

Testimony Regarding HB 4131

February 20, 2022

My name is Kat Mahoney. I have been an ACLU Legal Observer since 2017. I am submitting this testimonial in objection to HB 4131 but support HB 4131-3 which is the same in HB 4008. In the time I have been a legal observer in Portland, the police have relied more and more on chemical weapons to disperse crowds and less on de-escalation tactics. The protests that occurred in 2020 were the most violent displays I have ever seen of police brutality.

As it stands, HB 4131, as written, would allow police to use tear gas and other chemical weapons once a riot is declared. When Governor Brown signed the bill in 2020 that banned tear gas except when there is a riot, an uptick in police declaring riots occurred thus allowing them full authority to deploy tear gas.

On June 30, 2020, the police engaged with protesters on N Lombard near the former Portland Police Association. The area is mostly residential. Police declared a riot within minutes of everyone arriving at the building. I saw police herd people east on N Lombard towards N Interstate Ave. The police deployed tear gas, fired pepper balls, and rubber bullets. I saw people in their homes close their windows. I saw police fire tear gas canisters above people's heads onto N Interstate, while walking behind them creating what is known as a kill-box. I saw tear gas grenades land at the Shell gas station. I saw a grenade land in a trash dumpster and start a fire. People scrambled to get away from the clouds of gas and ran onto residential side streets. I saw police follow them and fire more tear gas. I saw a lawn catch fire. I saw a grenade that was sparking fire and gas roll under a parked car. The reckless use of the chemical weapons could have massive fires or explosions. Police used the exception to the rule, declaration of a riot, to justify using these chemicals.

The police cannot be trusted to reasonably use an exception to a rule nor can the police commissioner. In January 2021, Ted Wheeler stated in a press conference protests were being carried out by violent anarchists and that it would be necessary to use additional tools to bring violence to an end. He stated he would use violence to end violence. In April 2021, Ted Wheeler declared a state of emergency. He said, "Our job is to unmask them, arrest them, and prosecute them." He furthered this message by

urging the public to take action and report license plates of cars that park near a proposed protest and report people dressing in black. As quoted in the New York Times, Wheeler stated it was time to “hurt them a little bit.”

This past weekend, on Saturday February 19, 2022, there was a march scheduled by a group that has marched weekly. The marches are non-violent. They are led by a mother whose son, Patrick Kimmons, was killed by Portland police. Based on reports from non-ACLU witnesses, this is my understanding of what occurred: An individual confronted the people and within seconds fired eight bullets. Several were critically injured. One person died. He walked up to them yelling slurs and called them terrorists. He said the people gathering are the ones who are causing violence. He emulated Ted Wheeler’s call to action. As of today, police have not released any information about this man or pending charges.

We had ACLU legal observers at the event. I monitored the team. My team heard the gunshots. They saw people treated by street medics. They saw a street medic administer chest compressions. They saw police arrive carrying rifles. They saw police frisk and arrest people. They saw police push away street medics while people lay on the ground with gunshot wounds and EMTs had not yet been allowed inside the cordoned off area. They saw people scared, traumatized, and in shock.

In past protests when someone with a gun has confronted people protesting, I have seen police protect that individual. For example, on January 20, 2017, police protected a man who had reached for his gun as thousands of people marched in downtown Portland. On August 8, 2021, an armed individual was allowed to walk freely downtown threatening violence towards people and eventually given shelter by the Portland police at the Justice Center. Additionally, I have seen police protect hate groups such as Patriot Prayer, Oath Keepers, and Proud Boys whose main goal is to inflict harm on our communities.

We cannot have just two choices: police use chemical weapons to carry out their job or police act as though they have been castrated and then only offer shelter to the dangerous individual(s).

I have seen police clear an area using flash bangs, pepper spray, and mace rather make good faith attempts at de-escalation. I have seen police arrive in riot gear and weapons in hand ready to inflict violence but not ready to de-escalate. I have seen police fire chemical munitions at people who are complying with orders to disperse an area. This is not protecting the community, it is creating harm and fear in the community.