

Congress of the United States
Washington, DC 20515

July 19, 2020

The Honorable Michael E. Horowitz
Inspector General
Department of Justice, Office of the Inspector General
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Joseph V. Cuffari
Inspector General
Department of Homeland Security, Office of Inspector General
245 Murray Lane SW
Washington, DC 20528

Dear Mr. Horowitz and Mr. Cuffari:

As we continue to stand with our fellow citizens protesting systemic racism and police brutality throughout the country, we are increasingly alarmed at the Trump Administration's use of federal law enforcement to violate the civil rights of our constituents. The Department of Justice (DOJ) and the Department of Homeland Security (DHS) appear to have increasingly abused emergency authorities to justify the use of force against Americans exercising their right to peaceful assembly.

Reports from Oregon this week make clear that this misuse of resources and personnel remains a growing threat. Accordingly, we write to request an investigation by your offices into the use of federal law enforcement agencies by the Attorney General and the Acting Secretary of Homeland Security to suppress First Amendment protected activities in Washington, D.C., Portland, and other communities across the United States.

To understand the gravity of the government's actions, it is important to recognize the scope of the problem. Shortly after the death of George Floyd, protestors flocked to major cities, including the nation's capital, to advocate for police reform. On June 1, 2020, horse-mounted federal authorities in riot gear used chemical agents, smoke, and rubber bullets to violently remove protestors from Lafayette Square—so that the President could have a photo-op in front of the historic St. John's Church.¹ As part of his strategy to take control of the city, Attorney General William Barr directed various federal law enforcement personnel to “flood the zone” and assert control over the region.² Bureau of Prisons Crisis Management Teams, including

¹ See e.g., Phillip Bump, *Timeline: The clearing of Lafayette Square*, WASH. POST, June 5, 2020; Aaron Davis et. al, *Officials familiar with Lafayette Square confrontation challenge Trump administration claim of what drove aggressive expulsion of protesters*, WASH. POST, June 14, 2020.

² See Devlin Barrett, *Barr seeks to subdue D.C. protests by 'flooding the zone' with federal firepower*, WASH. POST, June 3, 2020; Ryan Lucas, *Attorney General Steps Up Federal Law Enforcement Response to Protests*, NPR, June 1, 2020.

Special Operations Response Teams (SORT), and Department of Homeland Security personnel from Customs and Border Protection (CBP), Immigration & Customs Enforcement (ICE), and the Transportation Security Administration (TSA) were all given special deputation to detain and arrest individuals. This special deputation was meant to last only thirty days. Drug Enforcement Administration (DEA) agents were also granted authority that allowed them to enforce federal law, as necessary, in response to the protests,³ which was meant to last only 14 days.

The news from Oregon this week is equally alarming. “Federal law enforcement officers have been using unmarked vehicles to drive around downtown Portland and detain protesters since at least July 14.”⁴ In some cases, citizens could not tell the difference between law enforcement and far-right extremists in the region who wore similar military gear. CBP officials have been reported as grabbing Americans in the dark; not providing any form of identification; arresting, searching, and detaining individuals in cells before even properly reading their Miranda Rights⁵ Not only is this irresponsible and dangerous, but it is a violation of Constitutional rights.

Although the scale of this response to the social movement spurred by George Floyd’s murder is disturbing, this is not the first time the Trump Administration has used force to suppress dissent. For example, in 2017, federal officials assisted local law enforcement officers⁶ in deploying cold water cannons, pepper spray, and tear gas on Americans protesting the construction of the Dakota Access Pipeline across the Standing Rock Reservation.⁷

We support the U.S. Attorney for the District of Oregon’s request for a DHS IG investigation into the incidents in Portland⁸ and the referral to the DOJ IG of the U.S. Marshals Service use of less-lethal munitions.⁹ However, a broader concern must be addressed.

The legal basis for this use of force has never been explained—and, frankly, it is not at all clear that the Attorney General and the Acting Secretary are authorized to deploy federal law

³ See 21 U.S.C. § 878.

⁴ Jonathan Levinson & Conrad Wilson, *Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets*, OREGON PUBLIC BROADCASTING, July 16, 2020.

⁵ Katie Shepherd & Mark Beman, *‘It was like being preyed upon’: Portland protesters say federal officers in unmarked vans are detaining them*, WASH POST, July 17, 2020.

⁶ See Alleen Brown, Will Parrish, & Alice Speri, *The Battle of Treaty Camp Law Enforcement Descended On Standing Rock A Year Ago And Changed the DAPL Fight Forever*, THE INTERCEPT, Oct. 27, 2017; Alleen Brown, Will Parrish, & Alice Speri, *Standing Rock Documents Expose Inner Workings of “Surveillance-Industrial Complex,”* THE INTERCEPT, June 3, 2017.

⁷ See e.g., Alan Taylor, *Water Cannons and Tear Gas Used Against Dakota Access Pipeline Protesters*, THE ATLANTIC, Nov. 21, 2016; Julie Carrie Wong, *Dakota Access pipeline: 300 protesters injured after police use water cannons*, THE GUARDIAN, Nov. 21, 2016.

⁸ Ryan Haas & Conrad Wilson, *US Attorney for Oregon Calls for Investigation into Portland Protester Arrests*, OREGON PUBLIC BROADCASTING, July 17, 2020; Amir Vera, Konstantin Toropin, & Josh Campbell, *US attorney requests DHS investigation after video shows masked, camouflaged federal authorities arresting protesters in Portland*, CNN, July 18, 2020.

⁹ U.S. Attorney for the District of Oregon, Press Release, U.S. Marshals Service Investigation Referred to Department of Justice Office of the Inspector General, July 13, 2020.

enforcement officers in this manner. The Attorney General of the United States does *not* have unfettered authority to direct thousands of federal law enforcement personnel to arrest and detain American citizens exercising their First Amendment rights. The Acting Secretary appears to be relying on an ill-conceived executive order meant to protect historic statues and monuments as justification for arresting American citizens in the dead of night.¹⁰ The Administration's insistence on deploying these forces over the objections of state and local authorities suggest that these tactics have little to do with public safety, but more to do with political gamesmanship.¹¹

In connection with this requested review, we also ask that your offices investigate the events highlighted above; the existing statutory authorities; and the extent special deputations are used in response to First Amendment protected activity, including the Floyd protests. We ask that any final report include a description of the length, breadth, number, and location of federal law enforcement authorized by these special deputations to arrest and detain individuals. Finally, we ask that you also review the use of force, crowd-control, and civil rights training these forces received prior to their deployments.¹²

This is a matter of utmost urgency. Citizens are concerned that the Administration has deployed a secret police force, not to investigate crimes but to intimidate individuals it views as political adversaries, and that the use of these tactics will proliferate throughout the country. Therefore, we ask that you commence your review of these issues immediately.

Sincerely,



Jerrold Nadler
Chairman
House Committee on the Judiciary



Bennie G. Thompson
Chairman
House Committee on Homeland Security



Carolyn B. Maloney
Chairwoman
House Committee on Oversight and Reform

¹⁰ Dep't of Homeland Security, Press Release, DHS Announces New Task Force to Protect American Monuments, Memorials, and Statues, July 1, 2020; Marty Johnson, *DHS head knocks 'failed response' to 'rampant' violence in Portland*, THE HILL, July 16, 2020.

¹¹ See e.g., Greg Sargent & Paul Waldman, *The Oregon governor wants federal officers out of Portland. Trump officials won't listen. Why?*, WASH. POST, July 17, 2020.

¹² Sergio Olmos, Mike Baker, & Zolan Kanno-Youngs, *Federal Officers Deployed in Portland Didn't Have Proper Training*, D.H.S. Memo Said, N.Y. TIMES, July 18, 2020.

cc: The Honorable Jim Jordan, Ranking Member, House Committee on the Judiciary
The Honorable Mike Rogers, Ranking Member, House Committee on Homeland Security
The Honorable James Comer, Ranking Member, House Committee on Oversight and Reform