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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

INDEX NEWSPAPERS LLC, a Washington limited-liability company, dba **PORTLAND MERCURY**; **DOUG BROWN**; **BRIAN CONLEY**; **SAM GEHRKE**; **MATHIEU LEWIS-ROLLAND**; **KAT MAHONEY**; **SERGIO OLMOS**; **JOHN RUDOFF**; **ALEX MILAN TRACY**; **TUCK WOODSTOCK**; **JUSTIN YAU**; and those similarly situated,

Plaintiffs,

v.

CITY OF PORTLAND, a municipal corporation; **JOHN DOES 1-60**, officers of Portland Police Bureau and other agencies working in concert; **U.S. DEPARTMENT OF HOMELAND SECURITY**; and **U.S. MARSHALS SERVICE**,

Defendants.

Case No. 3:20-cv-1035-SI

REPLY DECLARATION OF GIL KERLIKOWSKE

I, Gil Kerlikowske, declare:

1. I make this declaration in response to the federal officers' lawyers' assertion that I am not an expert on crowd control and use of force. In my 47 years of law enforcement, I have had substantial training and experience with crowd control and civil unrest in the context of protests, use of force in that context, and use of force generally.

2. My formal training on crowd control began when I was with the Military Police in 1970, where I received training on response to crowd and riot control, and I continued to learn about it throughout my career in law enforcement. I also had additional training in the Army on Physical Security measures. I received further in-service crowd control training when I served in the St. Petersburg Police Department. As a commander, I have supervised the training of officers on the equipment, the types of orders they will receive, and the formations that will be used for crowd control. I have familiarity with less-lethal technology and I have been shown and fired the soft nose, pepperball and FN303 at the CBP Harper's Ferry training center in 2016. I introduced less-lethal weapons to the Border Patrol and went to the facility to talk with the instructors and see the technology firsthand. I also received substantial training as a commander, which covered crowd control and use of force, including without limitation, 11 weeks of training at the FBI National Academy in Quantico, three weeks of training at the Senior Management Institute for Police in Boston, two weeks of FBI Law Enforcement Executive Training in Quantico, and three weeks at the FBI National Executive Institute in Quantico.

3. I have had more experience with crowd control during civil disturbances than almost all law enforcement officers in the country. As noted in my declaration, I served as Chief of Police in Seattle, where I oversaw over 200 protests. We probably had at least 25 protests every year I was there. At the time this was occurring, there was very little civil unrest in the country. There were some protests and riots after Rodney King and there was another similar series of protests after Ferguson, so some other police chiefs did get some experience. But this pales in comparison to the volume and the intensity of the hundreds of protests I was responsible for in Seattle. In addition to my experience in Seattle, I also served as Police Commissioner in

Buffalo, New York, where I also had duties and experience with crowd control. In overseeing those protests, my job was to make sure that all the officers who reported to me, from the line personnel all the way up, were properly trained to handle the protests. I also helped formulate and execute the strategic plans for how we would police each protest. These plans included how and when to use force, who, if anyone, would be given less-lethal weapons, and how to treat journalists and legal observers. This was an evolving art/science that varied by situation and built on the institutional experience that we built up.

4. I have been tasered twice (while I was Police Chief in Seattle) and been subjected to pepper spray (while I was the commanding officer in Buffalo). I have reviewed and approved the training and policies on policing numerous demonstrations. I assigned command personnel to go to the WTO, IMF, G-8 and N. Ireland to gain knowledge from viewing how other departments handled these incidents. The commanders returned and provided the knowledge they had acquired. After a “Mardi Gras” disturbance went awry in Seattle, Austin, and Philadelphia, those agencies came to Seattle for a meeting I convened to go over how these should be policed and lessons learned. As a president of the Police Executive Research Forum, President of the Major Cities Chiefs Association, and member of the International Association of Chiefs of Police, I have attended dozens of national and international law enforcement conferences where discussions and presentations on demonstrations and riots have been the topic. For example, Chief Norm Stamper did a detailed presentation and analysis of what occurred in Seattle in November 1999, during the World Trade Organization demonstration. I have been on the front lines of many demonstrations in Seattle, standing in uniform with my officers and know firsthand what policing a chaotic and volatile demonstration is like.

5. I have also had substantial training and knowledge related to use of force by law enforcement. As the head of multiple police departments and law enforcement agencies, I was responsible for how the officers working under me behaved and for supervising investigations into excessive force. I was also ultimately responsible for how they were trained. I was the Internal Affairs commander in St. Petersburg. I also received approval to form Internal Affairs

(Professional Standards) for CBP, hired the Assistant Commissioner and reviewed and approved the policies for receiving and investigating complaints, including those involving the use of force. I have reviewed and assessed hundreds of use of force reports and investigations. For almost my entire career, evaluating uses of force has been one of my job duties.

Dated: August 14, 2020



Gil Kerlikowske