

# United States Senate

July 22, 2020

The Honorable Chad F. Wolf  
Acting Secretary  
Department of Homeland Security  
2801 Nebraska Avenue NW  
Washington, D.C. 20528

Mark A. Morgan  
Acting Commissioner  
Customs and Border Protection  
1300 Pennsylvania Avenue NW  
Washington, D.C. 20229

Matthew T. Albence  
Acting Director  
U.S. Immigration and Customs Enforcement  
500 12th Street SW  
Washington, D.C. 20526

Dear Acting Secretary Wolf, Acting Commissioner Morgan, and Acting Director Albence:

We write today regarding deeply disturbing reports of U.S. Department of Homeland Security (DHS) personnel arresting, searching, and detaining individuals participating in demonstrations and protests.

Over the past week, multiple reports have emerged of federal authorities arresting demonstrators without any explanation in Portland, Oregon. These federal law enforcement officers have reportedly acted without displaying any identification or badges, and using unmarked vehicles, to detain individuals. Federal agents are reportedly using tear gas, rubber bullets, and acoustic weapons against demonstrators. Demonstrators report feeling “terrified” because unidentified individuals in camouflage were driving around areas of Portland in unmarked vehicles grabbing individuals off the street. One demonstrator reported that the experience is “like being preyed upon.”<sup>1</sup> A Navy veteran was reportedly beaten with a baton, sprayed in the face with a chemical irritant, and suffered a broken hand. Pregnant mothers, standing at protests with their arms linked, were reportedly teargassed.<sup>2</sup>

It is essential to understand precisely which DHS personnel are involved in these activities, relevant policies and procedures, and mechanisms for accountability in the event that personnel engage in misconduct.

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<sup>1</sup> Katie Shepherd and Mark Berman, Washington Post, “‘It was like being preyed upon’: Portland protesters say federal officers in unmarked vans are detaining them” (July 17, 2020), *available at* <https://www.washingtonpost.com/nation/2020/07/17/portland-protests-federal-arrests/>.

<sup>2</sup> Marissa J. Lang, Washington Post, “A Navy vet asked federal officers in Portland to remember their oaths. Then they broke his hand.” (July 20, 2020), *available at* <https://www.washingtonpost.com/nation/2020/07/20/christopher-david-portland-protest-video/>.

DHS includes U.S. Customs and Border Protection (CBP) (including Border Patrol Tactical Unit, or BORTAC), U.S. Immigration and Customs Enforcement (ICE) (including Homeland Security Investigations, or HSI), and the Federal Protective Service (FPS), each of which has been involved in the federal response to demonstrations nationwide since DHS first commenced these deployments. On June 5, 2020, Sen. Harris, Rep. Scanlon, and Rep. Vargas along with 96 members of Congress wrote to CBP and ICE asking them a number of questions about these deployments, including what identification and equipment personnel are carrying, what forms of force they are authorized to use, how they are protecting the public's constitutional rights and safety, and what surveillance they are conducting during these deployments. On June 25, 2020, during a hearing of the Senate Homeland Security and Governmental Affairs Committee, Acting CBP Commissioner Morgan was questioned about concerns with these deployments. To date, CBP and ICE have not responded to the letter. In the meantime, deployments have continued, including under a newly formed task force created by Executive Order 13933, and multiple reports have emerged of people experiencing the sheer terror of being arrested by unidentified law enforcement for exercising their constitutional right to protest.

People have taken to the streets to exercise their First Amendment rights and call for racial justice after the killing of George Floyd by individuals in the Minneapolis Police Department. The reported federal law enforcement actions in Portland, Oregon raise serious concerns in light of your statements implying that such actions will be replicated across the nation, including in Oakland, California. We therefore request that DHS, CBP, ICE, and FPS respond to all questions in the June 5 letter, along with the below questions, by July 28, 2020:

1. How many individuals have been detained or arrested for any period of time, regardless of whether charges were eventually filed, as part of these deployments? For each individual, please provide their age, the basis for the arrest or detention, the location, whether any charges were filed and, if so, what those charges were.
2. What documentation do you maintain relating to arrests made by federal law enforcement at protests?
3. Please provide a list of each form of force and all equipment that DHS personnel have utilized in connection with these deployments, including but not limited to: tear gas, smoke, rubber bullets, pepper spray, and/or flash bangs. For each piece of equipment, please include the source.
4. How many complaints have been received by DHS, ICE, CBP, or FPS in connection with these deployments? How many complaints have been forwarded to the DHS Office of Inspector General? Please provide descriptions of the nature of each complaint, including whether the complaint involved an allegation of non-compliance with 8 C.F.R. § 287.8, which requires DHS immigration officers to identify themselves as “an immigration officer who is authorized to execute an arrest” and “[s]tate that the person is under arrest and the reason for the arrest.”
  - a. How has DHS, ICE, CBP, and FPS responded to the complaints?

5. Have DHS, ICE, CBP, or FPS conducted investigations into the public reports of federal law enforcement officers' conduct, including but not limited to the reports discussed above? Please provide any documentation relating to such investigations along with their current statuses.
6. How many federal law enforcement agents are currently deployed in response to protests? Please provide a breakdown by component and subdivision within DHS, including but not limited to CBP, BORTAC, ICE, HSI, and FPS, as well as their locations and dates of deployment.
  - a. For each component or subdivision, please provide the specific authority under which the component or subdivision is acting and a description of how these deployments advance the component or subdivision's core mission.
  - b. For each component or subdivision, please include any statutory authorities that DHS would attempt to invoke in connection with the deployments.

Thank you for your prompt attention to this matter.

Sincerely,



Kamala D. Harris  
United States Senator



Ron Wyden  
United States Senator



Jeffrey A. Merkley  
United States Senator

/s/ Richard Blumenthal  
United States Senator

/s/ Sheldon Whitehouse  
United States Senator

/s/ Tammy Duckworth  
United States Senator



Cory A. Booker  
United States Senator

/s/ Edward J. Markey  
United States Senator

/s/ Mazie K. Hirono  
United States Senator

/s/ Amy Klobuchar  
United States Senator

/s/ Christopher S. Murphy  
United States Senator

/s/ Martin Heinrich  
United States Senator

/s/ Tom Udall  
United States Senator

/s/ Elizabeth Warren  
United States Senator

/s/ Patrick Leahy  
United States Senator

/s/ Chris Van Hollen  
United States Senator

/s/ Bernard Sanders  
United States Senator

/s/ Robert Menendez  
United States Senator