's so offensive that it should not be uttered in public and not by a police leader in a roll call."

Garrett said other officers were disturbed by the remarks during roll call. "It strikes a very significant blow to the relationships that his agency has with the community," the sheriff said.

“Words have meaning. So do actions ... the statements are inexcusable. There’s no context where they can be acceptable, given his leadership role.”

Keizer Police Chief John Teague said he didn’t think the matter necessitated any revocation of certification, arguing that the police bureau’s actions were sufficient. “I just think board action is an overreaction to this matter,” he said.

Mark Rauch, a citizen member of the police committee, also opposed yanking Lewis’ certification, saying he didn’t believe the sergeant meant what he said but uttered the comments “out of frustration” and “was being sarcastic.”

An initial motion to take no action on Lewis’ police certification failed, with Teague, Cummins, Robertson, Woodburn Officer Lawrence Halupowski and Rauch on the losing end.

The committee then voted to support a three-year loss of certification for Lewis. That passed, although Hampton, Garrett and Bend Sgt. Liz Lawrence opposed it, arguing that three years wasn’t long enough.

The committee’s vote on a 10-year revocation for Jones’ certification was unanimous.

Jones, who was head of the bureau’s Professional Standards Division at the time of his drunken driving crash, resigned May 3 instead of facing termination, according to bureau records.

Chief Danielle Outlaw had recommended Jones’ firing in a Dec. 17, 2018, letter, after the bureau’s Police Review Board had unanimously recommended his termination upon finding he violated the law and the bureau’s directives on professional conduct, satisfactory performance and off-duty use of police vehicles.

Jones, 47, pleaded no contest to reckless driving and driving under the influence of intoxicants last year in Multnomah County Circuit Court. In December, Jones’ driver’s license was suspended for three months and he agreed to pay the city \$38,240 in restitution within 60 days to cover damage to the police SUV and the pole, according to court records. Jones was alone in the SUV and uninjured.

Oregon State Police cited Jones for alleged drunken driving and reckless driving at 3:26 a.m. June 28 near Southwest Third Avenue and Arthur Street, according to court records. A witness told police he saw the police SUV speeding when it traveled onto a median and crashed into the pole and a tree, according to the Multnomah County District Attorney’s Office.

The witness stopped to check on the driver, "but the driver initially held his door shut from the inside and said that he was a police officer and that police were already responding," according to the investigation.

Officers described Jones, who smelled of alcohol, as swaying. A state trooper found Jones' blood-alcohol content was at a level of .10 percent, over the state’s .08 percent legal limit.

Jones has completed a court diversion program and remains on probation for a year. If he abides by the conditions of his probation for one year, his pleas will be withdrawn and the charges dismissed. If not, he could face up to a year in jail.

Three counter-protesters file federal civil rights suit against city of Portland, police

By Maxine Bernstein

October 7, 2019

Three protesters who said they were assaulted by Portland police during an Aug. 4, 2018 demonstration downtown against Patriot Prayer – including one who said a police flash-bang grenade struck the back of his head, penetrated his helmet and his skull – have filed a federal civil rights suit against the city and police.

The suit by the three protesters was filed in the U.S. District Court in Portland Monday.

Aaron Anthony Cantu said he suffered a traumatic brain injury from the flash-bang grenade that struck him in the head.

Co-plaintiff James Mattox says police fired a rubber projectile as he was moving away from officers, “waving his anarchist shield, flipping off the officers and shouting profanities,” the suit says. He was hit first in his upper thigh, and when he picked up the foam-tipped projectile and held it in the air and shouted, “Look you missed!,” he was shot again in the right arm, the suit says. Mattox was treated at the scene by a doctor volunteering her service. He missed a week of work due to his injuries, the suit says.

A third plaintiff, Tracy Molina, was holding a sign that read, “Hey Racists Stop Making Your Ignorance Our Problem Grow Up or Go Home,” and was attempting to get on the sidewalk near Southwest Columbia and First Avenue when Portland police were trying to disperse the counter-protesters, according to the suit.

Molina said an officer suddenly grabbed her protest sign from behind. She turned around to hold onto it when an officer “then knocked her to the ground with such force that she fell and rolled into the middle of the street, where a large group of officers...dog-piled her in a tackle and arrested her,” the suit says.

Molina was initially arrested on allegations of disorderly conduct and interfering with police. All charges against Molina were eventually dismissed.

The suit alleges Portland police use force indiscriminately against crowds of protesters “with little to no provocation,” and that police supervisors ordered officers to fire explosives at the heads of protesters and rubber-tipped projectiles on fleeing, nonviolent protesters. It also alleges negligence by the city, and battery, false arrest and intentional infliction of emotional distress.

“Without adequate training, supervision, or review of PPB’s officers, defendant City of Portland has created an environment of militarized responses to mild forms of dissent,” the suit says.

“Additionally, by firing their lethal weapons directly into a passive crowd on August 4, 2018, agents of City of Portland created an unnecessary and unreasonable risk of harm against all present. City of Portland prioritized the safety of their vehicle, and Patriot Prayer’s ability to freely move, over plaintiffs’ lives, safety, and liberties.”

Chief Danielle Outlaw ordered a temporary halt to the use of flash-bang grenades during protests after Cantu’s injury in the August 2018 protest.

Two of three plaintiffs, Cantu and Molina are represented by lawyers from the Oregon Justice Resource Center. Attorneys Jesse Merrithew and Viktoria Safarian represent Mattox.

"Portland Police chose to punish anti-fascist protestors as a group, while allowing right-wing groups to disobey police orders with impunity," the lawyers said in a statement released Monday. Their clients are seeking compensation for medical bills, lost wages and other losses.

Police formed barriers along Southwest Naito Parkway early the day of the August 2018 protest to keep the Patriot Prayer demonstrators separate from the counter-protesters. After hours of relative calm, the police response escalated when officers ordered those protesting Patriot Prayer near Southwest Columbia Street and Naito to disperse.

When counter-demonstrators didn't immediately leave, riot-clad police opened fire with less-lethal weapons.

Police have said protesters had thrown a "chemical agent" and other objects at officers. Outlaw said police didn't give orders for protesters to disperse or officers to use crowd-control weapons until after things were thrown at police. Multiple counter-protesters said they didn't see anything thrown at officers.

Portland police Sgt. Brad Yakots said he couldn't comment on the pending litigation. The bureau is still not using the aerial distraction devices during protests or demonstrations, Yakots said.

[Read suit here.](#)

The Portland Tribune

Audit says police overtime too much

*By Nick Budnick
October 08, 2019*

In Portland, one in 10 encounters is with cop working a 60-plus-hour week because of the high rate of police overtime

Mayor Ted Wheeler privately said Portlanders "need to get over ourselves" and hire more police officers, records show, while Chief Danielle Outlaw wondered whether her bureau needed as many officers as its management had long been saying.

An audit released last week showed lax management of Portland police overtime, but the 26-page report left some interesting behind-the-scenes tidbits on the cutting-room floor — such as the top leaders' input, according to documents reviewed by the Portland Tribune.

The snapshot by the city's elected Auditor, Mary Hull Caballero, found that the city's growing police overtime problem is not being managed well. While costs have more than doubled in the last four years — jumping from \$7.2 million in 2014 to \$15.3 million in 2018 — some of those costs were not necessary, due to faulty data and inattentive management, the audit concluded.

Here are some of the tidbits and takeaways we found in the auditor's files assembled for the nine-month audit:

1) The leaders whose bureau the audit made look bad asked for it

Critics say Portland's form of government, letting elected city commissioners head bureaus, creates an incentive to hide problems. However, the overtime audit was requested by Chief Outlaw and cheered on by Mayor Wheeler, who oversees the bureau. According to an auditor's memo, more than a year ago, Outlaw told auditors an overtime review would be "most helpful to

her. The chief said that she wanted to know whether the (bureau's) staffing model was accurate, did they really need the officers they said they needed."

In a subsequent meeting, Outlaw asked auditors to look at the bureau's "secondary employment" system that lets officers do overtime paid by outside companies seeking a uniformed cop on site. She noted that some businesses couldn't even find officers to work for them because officers "were burnt-out," according to a summary of the meeting.

Wheeler, in his meeting with auditors, indicated the city "has an overtime problem and that it was good we would do some digging," a summary said. He said that while the bureau — which is currently more than 120 officers down — clearly needs more cops, the question is how many.

2) The "extreme" was not so extreme

The audit report began with a focus on one unnamed officer who worked three consecutive 16-hour days as part of a 97-hour week. The report called that "extreme."

In reality, documents show, that example was not that extreme. There were several weeks in 2018 in which officers topped 90 hours, and audit documents provided badge numbers, allowing officers to be identified.

- Officer Jose Jimenez Jr., who worked the 97-hour week in February, also worked a 96-hour week in the summer.
- Officer Joseph Cook worked two consecutive 90-hour weeks in February — one at 90, one at 95. Cook also topped 60 hours on 27 out of the year's 52 weeks.
- Officer Lino Pavon worked a 90-hour week in December.

It was also common that patrol officers worked 60-hour weeks. The report found that patrol officers worked fewer than 60 hours in a week "nearly 90 percent" of the time, while the remainder worked more.

Put another way, one out of every 10 encounters Portlanders have with a cop on patrol is likely to be with someone in the middle of a grueling 60-hour-plus workweek.

Unlike most public employees, officers carry a gun and are authorized to use force when necessary. Might long hours affect their mood and decision-making?

Jimenez, Cook and Pavon did not respond to emails requesting comment. One lieutenant said, regarding Cook, that "he's worked with Joe for five years and not noticed a decrease in his performance due to his overtime," according to auditor's notes.

Another lieutenant told auditors that officers' long hours are hurting relations in the community, saying there was a "huge human component (and) a correlation between overtime and the quality of service."

"He said that a lot of officers were working overtime because they were needed, and not by choice. He said that he's noticed that with some officers who choose to work a lot of overtime, that he's had to pull them aside and tell them that the long hours were affecting them."

3) Mismanagement is not the only cause of overtime

Auditors concluded that a faulty data system had at times led officers to be held over for overtime when, in fact, a particular patrol shift already had enough officers.

Not only that, but there was little oversight, giving sergeants broad leeway to call in officers for overtime even when minimum staffing levels for a particular shift had been met.

Some areas were not explored by auditors, such as a wasteful court-testimony system and what bureau management told them were political protests that have escalated in number, size and intensity. As one bureau manager told auditors, the way the bureau uses overtime codes "disguises the total costs of events," such as protests.

Bureau managers blamed continued short staffing and an increase in calls for service for the bulk of the overtime costs.

In a Sept. 6 meeting with auditors, Assistant Police Chief Chris Davis said the audit's suggested reforms were good, but "would only save a couple of hundred thousand dollars at best," adding that "they still have inadequate staffing and an ever-increasing demand for services."

4) Police contract negotiations could get interesting

The Portland City Council has been soliciting input on improvements to the soon-to-be renegotiated Portland police contract. One potential addition to the contract flagged by auditors is to limit how much overtime an officer can take in a week, as about half the country's police departments do, according to auditors' notes.

Wheeler has long complained about the police contract he inherited from ex-Mayor Charlie Hales and the previous council. To auditors, Wheeler noted the inherent waste when an officer could take a day off to work overtime for a private firm, requiring another officer to be called in to work overtime.

"The officers are just doing what the contract allows them to do, which is elected stupidity on the City's part that we agreed to let them do that," Wheeler indicated, according to the summary. "Mayor Wheeler expressed a concern about officer wellness and fatigue from all the overtime and there being no limit on overtime."

A longer version of this article appears online at: portlandtribune.com

The Portland Mercury

Injured Protesters File Joint Lawsuit Against Portland Police for August 2018 Tactics

*By Alex Zielinski
October 7, 2019*

Three Portlanders who sustained injuries during a 2018 protest have joined together to sue the City of Portland and Portland Police Bureau (PPB) officers, accusing the city of allowing its officers to use violent, unnecessary tactics to muzzle the demonstrators' free speech.

"The City of Portland has a custom and practice of using militarized force against protestors," reads the complaint, filed Monday. "When force is used, PPB makes no effort to limit its force to individuals who actually pose a threat of violence, instead using force indiscriminately at anyone who happens to be in the crowd."

The joint lawsuit names James Mattox, Aaron Cantu, and Tracy Molina as plaintiffs. All three were participating in a counter-protest to the August 4, 2018 "Gibson for Senate Freedom March," a Portland demonstration organized by the far-right agitator Joey Gibson. Gibson, who was making an unsuccessful run for US Senate at the time, is the founder of Patriot Prayer, the small group of alt-right enthusiasts based in Vancouver, WA.

On the day of the August protest, hundreds gathered at the Portland waterfront to oppose Patriot Prayer's far-right rhetoric and threats of violence. However, according to the suit's plaintiffs, the main violence that took place on August 4 came from Portland's own police force.

The complaint focuses on a specific moment during the chaotic demonstration: When officers decided to fire so-called "less lethal" munitions into a crowd of 50 or so counter-protesters near SW Columbia and SW Naito.

"PPB initiated their attack on the counter-fascist protestors following no provocation," the suit reads.

In reports penned after the protest, officers say they were responding to protesters who were throwing rocks and "smashing the windows of police cars." PPB has yet to produce evidence supporting this claim.

Mattox was walking with protesters on SW Columbia when officers began shooting rubber bullets and flash-bang grenades into the crowd. The complaint describes the scene best: "At the time plaintiff was shot he was... waving his arms and his anarchist shield, flipping off the officers, and shouting profanities."

After being shot in the leg by a rubber bullet, Mattox picked up the bullet and shouted at the officers, "Look, you missed!" The same officer fired again, hitting Mattox in the right arm.

He left the crowd with a bleeding gash, seeking medical care. The complaint claims the PPB officer shot Mattox in retaliation for "engaging in speech that [the officer] did not condone."

"By shooting Mr. Mattox [the officer] in fact chilled the Mr. Mattox's political speech," the document reads.

Cantu was in the same crowd of counter-protesters when PPB began firing its munitions. He was running away from the police when an officer's flash-bang grenade lodged itself into his skull. Cantu was wearing a bike helmet at the time, but the munition was powerful enough to blaze through his helmet and cut into his head. If he hadn't been wearing the helmet, the complaint reads, Cantu could easily have died from the impact.

Cantu suffered a traumatic brain injury and still suffers from dizziness and tinnitus.

Mr. Cantu has sustained emotional distress," the suit adds, "including, but not limited to, pain and suffering, discomfort, fear, frustration, a fear of trusting those in positions of power, and anxiety."

Molina is the only plaintiff who was arrested on August 4. Molina came to the protest with a sign reading, "Hey Racists Stop Making Your Ignorance Our Problem Grow Up or Go Home." During PPB's confrontation with counter-protesters, Molina allegedly followed officers orders to stay on the sidewalk. But, the complaint reads, this didn't stop an officer from grabbing her protest sign from behind.

Molina did not let go of her sign, which allegedly prompted an officer to knock her to the ground "with such force that she fell and rolled into the middle of the street," where she was then crushed by several dog-piling officers.

Molina was charged with disorderly conduct, attempt to commit a felony, and interfering with a police officer. The criminal case was eventually dismissed in her favor.

The plaintiffs have accused the City of Portland and its officers of violating the Fourth and Fourteenth Amendments by using excessive force with little provocation and violating the First

Amendment by using violence to silence protected speech. They also accuse the city of negligence, battery, false arrest, and intentional infliction of emotional distress.

"Without adequate training, supervision, or review of PPB's officers, defendant City of Portland has created an environment of militarized responses to mild forms of dissent," the suit reads. "Additionally, by firing their lethal weapons directly into a passive crowd... agents of City of Portland created an unnecessary and unreasonable risk of harm against all present."

The complaint specifically notes how PPB officers do not appear to use the same amount of force against right-wing protestors, "despite their disobedience of officers' orders."

"[Officers] chose to attack plaintiffs' group in part because they disagreed with the political message of the anti-fascist demonstrators and sympathized with the fascists," the document reads.

The plaintiffs, represented by three separate attorneys, have requested a jury trial.

They're not the only ones who've turned to the court system to address officer-inflicted injuries stemming from the 2018 protest. In August, Michelle Fawcett sued the City Portland for physical and psychological damages sustained after being hit by a flash-bang grenade, shot by a PPB officer on August 4, 2018. She's asked the city pay \$250,000 for her injuries.