

City details Portland protest violence, damage, cost of repairs in response to motion to restrict tear gas, crowd control weapons

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Portland police and Multnomah County sheriff's deputies have filed court documents that give a day-by-day accounting of their protest response over the last six weeks, including dozens of videos that show violence downtown, photos of broken windows to courthouses and businesses and a list of more than 100 fires set.

They estimated repair costs to public buildings approaching \$300,000 so far and \$4.8 million in property damage to businesses.

The inventory was among more than 100 pages submitted to U.S. District Court by the city and county to answer a lawsuit filed by Don't Shoot Portland. The nonprofit group seeks to further bar use of tear gas, pepper spray, foam-tipped rounds and other less-lethal weapons as crowd control measures at protests.

"This case is not about the thousands of people peacefully protesting," Deputy City Attorney Naomi Sheffield wrote. "It is also not about hateful words or anti-police protests. The City and PPB support protestors' expression, regardless of content. This case is about the ability of PPB to respond to a nightly deluge of dangerous objects thrown and launched at them and at occupied buildings, nightly fires, and widespread criminal activity."

U.S. District Judge Marco A. Hernandez on June 9 issued a temporary restraining order restricting Portland police from using tear gas except if lives or public safety are at risk. He amended the order on June 26, adding less-lethal weapons to the restrictions and outright banning the use of an ear-splitting warning signal.

Don't Shoot Portland has asked the judge to sanction the city for allegedly violating his orders and extend the restrictions by granting a preliminary injunction. A hearing is set for next Thursday and Friday.

"Portland Police have demonstrated that they cannot be trusted to utilize these riot control munitions without court intervention," wrote the group's attorney, Juan Chavez.

After reviewing some of the city's and county's filings, Chavez said Tuesday, "The city spent a lot of time highlighting the criminal behavior. They could have charged people responsible but haven't and instead have used a lot of force against peaceful protesters in the crowd. I think they've made our point for us."

Police have arrested more than 200 people in the protests since late May, court records show.

Attorneys from the city and county argue that the violent circumstances merit tear gas use. The Police Bureau and Sheriff's Office rules now in place as well as a new state bill limiting tear gas to declared riots provide sufficient guidance, they contend.

"Plaintiffs condemn the City's '(a)ttempts to pit the actions of 'bad' protestors versus 'good' protestors,'" Sheffield wrote. "But that is exactly what PPB is obligated to do -- facilitate the First Amendment rights of persons engaged in peaceful protest and address persons engaged in criminal activity."

At the same time, city attorneys proposed draft language if the judge decides to issue more constraints.

It would make clear that officers cannot use tear gas and so-called less-lethal impact rounds against people "engaged in passive resistance" and cannot fire, launch or toss them indiscriminately into a crowd or when escape avenues aren't available. But officers could use them to respond to a specific threat of physical harm to officers or others, when reasonable.

The city also proposed additional limits on one of the categories of the less-lethal rounds: rubber ball distraction devices. They can deliver either blasts of light, sound and 180 rubber balls within a 50-foot radius, or a cloud of pepper spray.

They could be used to stop or disrupt a group of people committing or about to commit a crime or people engaged "or intent on" physical resistance, according to the city's proposal. Or they could be used to defend officers or others when other methods of force aren't reasonable or likely to harm uninvolved people.

The city cited a 2001 9th U.S. Circuit Court of Appeals ruling that found tear gas use by Eugene police was constitutional after police warned protesters and there was no dispute that a small group in a crowd had become violent.

Without the ability to use hand-tossed tear gas or pepper spray canisters, rubber ball distraction devices or less-lethal launchers that fire tear gas or foam-tipped projectiles, paint, powder or pepper spray rounds, "law enforcement's ability to disburse an unlawful assembly would require more significant physical force," Sheffield wrote.

Multnomah County was added as a defendant in Don't Shoot Portland's complaint and its attorneys and sheriff filed papers supporting the city and the Police Bureau's opposition to a preliminary injunction.

Andrew Jones, senior assistant county attorney, argued that the new House Bill 4208 that bans tear gas use except when a riot is declared and after warnings are given to disperse, gives Don't Shoot Portland "the protection sought."

The city enumerated violence or threats to police and others on nearly a nightly basis since May 29 since hundreds and sometimes thousands of people have gathered to protest police brutality and systemic racism after the death of George Floyd.

Many of the rallies have been peaceful, but police have declared civil disturbances and riots as smaller groups of people have regularly thrown objects, broken windows, spraypainted graffiti and targeted the Justice Center downtown, nearby buildings and businesses and police offices in North Portland.

Portland police said in the court documents that they have spent about \$7 million in overtime covering demonstrations through July 1.

The Police Bureau has requested staffing help from Oregon State Police, the Multnomah County Sheriff's Office, Salem police, Port of Portland police, Clark County Sheriff's Office, Washougal police and Vancouver police, Deputy Police Chief Chris Davis said.

The city filed videos of people smashing windows, lobbing flares and setting fire inside a Justice Center office late May 29. Another video from June 25 shows flames shooting from a dumpster pressed against a business complex that houses the bureau's North Precinct as the precinct's side doors were blocked with wooden beams and its security cameras spray-painted to conceal footage.

The dumpster flames and a firework that landed on the precinct's roof prompted police to use tear gas to clear the crowd, according to Tony Passadore, who was the night's incident commander.

One video showed a motorist stepping out of a car on Southwest Third Avenue in downtown late on July 3 and aiming a handgun at the federal courthouse as observers shouted, "Gun! Gun!"

Police also submitted videos of people tearing down plywood protecting Central Precinct on the north side of the Justice Center, fires set outside the Justice Center and federal courthouse, bottles and fireworks lobbed at officers and videos of people breaking into downtown businesses and rushing in to steal merchandise.

The city filed a spreadsheet identifying 144 fires that were reported to emergency dispatch from May 29 through the morning of July 2 attributed to the civil unrest.

Each police incident commander and a half-dozen leaders of Portland's police Rapid Response Team squads or Mobile Field Forces filed sworn statements describing what force they ordered or used, by date.

They and sheriff's supervisors also described changing tactics since the installation of a fence after the May 29 incursion into the Justice Center, which houses the downtown jail, the Sheriff's Office, courtrooms as well as Central Precinct.

The fence was supposed to minimize police presence and protect the Justice Center, attorneys wrote. But some people responded by trying to dismantle it and threw objects over it.

The Police Bureau moved officers out of sight to try to reduce tensions, police said in their sworn statements, but some people got past the fencing and finally police had the fencing removed.

Then some protesters "began vandalizing the Justice Center including breaking windows, spray painting cameras, spray painting walls, and pulling plywood boards off of windows in order to break them," police Lt. Franz Schoening wrote in a statement. "On multiple nights individuals also blocked or locked the doors to the Justice Center from the outside."

Repair crews have been called to repeatedly fix broken windows at the Justice Center and the Multnomah County Courthouse and third-party vendors have been hired to board up the Justice Center portico, handle the fencing and haul away debris, county property manager Michael Crank said in the documents.

As of June 29, county repairs have cost \$113,820, but the expenses are expected to exceed \$284,000 with outstanding invoices to fix broken security cameras, windows, lights and the cost of putting fire retardant material on external plywood, Crank said. As of Friday, 15 more windows, for example, were broken at the main county courthouse, he said.

Fire medics reported responding to more than 42 protesters who have been injured, according to Fire Lt. Damon Simmons. Some needed to go to a hospital and others asked to be left alone. Among the reports: eye irritation caused by pepper spray and injuries reported during arrests, police pushing crowds or police firing less-lethal weapons; and injuries caused by objects thrown by other protesters.

More than 32 officers also have been injured, many from items thrown at them, including rocks, glass bottles, frozen water bottles, soup or beer cans, fireworks, bricks and steel pellets from sling shots, the court papers said.

One fire medic was struck in the stomach by a rock launched about one city block away, Simmons wrote. The front of an officer's uniform caught on fire and another officer required stitches after being hit in the face from a projectile, according to the city.

"While not every such incident has resulted in force from law enforcement, there has been a constant presence of threatening, violent, destructive behavior from individuals in the area of

the Justice Center for more than a month, with no end in sight and no sign of improvement,” sheriff’s Deputy Carey Kaer wrote.