



One Hundred Sixteenth Congress  
Committee on Homeland Security  
U.S. House of Representatives  
Washington, DC 20515

July 20, 2020

The Honorable Chad Wolf  
Acting Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear Acting Secretary Wolf:

As Members of the Committee on Homeland Security, we are profoundly troubled by allegations that personnel from the Department of Homeland Security (DHS), including U.S. Customs and Border Protection (CBP), have detained protestors in Portland, Oregon, using procedures that may violate the rights guaranteed to all Americans under our Constitution. Our concerns are only heightened by your inability to answer questions posed to you during a call on Saturday.

In his Executive Order announcing enhanced protections for federal property—including monuments, memorials, and statues—President Trump decried “radicals” who “shamelessly attack the legitimacy of our institutions and the very rule of law itself.”<sup>1</sup> However, the tactics that DHS appears to be utilizing to carry out the President’s Executive Order in Portland, Oregon, run contrary to the rule of law, including the most fundamental requirements of the Constitution, and are an intolerable anathema to everything for which our Republic stands. Further, it appears that the deployment of DHS personnel in Portland is stringently opposed by both state and local officials.

Set forth below is a review of the Committee’s concerns as well as a list of documents that the Committee requests DHS to produce as soon as possible but in no case later than July 27, 2020.

**Allegations of Illegal Detentions of Protestors**

On July 17, 2020, CBP released a statement addressing an incident seen in a widely circulated video “that showed two men in apparent military garb taking a young man wearing all black into

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<sup>1</sup> *Executive Order on Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence*, WHITE HOUSE, June 26, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-protecting-american-monuments-memorials-statues-combating-recent-criminal-violence/>.

custody.”<sup>2</sup> The statement claims that: “CBP agents had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.” The statement also claims that after “a large and violent mob moved towards their location,” the “CBP agents quickly moved the suspect to a safer location for further questioning.”<sup>3</sup>

The statement further claims:

“CBP personnel have been deployed to Portland in direct support of the Presidential Executive Order and the newly established DHS Protecting American Communities Task Force (PACT). CBP law enforcement personnel have been trained and cross designated under FPS legal authority 40 U.S.C. § 1315.”<sup>4</sup>

This statement not only fails to answer the many questions raised by the incident shown in the video, it also raises many additional questions. For example, was the person in the video suspected of assaulting a federal agent or destroying federal property? This statement potentially includes deeply serious actions, but they are presented in the statement as a sort of menu of possible allegations. As such, the statement demonstrates a disturbing lack of specificity regarding what should be the most basic determination any time a person is taken into custody by law enforcement, which is the probable cause that led to the arrest. Further, the statement claims that the suspect was moved to a safer location but does not explain the nature of the “move” (was it an arrest?), or where the “safer location” was located.

Separately, an article in the *Washington Post* describes the experiences recounted by another protestor who was allegedly detained by DHS personnel. According to the article, “Mark Pettibone, a 29-year-old demonstrator,” claims that “as he was walking home from a peaceful protest,” some “men in green military fatigues and generic ‘police’ patches jumped out of an unmarked minivan” and then “detained and searched” him. Pettibone claims that the men “drove him to the federal courthouse and placed him in a holding cell.” Pettibone further claims he was eventually “read his Miranda rights,” but that “the men let him go.” Pettibone claims that the men “did not tell him why he had been detained or provide him any record of an arrest” and that “[a]s far as he knows, he has not been charged with any crimes.”<sup>5</sup>

### **State and Local Officials Oppose DHS’ Actions**

Officials at both the state and local levels in Oregon have opposed DHS’ actions in Portland. For example, Kate Brown, the Governor of Oregon, stated that: “The Trump administration needs to

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<sup>2</sup> *‘It was like being preyed upon’: Portland protestors say federal officers in unmarked vans are detaining them*, Washington Post, July 17, 2020. <https://www.washingtonpost.com/nation/2020/07/17/portland-protests-federal-arrests/>.

<sup>3</sup> *Statement on CBP Response in Portland, Oregon*, Customs & Border Protection, July 17, 2020, <https://www.cbp.gov/newsroom/speeches-and-statements/statement-cbp-response-portland-oregon>.

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

<sup>5</sup> *‘It was like being preyed upon’: Portland protestors say federal officers in unmarked vans are detaining them*, Washington Post, July 17, 2020. <https://www.washingtonpost.com/nation/2020/07/17/portland-protests-federal-arrests/>.

stop playing politics with people's lives." She further stated that: "Trump needs to get his officers off the streets."<sup>6</sup>

The Mayor of Portland, Ted Wheeler, has warned that "the federal presence in the city is now exacerbating a tense situation."<sup>7</sup> Mayor Wheeler also said:

"We're demanding that the President remove these additional troops that he sent to our city. It is not helping to contain or de-escalate the situation it's obviously having exactly the opposite impact."<sup>8</sup>

The Attorney General of Oregon, Ellen F. Rosenblum, has filed suit against DHS and component agencies, "alleging they have engaged in unlawful law enforcement in violation of the civil rights of Oregonians by seizing and detaining them without probable cause." Attorney General Rosenblum announced her office would also pursue a temporary restraining order "regarding the forcible detainment" of Mr. Pettibone. In a statement, Attorney General Rosenblum warned that DHS' actions "are entirely unnecessary" and that they constitute "scare tactics" that "make it impossible for people to assert their First Amendment rights to protest peacefully."<sup>9</sup>

According to a report by Oregon Public Broadcasting (OPB) even the U.S. Attorney for the District of Oregon, Billy J. Williams, has asked for an independent review of DHS' actions. OPB reports that Mr. Williams stated the following:

"Based on news accounts circulating that allege federal law enforcement detained two protesters without probable cause, I have requested the Department of Homeland Security Office of the Inspector General to open a separate investigation directed specifically at the actions of DHS personnel."<sup>10</sup>

## **Document Requests**

The Committee has previously sought documents and information on DHS' actions to implement the President's Executive Order expanding protections around federal properties. On July 6, 2020, the Committee requested that DHS produce by July 13, 2020, multiple categories of documents

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<sup>6</sup> Matthew S. Schwartz, 'Like Adding Gasoline': Oregon Officials Blast Trump Response To Portland Protests, NPR, July 19, 2020, <https://www.npr.org/2020/07/19/892826853/like-adding-gasoline-oregon-officials-blast-trump-response-to-portland-protests>.

<sup>7</sup> Portland Mayor Says Federal Agents Sent to Demonstrations 'Are Not Wanted Here', Time (via Associated Press), July 19, 2020, <https://time.com/5868676/portland-protests/>.

<sup>8</sup> Devan Cole, Portland mayor: Trump administration policing tactics are 'abhorrent', CNN, July 19, 2020, <https://www.cnn.com/2020/07/19/politics/portland-mayor-protests-federal-agents-memo-riot-training/index.html>.

<sup>9</sup> Press Release: Attorney General Rosenblum Files Lawsuit Against U. S. Homeland Security; Announces Criminal Investigation, Oregon Department of Justice, July 17, 2020, <https://www.doj.state.or.us/media-home/news-media-releases/attorney-general-rosenblum-files-lawsuit-against-u-s-homeland-security-announces-criminal-investigation/>.

<sup>10</sup> Ryan Haas & Conrad Wilson, US Attorney For Oregon Calls For Investigation Into Portland Protester Arrests, Oregon Public Broadcasting, July 17, 2020, <https://www.opb.org/news/article/us-attorney-oregon-investigation-portland-protester-arrests/>.

regarding the creation and operations of the PACT, which you announced on July 1.<sup>11</sup> No documents have been provided by the Department and the Committee's letter has been unanswered.

Congress is endowed by the Constitution with the authority and responsibility to conduct oversight over the Executive branch's implementation of U.S. laws. As such, the failure of the Department to comply with the Committee's earlier requests is both troubling and surprising given the Administration's stated commitment to upholding essential American institutions and the rule of law.

The Committee renews the document requests set forth in its letter of July 6 and requests that all responsive documents be produced by July 27, 2020.

In addition, the Committee requests the production by July 27, 2020, of the following documents from the time period of May 1, 2020, through the present:

1. All documents and communications referring or relating to the deployment of personnel from DHS or any component agency of DHS to Portland, Oregon, including but not limited to all communications among DHS personnel; between DHS personnel and any personnel in the White House; between DHS personnel and personnel of any other Federal agency or entity, including employees of all federal facilities located in Oregon; and between DHS and all state and local authorities in Oregon;
2. All documents referring or relating to the selection of employees of DHS and component agencies for assignment to Portland, Oregon;
3. All documents referring or relating to the training provided to all DHS personnel assigned to Portland, including but not limited to:
  - a. all documents referring or relating to the review of employees' training records to ensure that they are qualified for the duties to which they are assigned; and
  - b. all documents referring or relating to training in riot control and response to mass demonstration completed by each DHS employee/component agency employee;
4. All documents referring or relating to the use of any unmarked vehicle by any DHS personnel or component agency personnel for any purpose in Oregon;
5. All documents referring or relating to the use of force by any DHS personnel or the personnel of any component agency, including but not limited to all documents referring to the authorized as well as the actual use of force;
6. All documents referring or relating to the detention in any form and for any length of time by DHS personnel or the personnel of any component agency of DHS of any individual including but not limited to all documents referring or relating to:
  - a. The date, time, and location where each detention commenced;
  - b. The individual(s) detained;
  - c. The probable cause(s) that led to each detention;

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<sup>11</sup> Letter from Chairman Bennie G. Thompson, Chairman, Committee on Homeland Security, to Acting Secretary Chad F. Wolf, Department of Homeland Security, July 6, 2020, *available at* <https://homeland.house.gov/imo/media/doc/2020-07-06%20T%20DHS%20Act%20Sec%20-%20Monuments%20.pdf>.

- d. The titles of all DHS personnel or the personnel of any DHS component agency involved in carrying out the detention;
- e. All federal assets, including any vehicles, utilized in carrying out the detention;
- f. All location(s) in which each detained individual was held by DHS personnel or the personnel of any component agency;
- g. All charges filed in any venue against each detained individual; and
- h. The date, time, and location where each detained individual was released, including all documents referring or relating to the decision to release each individual.

Thank you for your urgent attention to this matter.

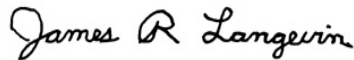
Sincerely,



Bennie G. Thompson  
Chairman



Sheila Jackson Lee  
Member of Congress



James Langevin  
Member of Congress



Cedric Richmond  
Member of Congress



Donald Payne  
Member of Congress



Kathleen Rice  
Member of Congress



Lou Correa  
Member of Congress



Xochitl Torres Small  
Member of Congress



Max Rose  
Member of Congress



Lauren Underwood  
Member of Congress



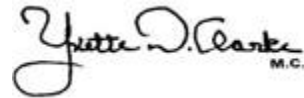
Elissa Slotkin  
Member of Congress



Emanuel Cleaver  
Member of Congress



Al Green  
Member of Congress



Yvette Clarke  
Member of Congress



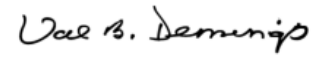
Dina Titus  
Member of Congress



Bonnie Watson Coleman  
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Nanette Barragán  
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Val Demings  
Member of Congress