

**Congress of the United States**  
**Washington, DC 20515**

October 7, 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:

We were encouraged to learn in response to our July 19, 2020 request<sup>1</sup> that your offices announced an investigation of use of force allegations involving Department of Homeland Security (DHS) and Department of Justice (DOJ) law enforcement personnel, as well as an examination of the Departments' roles and responsibilities in responding to protest activity and civil unrest in Washington, DC, and Portland, Oregon.<sup>2</sup> We write to express our continued support of these reviews and request the inclusion of additional allegations relating to federal law enforcement's authority to use force.

Recent public reporting<sup>3</sup> shows that Federal Bureau of Investigation (FBI) surveillance aircraft and U.S. Customs and Border Protection's (CBP) Border Patrol Tactical Unit (BORTAC) personnel, including CBP sniper teams, were deployed to Pearland, Texas to surveil the funeral service of George Floyd. The report includes documents identifying the role of federal law enforcement as providing a "quick response to rioting and looting" and to "take up positions around Pearland PD to prevent property loss or damage."<sup>4</sup> Furthermore, the documents identify the alleged rules of engagement for CBP personnel and make clear that "deadly force [was] authorized anytime" if personnel determined they were facing imminent harm.<sup>5</sup>

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<sup>1</sup> Letter from Jerrold Nadler, Chairman, H. Comm On the Judiciary, et al., to Michael E. Horowitz, Inspector Gen., U.S. Dep't of Justice and Joseph V. Cuffari, Inspector Gen., U.S. Dep't of Homeland Security (July 19, 2020).

<sup>2</sup> Letter from Joseph V. Cuffari, Inspector Gen., U.S. Dep't of Homeland Security to Jerrold Nadler, Chairman, H. Comm On the Judiciary, et al. (July 23, 2020); Letter from Michael E. Horowitz, Inspector Gen., U.S. Dep't of Justice to Jerrold Nadler, Chairman, H. Comm On the Judiciary, et al. (July 23, 2020).

<sup>3</sup> Emily Green & Keegan Hamilton, *Border Patrol Snipers Were Authorized to Use Deadly Force at George Floyd's Burial*, VICE NEWS (Oct. 1, 2020).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

While the presence of federal law enforcement and surveillance support at the Floyd funeral was made at the request of the Pearland Police Department, we remain extremely concerned about DOJ and DHS's abuse of their emergency authorities. As we stated in our previous letter, "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 enforcement officers in this manner."<sup>6</sup>

We remain concerned that the federal forces deployed in response to the nationwide protests—or in this case, in response to the funeral of George Floyd—are not the appropriate personnel to use in response to First Amendment protected activities. For example, BORTAC describes itself as a unit created to respond to riots in INS detention facilities "[that has] quickly evolved and acquired additional skill sets in high-risk warrant service; intelligence, reconnaissance and surveillance; foreign law enforcement / Border Patrol capacity building; airmobile operations; maritime operations; and precision marks- man/observer."<sup>7</sup> The use of BORTAC as a national police force is another example of the Administration's disastrous response to the ongoing civil rights movement.

Furthermore, multiple Members of Congress,<sup>8</sup> including the Chairs of the House Judiciary Committee and its Subcommittee on Crime, Terrorism, and Homeland Security,<sup>9</sup> denounced the temporary surveillance authorities expanded in response to the protests against police brutality and systemic racism. In light of the Administration's track record, presence of FBI fixed wing assets raises additional concerns as to the true purpose of surveillance collected at the Floyd funeral. The chilling effect of surveillance on Americans exercising their right to assemble or in this case, conduct funeral services, cannot be overstated.

There remains little doubt that this Administration's approach needs to be adjusted to reflect the reality our country is confronting. Congress and Americans across the country remain concerned that the Administration continues to deploy police bent on monitoring and policing its political adversaries and using federal law enforcement in a manner that actually seeks conflict.

We request that you include in your ongoing review these additional allegations, and we ask for a briefing by October 21, 2020 updating us on the progress of your investigations. We thank you for your prompt attention to this grave matter.

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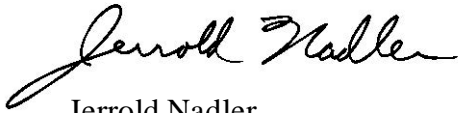
<sup>6</sup> Letter from Jerrold Nadler, Chairman, H. Comm On the Judiciary, et al., to Michael E. Horowitz, Inspector Gen., U.S. Dep't of Justice and Joseph V. Cuffari, Inspector Gen., U.S. Dep't of Homeland Security (July 19, 2020).

<sup>7</sup> U.S. Customs & Border Protection, *Border Patrol Tactical Unit*, <https://www.cbp.gov/sites/default/files/documents/Border%20Patrol%20Tactical%20Unit.pdf>.

<sup>8</sup> Letter from Anna G. Eshoo, Member of Congress, et al., to Christopher A. Wray, Director, Federal Bureau of Investigation, et al. (June 9, 2020).

<sup>9</sup> Letter from Jerrold Nadler, Chairman, H. Comm On the Judiciary and Karen Bass, Chair, Subcommittee on Crime, Terrorism, and Homeland Security, H. Comm on the Judiciary to William P. Barr, Attorney General, U.S. Dep't of Justice and Timothy J. Shea, Acting Administrator, U.S. Drug Enforcement Administration (June 5, 2020).

Sincerely,



Jerrold Nadler  
Chair  
House Committee on the Judiciary



Bennie G. Thompson  
Chair  
House Committee on Homeland Security



Carolyn B. Maloney  
Chair  
House Committee on Oversight and Reform

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