

OVERSIGHT OF DHS PERSONNEL DEPLOYMENTS TO RECENT PROTESTS

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
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OVERSIGHT OF DHS PERSONNEL DEPLOYMENTS TO RECENT PROTESTS

THURSDAY, AUGUST 6, 2020

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10 o'clock a.m., in room SD-342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Hawley, Peters, Carper, Hassan, Harris, Sinema, and Rosen.

OPENING STATEMENT OF CHAIRMAN JOHNSON¹

Chairman JOHNSON. Good morning. This hearing will come to order. I want to first thank Acting Secretary Wolf for his service and for taking the time to come before our Committee here today. I know you have a lot of things on your plate here, so I think the Committee does appreciate you taking the time to come and explain what has all been happening and answering our questions.

Your full written testimony will be entered into the record.

For my part, I am going to read my opening statement and then there will be a 2-minute video at the tail end of my statement. But I will begin by saying that Federal Protective Service (FPS) Officer, David Patrick Underwood, was 53 on May 29th when he was shot dead guarding a Federal building in Oakland, California, during a protest. His partner was also shot but thankfully survived.

It was reported that the protest involving approximately 8,000 people turned chaotic and violent as demonstrators smashed windows, looted stores, and broke into a bank a few blocks from where Officer Underwood was on duty.

The suspect had killed a sheriff's deputy a few days before. His anti-police views drew him to Oakland where he saw the anti-police protest was an opportunity for more bloodshed.

David Dorn was a retired police chief in St. Louis. He responded to the alarm going off at a shop owned by his friend during a night of anti-police protests that turned into a night of looting. Chief Dorn, 77 years old, father of five, grandfather of 10, died on June 2, in the anarchy unleashed in St. Louis.

Unfortunately, the violence did not end there. Just yesterday morning, protesters in Portland broke into a police association building and started a fire inside. Protesters slashed a truck's tires.

¹The prepared statement of Senator Johnson appears in the Appendix on page 41.

Shots were fired. It was the 69th straight day of what we are constantly told are, “peaceful protests,” against the existence of police in Portland.

According to the Department of Homeland Security (DHS), 277 attacks on police and Federal officers throughout America have occurred during these peaceful protests that started in May. At least 140 Federal officers have been injured in Portland alone. At least 113 Federal officers has suffered injuries to their sight after peaceful protesters have deliberately attempted to blind them with lasers and other weapons.

At least 930 non-Federal law enforcement officers have been injured. At least one has died. At least 38 Federal officers have been doxed in Portland, meaning personal information about them, such as addresses or phone numbers, were put online as a means of intimidation. At least 21 Federal courthouses have been vandalized this summer.

Protesters in Nashville broke into City Hall and lit fires in late May. A woman charged this week was caught on video holding a poster reading “F the police,” lighting it and tossing it through a broken window. Protesters in suburban Denver broke into a courthouse and lit fires. Protesters in Minneapolis burned down a police station. Others tried doing the exact same thing in Seattle. A peaceful protest in Oakland in July intensified, as news reports put it, after protesters set fire inside a courthouse and launched fireworks at officers.

During a peaceful protest in Madison, Wisconsin, at least one individual hurled a gasoline bomb into the City-County Building, which holds the city’s 911 dispatch center and a jail. That night also included the beating of at least two individuals, one of them a State lawmaker who collapsed into the landscaping near the Capitol.

These peaceful protests that include arson and assault have left a mark on our cities, our culture, and our country. As journalist Michael Tracey recently wrote, “From large metro areas like Chicago and Minneapolis/St. Paul, to small and mid-sized cities like Fort Wayne, Indiana and Green Bay, Wisconsin, the number of boarded-up, damaged, or destroyed buildings I have personally observed—commercial, civic, and residential—is staggering. Keeping exact count is impossible. One might think that a major media organization like *The New York Times* would use some of their galactic journalistic resources to tally up the wreckage for posterity, but roughly 6 weeks later and such a tally is nowhere to be found.”

And while police were tied up dealing with peaceful protests, homicides elsewhere in our cities were skyrocketing. By the end of July, homicides are up 53 percent in Chicago over the same period in 2019. In Minneapolis, murders are up 86 percent; in Milwaukee, 84 percent; New York, 29 percent; Atlanta, 34 percent; Seattle, 42 percent; Philadelphia, 33 percent; in New Orleans, 36 percent; and Denver, 46 percent.

Those numbers measure the loss of human lives. Many are black lives that do not seem to matter much to the movement. Some are children whose lives have been cut tragically short, children whose lives matter. Their names matter.

In Chicago alone, child victims include 15-year-old Terrance Malden; 15-year-old Jeremiah James, who was shot in the head; 15-year-old Michael Ike; 14-year-old Vernado Jones, Jr.; 10-year-old Lena Nunez; 7-year-old Natalia Wallace, shot at a backyard party; 2-year-old Mekhi James, killed when someone shot at her father's car in traffic; 1-year-old Sincere Gaston, killed when somebody shot his mother's car. And that is just since Memorial Day, in one city.

These people died because criminals killed them, but they may have also died because police were constrained and prevented from doing their job to protect them.

When you encourage disdain for police you encourage criminals. When you do little or nothing to stop riots, you unleash anarchy. And when you encourage criminals and unleash anarchy, people die, and all of us suffer.

With that I have a 2-minute video that I would like everybody to watch. It is not easy to watch, but it shows the reality of what these peaceful protests have devolved into.

[Video played.]

Senator Peters.

OPENING STATEMENT OF SENATOR PETERS¹

Senator PETERS. Thank you, Mr. Chairman, Acting Secretary Wolf. I appreciate you being here today. I know you have an awful lot on your plate and I appreciate that time is precious.

You have a very challenging role, especially in these unprecedented times. Nevertheless, I am extremely disappointed with some of the recent actions DHS has taken under your leadership, actions that have put at risk your ability to effectively protect the homeland.

I do not dispute that the situation in Portland required a response. We cannot allow a small number of bad actors who want to instigate violence or harm law enforcement personnel to take advantage of peaceful demonstrators that are exercising their First Amendment rights.

However, DHS's chosen response to this situation on the ground I think is unacceptable. Instead of working together with State and local partners, you sent a surge of Federal personnel who did not have proper training to deescalate a situation. Their heavy-handed tactics caused additional chaos, and I am concerned that this singular focus on protecting Federal property is distracting the Department from addressing the threat posed by domestic terrorism.

Last year at my urging, this Committee held the Senate's first-ever hearing focused on white supremacist violence and domestic terrorism threats. We have seen far too many attacks in this country at the hands of white supremacist terrorists, attacks that have taken the lives of far too many Americans.

When Americans were murdered in shopping centers or while at worship by domestic terrorists with ties to white supremacist movements, your Department failed to respond with the same urgency that we saw on the streets of Portland. When one Federal Protection Services officer was tragically murdered and another was seriously wounded in the line of duty earlier this year—it was

¹ The prepared statement of Senator Peters appear in the Appendix on page 44.

by Americans with ties to the Boogaloo Boys. A movement rooted in white nationalism.

Yet you still have not released the complete plan to combat white supremacist violence, nearly a year after a long-delayed release of the Strategic Framework for Countering Terrorism and Targeted Violence. I want to know why your agency is not focusing on the threat posed by white supremacist violence in our country with the same sense of urgency.

I want to know why your own Office of Intelligence and Analysis (I&A) has no trouble sharing intelligence on journalists with police in Portland but makes excuses for not being able to keep tabs on suspected domestic terrorists who frequent white nationalist forums online.

The Department of Homeland Security and decisions made to keep our community safe should not be, or ever be driven by politics. Terrorism is terrorism, whether it fits the ideological narrative of DHS leaders or not. DHS must never let politics define, limit, or overshadow the truth about the security risks that are facing our country. Instead of aligning your Department's resources, personnel, and mission to tackle the white supremacist terrorist threat, you have chosen to focus on optics.

I know that our law enforcement personnel put their lives on the line every time they go to work. I have fought hard in Congress to make sure that they have the resources they need to stay safe in the line of duty and return home to their families safe. But let me be crystal clear: the decisions this Administration has made in recent months have put DHS personnel at unnecessary risk. And because you chose to escalate conflicts, you not only risked your officers' safety, you risked the safety of American civilians.

Now more than ever, we need leadership at the Department of Homeland Security. We need coordination with State and local officials. We need to focus on the most prevalent and the most deadly threats that are facing our country. I continue to hope the Department can juggle its complex mission, but what I have seen so far calls into serious question this Administration's priorities when it comes to national security.

I look forward to speaking with you today and continuing to work together to protect our national security and the security of the American people. Thank you.

Chairman JOHNSON. Thank you, Senator Peters. It is the tradition of this Committee to swear in witnesses, so if you would please stand and raise your right hand.

Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. WOLF. I do.

Chairman JOHNSON. Please be seated.

The Honorable Chad Wolf is the Acting Secretary of the Department of Homeland Security. He has been serving in this position since November 2019. Mr. Wolf previously held numerous senior leadership roles in the Department, including leading the Office of Strategy, Policy, and Plans, and serving as the Chief of Staff for the Department. Acting Secretary Wolf.

**TESTIMONY OF THE HONORABLE CHAD F. WOLF,¹ ACTING
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. WOLF. Chairman Johnson, Ranking Member Peters, Members of the Committee, thank you again for the opportunity to testify today.

While many Americans are aware of the traditional missions of the Department of Homeland Security such as aviation security, border security, immigration enforcement and counterterrorism, just to name a few, many are not as familiar with the important mission of the Federal Protective Service. FPS has protected Federal property for almost 50 years, and does so at almost 9,000 properties around this country. This responsibility was specifically provided to FPS through the Secretary of Homeland Security by the U.S. Congress.

For over 60 days, Federal properties in Portland, particularly the Hatfield Federal Courthouse, have been attacked by violent criminals, violent opportunists, and violent anarchists.

I want to be clear. We see, in Portland, every day, nonviolent protests. The Department is aware of the national dialogue taking place around racism and law enforcement practices, and we continue to support and defend every American's right to exercise their First Amendment rights. The violent activity that I will refer to today is not associated with those protests.

The violent activity we see occurring between midnight and 5 a.m. began roughly around May 28th, with the mayor of Portland announcing an 8 p.m. to 6 a.m. curfew, from May 30th to June 2. On June 1, due to the level of violence, well before DHS arrived in Portland, the Portland mayor asked the Governor of Oregon to activate the National Guard to help protect facilities in the city.

Over the course of June, DHS monitored the situation in Portland closely, began deploying additional FPS officers into Portland to protect Federal facilities, and despite surging over 20 additional FPS officers throughout the month of June, in late June it was clear we were overmatched. In early June, at the request of FPS officials in Portland, I directed additional law enforcement assets to Portland to protect Federal properties as well as officers.

Our Federal officers have faced assaults from bricks, baseball bats, sledgehammers, Molotov cocktails, mortar-style commercial-grade fireworks, accelerants, improvised explosive devices (IEDs), and other violent weapons. Since July 4th, Federal officials in Portland have made 99 arrests, and DHS officers have experienced 277 separate injuries. Those injuries range from minor to serious, to include several who may have permanent eye damage.

I would like now to play a short video of what our officers have faced during their time in Portland.

[Video played.]

Unfortunately, what has been absent during this 60-day period was the assistance of local and State law enforcement personnel. DHS and the Department of Justice (DOJ) officers were provided little to no assistance, night after night, in protecting Federal properties and themselves. Local and State officials did not allow local law enforcement to police the area immediately around the Federal

¹ The prepared statement of Mr. Wolf appears in the Appendix on page 47.

facilities nor in the parks nearby, which violent opportunists used as a staging ground to prepare for their nightly assault on the courthouse and our officers.

Local and State officials did not allow law enforcement to make any arrests—I repeat, any arrests—if the violence was directed at Federal properties. In fact, on July 17th, the mayor of Portland directed that all Federal law enforcement agencies be prohibited from accessing the Portland Police Bureau Emergency Operations Center, and on July 22, the Portland City Council issued a resolution specifically directing all members of the Portland Police Bureau shall not provide, request, or willingly receive any operational support from DHS and DOJ law enforcement agencies.

To put it simply, DHS and DOJ officers, law enforcement officers, civil law enforcement officers, were abandoned due to the dangerous policies by local officials. The cooperation and assistance our Federal officers receive in any other city around the country did not exist in Portland.

Let me briefly address several inaccurate statements offered by some at events that have played out in Portland. Our law enforcement officers are not an occupying force, and they are not serving as a general domestic security agency. They have been deployed for an extended period of time to one city, and that is Portland, and that is to protect Federal properties.

Our law enforcement officers are not “stormtroopers,” the “Ge-stapo,” or “thugs.” They are civil law enforcement officers who wear clearly marked uniforms, who are properly trained, who follow established law enforcement procedures and practices, and operate within their authorities.

It has been suggested that our law enforcement officers should not be in Portland if not invited by State or local officials. And while our preference is always to partner with local and State law enforcement, enforcing Federal law is not by invitation. Unlike local law enforcement, we cannot be directed to ignore criminal activity and actions, and we will never shy away from our statutory duties.

On July 14th, I placed phone calls to the mayor of Portland the Governor of Oregon. I offered the full resources of the Department to assist them in ending the violence directed at the Federal courthouse. Their answer was stark. It was “no, thank you” and “please remove all DHS law enforcement officers from Portland.”

Fortunately, the Governor thought better about this decision and reached out 2½ weeks later to offer Oregon State Police support to address the violence.

As of today, the full augmented DHS law enforcement posture remains in Portland. They will continue to remain until we are assured that the Hatfield Federal courthouse, as well as other Federal facilities in Portland, will no longer be violently attacked.

While we have seen a noticeable decrease in violent activity directed at the Federal courthouse in recent days, make no mistake, there continues to be violence in Portland. Over the past 7 days, Portland police have declared a riot on four different occasions. Glass bottles and blinding lasers have been directed at Portland police officers, numerous arrests have been made, and the Portland Police Association building has been set on fire. While this violence

is not directed at the Federal courthouse, DHS law enforcement officers remain on alert should it return.

Again, thank you for the opportunity to testify today, and I look forward to the questions.

Chairman JOHNSON. Thank you, Acting Secretary Wolf. Senator Scott has to preside at 11 a.m. so I think probably the cleanest thing is I will just yield my questioning time to Senator Scott.

OPENING STATEMENT OF SENATOR SCOTT

Senator SCOTT. Thank you, Chairman Johnson.

First off, I want to thank you for what you do every day. I was Governor for 8 years and I learned three things, or that people care about three things: jobs, education for their kids, and they want to be safe. So the video you showed, the things we have seen in Portland are disgusting.

So do you think it is a peaceful protest when people use lasers to try to blind law enforcement officers?

Mr. WOLF. Absolutely not.

Senator SCOTT. Do you think it is a peaceful protest when people throw bricks at law enforcement officers?

Mr. WOLF. Absolutely not.

Senator SCOTT. Do you think it is a peaceful protest when people start fires around buildings?

Mr. WOLF. Absolutely not.

Senator SCOTT. So would you call the attack on the Federal building in Portland a peaceful protest?

Mr. WOLF. No.

Senator SCOTT. Do you have an obligation, in your job, to defend Federal property?

Mr. WOLF. It is an obligation and it is a direction from the Congress. It says we shall protect those Federal facilities. We do not have an option. It does not say we can. It says that we shall.

I would just say that we do see peaceful protest in Portland every day. Every day, in 66 days of this, there are peaceful protests. That does not make the news. There are no arrests. There are no injuries. That usually occurs in the early evening, very different than what the video showed.

Senator SCOTT. So when you read things where politicians say, "Oh, all those protests in Portland were peaceful," and you see the video, you see what is happening to your law enforcement officers, how do you feel and how does your law enforcement community feel?

Mr. WOLF. I have some very strong feelings about that. Again, I think what folks are doing, whether intentionally or unintentionally, are they are confusing two different activities that are going on in Portland—peaceful protesting and then the violent activity that we see between midnight and 5 a.m. there, every morning.

Our law enforcement officers are doing their very best. Some of what you saw in the video, very difficult circumstances. They are behind a perimeter. They are inside a Federal courthouse. They are inside that courthouse for the vast majority of the time. They only come out to defend the courthouse as it is getting attacked.

And some of the language, I mentioned some of the language, "stormtroopers," "Gestapo," things like that, I think most reason-

able Americans, and almost all law enforcement, know that that is an absolute lie.

Senator SCOTT. So were you surprised when the mayor and the Governor did not provide support to do the job of protecting Federal property?

Mr. WOLF. I did. Yes, I think everyone understands that Oregon and Portland, there is an environment there of protesting, and so we certainly appreciate that. What we saw throughout June and into July is it going beyond that, becoming very violent. When you do not hold individuals accountable or you allow them to attack a courthouse and then step back across the street into a park to rearm, to come back to the courthouse, night after night after night, it emboldens them.

So what we see in Portland is an environment. If you go back to 2018, we had an U.S. Immigration and Customs Enforcement (ICE) facility, a DHS ICE facility, for 28 days was laid siege to by individuals. Portland police, local officials did nothing for 28 days. We finally had to send in Federal law enforcement assets to take that building back.

Senator SCOTT. So what should Congress be doing to be helpful to you? First, why do we not talk about this. Talk about the people that have lost their vision. How many, and—

Mr. WOLF. I think you saw a little bit from the video the Chairman. It was that green laser is what we are talking about. So that is a new tactic that we have seen that our Federal Protective Service officers have seen in Portland. It is very powerful. This is not the laser that your cat or your dog may chase on the ground. This is a very powerful laser. So it hits their eyes, it will heat up the nucleus of the eye, and it will give you permanent damage.

We have been able to address that with some eye protection, but we have three officers that will likely lose some portion of their vision.

Senator SCOTT. And have you heard a lot of sympathy for them through a lot of these national politicians? As they say, these people that throw bricks and start fires and do the lasers, have you heard any of them say, "I am worried about your law enforcement officers losing their vision?"

Mr. WOLF. No. I think that is really disappointing. I talk passionately about what we do in Portland, and it is because of the law enforcement officers there that are putting their lives in danger, that are getting injured. And what I do not hear is any appreciation for that. The Ranking Member certainly did that in his opening statement, and I thank him for that. But I hear very little of that. I hear very little of that from the Oregon congressional delegation. They have not mentioned DHS law enforcement officers, the injuries that they have had, protecting a Federal courthouse. It is very similar to protecting the U.S. Capitol. If someone walked up to the U.S. Capitol and tried to burn it down, you would arrest them. I would hope the Capitol Police would arrest them. That is all we are trying to do in Portland is to protect a Federal facility, seat of justice there in Portland.

Senator SCOTT. And how many law enforcement officers have lost their life since these protests started back in May?

Mr. WOLF. From a DHS perspective it is the one that the Chairman mentioned, Officer Underwood, in Oakland, in protecting a courthouse there in Oakland. But we have had numerous injuries across the country. The 277 that I mentioned is just specifically in Portland, but we have many numerous ones that have been injured.

Senator SCOTT. Thank you, Chairman Johnson.

Chairman JOHNSON. Senator Peters.

Senator PETERS. Thank you, Chairman Johnson, and again, Acting Secretary Wolf, thank you again for your testimony. To be clear on the record, we are concerned about the men and women who put their lives in jeopardy every day to protect this country, and respect the job they do and understand it is a very tough job.

Mr. Chairman, we heard Acting Secretary Wolf talk about the local officials and their unwillingness to be a part of securing their city. Certainly the images that we saw are disturbing. It is just hard for me to believe that local officials would just sit by idly and not be engaged in that. As I asked you when we requested this hearing, it would have been wonderful to hear both sides of the story, to have folks from Oregon—the mayor, the Governor, the police chief, other officials—that were engaged. If we are going to be looking into the actions that occurred in Portland, I think we need a complete picture.

And my experience has been there are always two sides to every story, and we need to hear that story. So hopefully that will happen in the future, that we are able to get a better sense of that.

So my question to, Acting Secretary Wolf, is, would you agree that the Department of Homeland Security's ability to conduct its mission of securing our nation really depends on partnerships and trust? Trust is absolutely critical in this very complex mission that you have, which talked about in the opening, and that trust needs to be established with State and local officials for everything. When you think of the broad range of topics that you deal with—election security, protecting our borders, cybersecurity, natural disasters—all of those things are under your purview. Do you not believe that we need to have a relationship with local officials in order to effectively conduct that mission?

Mr. WOLF. I agree 100 percent.

Senator PETERS. So why did that not occur here?

Mr. WOLF. Again, we have been talking, again, with Portland police and Oregon for over 60 days. We continued to ask them to get involved. Now what we do see is local police and State police making arrests if the violence is directed at Portland police facilities, or city facilities. If the violence is directed at specifically at the Hatfield Federal Courthouse, they would not engage. They would not make arrests.

Again, these violent individuals are staging in two city parks across the street from the courthouse every night. They have tents set up, and this is where they stage out of. They do that on city streets. The fence that you saw there is on the curb, so they are in city streets as they are attacking the courthouse and that fence.

We continue to engage with them. We had, over the course of 60 days. As I mentioned in my opening statement, City Council passed resolutions that prohibited Portland police from coordinating with

Federal law enforcement, even in their Emergency Management Center. So even in an area where police talk together, to deconflict, to make sure you do not have blue-on-blue incidents, that is currently not occurring in Portland because of some of the City Council resolutions passed.

Senator PETERS. I would like to read a statement to you by former DHS Secretary Chertoff. I do not know if you are familiar with him. He served under President Bush, Republican appointee.

Mr. WOLF. Yes.

Senator PETERS. He recently stated that the Department's actions are putting public trust at risk and that its response in Portland shows that there was no respect for, or coordination with the wishes of local authorities. He went on to say, "I believe that this is a dangerous precedent as our country faces so many threats that require these partnerships."

Is former Secretary Chertoff wrong?

Mr. WOLF. So I certainly respect former Secretary Chertoff's service to the Department and to the country, but absolutely on this point he is dead wrong.

Senator PETERS. How is he dead wrong?

Mr. WOLF. Again, I am happy to walk you through exactly the coordination that we had tried to do with Portland police. The mayor, I reached out to the mayor on several occasions to offer our support, to offer that coordination, and to understand what is occurring on the ground, the events that are occurring, again, between midnight and 5 a.m. every morning.

I do not believe that Secretary Chertoff, as well as others that have commented on DHS actions, really understand what is going on in Portland. I think they confuse the peaceful protesting that we see usually takes place between 6 p.m. and 7 p.m. until about 10:30 p.m. Again, no concerns there. It happens right across the street from the courthouse. There are no incidents. What we see at midnight to 5 a.m. is violent, violent activity where we get no support from State and local officials.

Senator PETERS. As a result of what has happened in Portland I certainly have heard an awful lot from State and local officials in my State, concerned as well about what they have seen. And, given the understandable concern that is being expressed following the images that we have seen, what are you doing to work with officials in communities that are participating in Operation Legend, to build trust and some of the critical relationships that are necessary for us to accomplish the mission that you are entrusted with?

Mr. WOLF. I would answer that two different ways, Senator. One, what we see in Portland is very different than any other city across the country that we see when we talk about protecting Federal properties. We see a cooperative relationship between Federal, State, and local officials, whether it is Chicago, Seattle, or any other major city where we have Federal properties. If there are threats and intelligence, if individuals are targeting those facilities, State and local law enforcement partner with us and help respond to that. That is different than what has been occurring in Portland for over 60 days.

Senator PETERS. You are saying Portland is a one-off. Portland is one case. You are not seeing this all across the country.

Mr. WOLF. That is correct.

Senator PETERS. We should not be worried about anarchy and chaos all across the country?

Mr. WOLF. I have been very clear about directed events at Federal facilities. Portland is very different. Now, we do see targeted attacks in Atlanta and Seattle and other places, two Federal facilities. They have been damaged. But what we see in those cities is State and local law enforcement partnering with us to protect the facilities, and then, again, to hold those that are attacking those certainly accountable.

When we talk about Operation Legend, which you mentioned—it is a Department of Justice-led initiative—that is really to target sort of the violent street crime that you see in some of these major metropolitan areas. Transnational criminal gangs, illicit narcotics, firearms, things of that nature.

And so DHS, through our Homeland Security investigators, are partnering with the Department of Justice on that, but it is very different activity than what we are doing in Portland.

Senator PETERS. I am very low on time here, but, Mr. Wolf, with DHS resources stretched, what assurances can you give us that combating white supremacist violence and domestic terrorism is truly a priority within your Department, and something that you will commit the resources necessary to combat?

Mr. WOLF. Absolutely, and we have had several conversations about this. Again, the Department looks at all forms of violent extremism, whether it is the far right, the far left, and everything in between. Obviously we are responding specifically to what is going on in Portland and other cities around the country.

Again, in a different position at the Department I had the opportunity to develop the Department's strategic framework for countering terrorism and targeted violence. That was back in September 2019. The strategy outlines the dangers that we are seeing, and the rising threat that we are seeing in violent white supremacist extremism, and lays out of a number of actions.

We are working on that implementation plan, that I believe you referred to in your opening statement. We are also pushing out additional grants targeting this area as well. We have nonprofit security grants from the Federal Emergency Management Agency (FEMA) that also goes toward places of worship, faith-based communities that will also protect them against this. And then, of course, our Cybersecurity and Infrastructure Security Agency (CISA) works with a host of partners and stakeholders regarding soft target security, and making sure that those are shored up against violent attacks as well.

Senator PETERS. So in closing here, I know that you put out the strategic plan, but what you really need to do is actually implement a plan. A plan is nothing unless it is actually implemented. You have not put out that implementation plan. We do not see a sense of urgency when it comes to creating that plan. What is your timeline? When should we see an implementation plan and actual concrete actions?

Mr. WOLF. Sure. So while we have not published or put out an implementation plan we are implementing many of the initiatives in that strategy. Let me get you an exact date on when we can get the implementation plan up. I know it is being finalized as we speak, and we will provide that to the Committee as quickly as possible.

Senator PETERS. Thank you.

Chairman JOHNSON. Senator Portman.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Secretary Wolf, first I would like you to tell the men and women who work for you, Federal law enforcement, that we appreciate what they are doing. We know that they have a responsibility, by the way, under laws that were passed here, in this Congress, to protect these Federal buildings. And looking at those videos is hard. It looks almost like a war scene.

And so let them know that the people I represent understand they have a responsibility, understand that they are putting themselves in danger, and it is appreciated.

And just to back up a second, the tragic murder of George Floyd was something I think, all of us thought was horrible. Then we had protests and demonstrations all around the country in response to that, and in support of racial justice and equality. I think the vast majority of Americans fully support those demonstrations, if they are peaceful. I think we have the right, as Americans, under the First Amendment, to be able to protest, and we can never let that be taken away.

But what we saw in those videos and what you have explained today, and what we have all seen on our TV sets and online is deeply troubling, because the violence, the rioting, the physical damage, the arson, certainly the looting—one thing that breaks my heart is to see store owners, particularly in some of these underserved communities, who have worked hard to create a small business, see it destroyed. You can drive through almost every major city in America today and see stores that are boarded up. You can see it here in Washington, D.C., by the way. If you drive around the White House area you will still see a lot of stores and shops boarded up.

The arson that we saw in the videos is extremely dangerous to everybody, and unfortunately we have seen this accompany some of these peaceful protests—not all, and Portland is an exception, as you have said, in terms of the attacks on the Federal buildings.

I guess the one question I would ask you is what have you learned? The coordination with the local and the State officials has obviously been a huge problem—lack of coordination, I should say. It sounds like that is getting better. It sounds like the Governor and others are now working more closely with you.

But what could you have done better? The protection of the courthouse, and Federal building in general, I think is, again, clearly within your mission set, but were there things that were done, or things that happened, that you have learned from, in terms of potential for future conflicts like this? What would you tell us this morning?

Mr. WOLF. Thank you for the question, and I think it goes back to the Ranking Member's question about the partnership between Federal law enforcement and State and local law enforcement. What we have seen is across the country it works, in city after city after city. Unfortunately, what we saw in Portland was the lack of that, and it allowed these violent individuals to, again, continue to attack a Federal facility night after night with no repercussion, with no one holding them accountable.

So they became more emboldened night after night. And we started seeing some of the weapons that they used became more and more sophisticated. At first it was bricks, bottles, frozen water bottles, canned food, things that are hard that could be thrown at an officer. Night after night, 30 days in, 40 days in, there is no consequence to them doing that, so then they come back with commercial-grade fireworks, and then they come back with IEDs, and then they come back with power tools. They keep coming back because there is no accountability.

So the lesson learned is making sure that there is close partnership with State and local law enforcement officials, and again, we see that in every other city around the country. We see that now.

Senator PORTMAN. I think you make a good point. You do not want to have this accelerate, and so, getting control of the situation earlier obviously makes sense. I will not push you on this because I want to ask you about Operation Legend, but I think my question is more what have we learned as a Federal DHS, Federal protective service law enforcement function, that we could have done better? Was there nothing to have been done? Could that information have been provided in a way that was more compelling, to be able to get that cooperation?

I find it extraordinary that the cooperation was not there, because I know at every level, local law enforcement, State law enforcement, Federal law enforcement, typically have a passion to be able to coordinate and work together, and do it well, even without direction often, just at the grassroots. But maybe you can get back to me on that, as to what could have been done to try to make this relationship work better.

On Operation Legend, it came up a moment ago, and I would like to clear up some confusion about that. This has been something that has been confusing in my own State. My understanding is that Operation Legend is a follow-on to Operation Relentless Pursuit, which is about violent crime. It is not about these protests. It is not about what we have been talking about otherwise today.

And Cleveland, Ohio, is one of the cities that is apparently part of Operation Legend, and will receive more funds and also more help, including help from DHS. My understanding is that several DHS personnel will be part of the new Operation Legend, or the expansion of Operation Relentless Pursuit, in Cleveland.

And I think, the violence that we have seen in our cities—and I am talking about violent crime here—is a big concern. I mean, we have seen an uptick. The studies I have seen even this week are that there is about a 24 percent rise since last year in reported homicides in 50 of our largest cities in America. Unfortunately, Cleveland is one of those.

And so I think it is good that we are helping Cleveland to cut down on violent crime. I think, having talked to the mayor about this, he also would like to see, obviously, a reduction of violent crime. My concern is that there was some confusion and concern back in Ohio about this program because of a lack of communication, with the U.S. attorney, with the mayor, with others. The mayor told me he read about Operation Legend, as an example, he said he heard about it from a press release. So did I.

And my question to you is what could we do to sort of reduce the confusion about this? There was a lot of concern that this had to do with Federal agents coming in and dealing with protests, which was not the issue at all. It was about violent crime. And without having information up front, and without having done the proper ground work, it created more confusion than it should have. I think it has been cleared up now, but I would just ask you, could you distinguish Operation Legend from, as an example, the situation in Portland, and can you tell us how DHS could do a better job in cooperating with local law enforcement, as well as some of our Federal personnel, including the U.S. attorneys?

Mr. WOLF. Sure. Again, what we are doing in Portland is protecting a Federal facility that has been under attack, or was under attack for over 60 days. Operation Legend is not directed at Federal facilities or the protection of Federal facilities. It is more to go address that violent street crime.

Homeland Security Investigations (HSI), which is part of ICE, is partnering. It is a small partnership with DOJ as they go out into different cities. Specifically in Chicago is where we are most engaged. And HSI, every day, deals with drug trafficking, money laundering, weapons trafficking, and violent crime, and that is what we are partnering with the Bureau of Alcohol, Tobacco, Firearms and explosives (ATF), the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), Marshal Service, in specific cities like Chicago, but across the country as well.

So two different missions. Regarding Operation Legend and making sure that the coordination and the communication is there, it is my understanding that most of Operation Legend's initiatives are being run by U.S. attorneys in those various cities and various districts. So I will certainly take that back to DOJ to make sure that that partnership and that communication is there.

Senator PORTMAN. Again, I think I would appreciate you looking into it, but also getting back to us and talking about how we can better coordinate, because clearly in Cleveland, Ohio, we did not coordinate well. Although, again, you do not take the lead in that—it is more of a DOJ responsibility—for local law enforcement and for the mayor or even the U.S. attorney to have heard about it through press accounts rather than having been told about it and having gotten the explanation makes it more difficult for you to do your job, because when your agents show up and people are not sure what the purpose is, it makes it hard.

So I do think it is a matter of simple communication, and my hope is that we can do a better job at that going forward.

And again, I want to end with saying that I hope you will communicate back to people, the men and women who work for you,

who are doing their jobs and doing it professionally, that we understand the sacrifices they are making and we appreciate it.

Mr. WOLF. Thank you.

Chairman JOHNSON. Senator Hassan.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thank you, Mr. Chair and Ranking Member, for having this hearing. I would just echo the Ranking Member's observation that it would be good to build on this hearing by also hearing from State and local officials.

I want to thank you, Acting Secretary Wolf, for your testimony today, and I also hope you will pass on my thanks to the men and women who work so bravely to defend our country and make us safe. I also want to take a moment to mourn the loss of David Patrick Underwood, the Federal Protective Service officer who was killed in the line of duty in Oakland by a member of the Boogaloo movement.

Our country is undergoing a much-needed reckoning about our history and reality of racial injustice following the killings of George Floyd, Ahmaud Arbery, Breonna Taylor, and so many others. As we continue working to address long-standing inequities in our society, including in the criminal justice system, we must also conduct strong oversight of the Federal Government's response in recent months to the protests in places like Washington, D.C., and Portland, Oregon. That is why today's hearing is so vital.

So I want to start, Mr. Wolf, with this question. The *Washington Post* and *Politico* recently reported that the DHS Office of Intelligence and Analysis compiled intelligence reports about journalists and protestors involved in the Portland protests. A second story also stated that Mr. Cuccinelli waived the requirements that DHS's intelligence office be subject to a review by DHS's internal civil rights watchdog, the Office for Civil Rights and Civil Liberties (CRCL).

That is extremely troubling. At the core of its mission, DHS relies on public trust and cooperation as embodied by the "See Something, Say Something" campaign. The American people expect that DHS's activities will be done in a manner consistent with our values. So it is extremely disappointing to hear that DHS's own internal mechanisms are being circumvented, or perhaps arbitrarily discarded.

As I have heard you say, the matter is being investigated by the Department. Can you confirm for us, please, who is leading the investigation?

Mr. WOLF. Sure. The Department Office of the Inspector General (OIG) is performing that investigation. I will say you mentioned two different issues I think that are being conflated, so if I have just a moment—

Senator HASSAN. Yes.

Mr. WOLF [continuing]. I can explain the situation.

So open source reporting program at DHS has been in existence since 2011. And so there were three instances that I was made aware of, of information being put out that also identified media or press individuals. As soon as I was made aware of what was occurring, I stopped the program, I stopped the practice, referred it

to the Inspector General (IG), and again, it removed the individual in charge of that directorate.

Senator HASSAN. Let me just stop you there for a minute. My time is limited and I just wanted to drill down on one thing. Is the IG the only investigation going on of that issue?

Mr. WOLF. Of that specific issue, yes, I believe so.

Senator HASSAN. OK.

Mr. WOLF. We have internal—I&A has also an oversight function that is also looking at that.

Senator HASSAN. OK. So then what I want to get to then is if you have another internal investigation, given his apparent involvement in the waiving of the requirement that the DHS intelligence activities comport with civil rights and civil liberties oversight, will Mr. Cuccinelli recuse himself from any matters related to that investigation?

Mr. WOLF. The OIG investigation is separate and apart from anything that I would be involved in, that Mr. Cuccinelli would be involved in—

Senator HASSAN. But you mentioned an internal investigation.

Mr. WOLF. It was a preliminary investigation, but as soon as the IG picked up the investigation or accepted it—

Senator HASSAN. That is now the only one.

Mr. WOLF [continuing]. We have stopped.

Senator HASSAN. OK. All right.

Mr. WOLF. Now specifically to go back to the CRCL question that you specifically mentioned, I think they are being a little confused here. So we have raw intelligence reporting and then we have finished intelligence products. What Mr. Cuccinelli did was to remove himself, if there was an issue with finished intelligence reports and there was a disagreement between CRCL and the Office of Intelligence and Analysis, it would normally come to the Deputy Secretary to resolve. What he did is he removed himself from that, we left it with the Under Secretary of Intelligence and Analysis to resolve that. CRCL plays a role with that. CRCL also plays a role regarding collection requirements of raw intelligence as well.

So I think it is important to separate those things. What we saw in Portland in the open source reporting are raw intelligent products.

Senator HASSAN. Thank you. We will follow up with you on that, because I want to drill down and make sure we understand it, but it is a concerning report, and I appreciate that the IG is taking it on.

I want to move on to something else. As DHS personnel work to protect Federal buildings and their occupants, it is critical that they take all possible steps to try to de-escalate any confrontations, both to protect themselves and others. So I want to build a minute on Senator Portman's line of questions about what DHS could have done better.

Two of your predecessors at the Department, who both served under a Republican administration, have expressed concern that that was not what happened in Portland, de-escalation was not what happened. Tom Ridge, our nation's first DHS Secretary and former Governor of Pennsylvania, said that the way DHS officials were acting was, "not defusing the situation. It exacerbated it."

Similarly, former DHS Secretary Michael Chertoff recently said that DHS's forces have taken a, "very belligerent, aggressive tone," toward the protests and that their actions have, "poured gasoline on the fire," of a situation that now threatens to undermine the public's trust in the Department.

Mr. Wolf, have you spoken with former Secretaries Ridge and Chertoff? Do you agree with them that DHS should seek to de-escalate tensions when in the field instead of increasing them?

Mr. WOLF. I have spoken to both former Secretaries Ridge and Chertoff. I walked them through specifically what was going on in Portland. They asked a number of questions, and at the end of that conversation they thanked me. They said they did not know all the facts.

Senator HASSAN. Right.

Mr. WOLF. And that certainly informs their decision moving forward.

Absolutely, we absolutely have to de-escalate. A lot of the training at Federal Protective Service, as well as the specific assets that we sent to Portland are trained on de-escalation techniques. A lot of what we do—when you look at a 5-hour period every night, we are inside that Federal courthouse 90 to 95 percent of that time. We only come out when there are fires being set, when there is enough individuals, when there are thousands—we have seen anywhere from 500 to 5,000 individuals on that fence line, and at some point you do have to disperse the crowd, you have to push them back because they will overrun.

Senator HASSAN. Right.

Mr. WOLF. So we do a number of tactics that actually try to de-escalate the situation.

Senator HASSAN. What I would appreciate, understanding that I am just about out of time here, what I would appreciate is material from your Department about the type of de-escalation training that you do. And I also, to follow up on where Senator Portman was going, would appreciate further conversation about what you have learned about what worked and did not work. Because we have seen very disturbing video here today. There is also very disturbing video where Federal authorities are using batons on people who appear to be peaceful, right?

So those are the types of things that together can escalate, along with decisions, tactical decisions your forces may make.

So I would appreciate following up with you. Again, thank the professional men and women in your service for their service, and thank their families for us too. Thank you.

Mr. WOLF. And just one clarification. The video that we see with the baton hitting the Navy veteran——

Senator HASSAN. Yes.

Mr. WOLF [continuing]. That is not DHS law enforcement.

Senator HASSAN. But again, that is why coordination and——

Mr. WOLF. I understand.

Senator HASSAN [continuing]. Clarity about what you are doing and who you are, and where clear identification makes a difference. Thank you.

Chairman JOHNSON. Senator Paul.

OPENING STATEMENT OF SENATOR PAUL

Senator PAUL. Of course, black lives do matter, but just saying it is so does not make it so. Slogans painted in the street do not necessarily save "lives." It is important to know that the majority of lives being lost in our cities are young black men. I think it is unconscionable. It has been going on decade after decade after decade. I have visited the south side of Chicago. I have been to the most violent precinct in our country. I visited with Pastor Brooks there who is trying to save lives one at a time, through Christ, through counseling, through showing a strong male role model that is acting in a peaceful way.

I have been to Ferguson. I was there after the riots. I met with the business owners there who lost their businesses, the majority of whom were African American.

Pastor Brooks was recently interviewed, and after the rioting in Chicago lamented that the rioters burned down the local pharmacy and now people in his community were having to drive 15 to 20 miles out into the suburbs to get their prescription drugs.

It is unconscionable. It is not an easy problem to fix. People have tried to fix it, but it is going on in our cities and it is made worse by lawlessness. It is made worse by the mayhem that people have allowed.

And there is an inconvenient truth that we have to face, and it is a political one. The inconvenient truth is that all of these cities are run by Democrats, and have been for 50 years. Every one of our major cities run by Democrats—Governors, mayors, police chiefs—all Democrats. And you can say it is a coincidence or you can say, "Well, all of them?" If you look at the murder rate, the top 10 cities that have the highest murder rate in our country, every one of the majors is a Democrat.

So we have to get to the bottom of this, and if you live in those cities we have to figure out some kind of constructive way to make it better. But you have to first realize that the Democrats have failed every one of these cities. And if your city is under attack and you have young children being shot, the Chairman mentioned the names of these young children. In Louisville, 2-year-olds, 5-year-olds being shot through windows and doors.

Who is running the cities? We have to do something about it. But painting slogans and graffiti, and throwing Molotov cocktails is not getting you anywhere. If you live in Portland, instead of throwing Molotov cocktails, instead of trying to burn the Federal courthouse, maybe you should be gathering signatures to have a recall of the mayor, who let mayhem and chaos happen in the city. Maybe we should be recalling the mayor of Chicago, who has allowed this to go on.

It has been going on decade after decade. Black lives do matter. But if they do matter, do something about it, and those who are at the receiving end of this, the young black men who are dying in Chicago, dying in these cities, rise up and say, my goodness, insanity is doing the same thing, over and over again. Quit electing the people who are allowing your cities to go to rot and ruin, who are allowing the local drugstore to be burned down, who are allowing the businesses to be burned down, that will leave the community and never come back.

It is a disaster in our country, and people need to let the blame accrue where it will accrue, to the people who have been running these cities for 50 years.

With regard to who should do this, my preference is that it be done locally. The Constitution reserves these police powers to the State, and primarily the police power should be exercised in the State. It should be a rare exception that we have Federal officers in our States taking care of things, even as serious as arson, even as serious as attacks.

But I do understand when there is mayhem and chaos somebody has to protect the Federal buildings. My reference would be that if that has to happen that they stay at the Federal buildings, arresting only those who are committing violence, when they commit the violence.

And we are aware and careful that allowing Federal police, and allowing people to Federalize police forces and send them into our cities, that there are dangers to that. One of the checks and balances of federalism was not to let the Executive Branch have police, not to have the Executive Branch in our States.

So I think we need to be very wary of the possibility for harm by Federalizing police powers, sending them into these situations, and there have been some disasters already. Perhaps not your department, but the images of the young man being shot with a rubber bullet, who had his skull fractured and his face fractured, and maybe ultimately will be disfigured from this, while he was simply holding up a speaker, those are terrible symbols. And it is hard to be a policeman.

The Federal authorities have not necessarily been, I think, steeped in the training that it takes to be able to try to put down violence, but at the same time, not get in the way of peaceful protests. And we have to acknowledge, though, that this is a chaotic situation and it has not been peaceful protesting, so someone must do something.

But I would say that the more constructive way of doing this would be to assess who are the officials, who are the political officials that run these cities, and how they let us down. And it is time and time again, Democrats, for 50 years, running our cities and letting us down. And if you are a family that lives on the south side of Chicago, you need to ask yourself who is in charge of this city, and why are they not doing something to protect my children? How come children are still being shot in Chicago? Who is doing it? Why are my local officials doing nothing? And the answer is, frankly, Democrats have done nothing for our cities for 50 years, and the people who live in our cities need to make a reassessment of who has been in charge of our cities.

The only question I would like to finish with would be the idea of police powers, and that police powers primarily should reside within the States and not the Federal Government. Do you have a comment on that?

Mr. WOLF. Senator, I would say that, again, Federal Protective Service, through laws that Congress has passed, have given them specific authorities to protect Federal facilities. Now when we talk about everywhere else in the country outside of Portland, any arrests that need to be made, because they are individuals perhaps

targeting or committing violence against those Federal facilities, are usually done by State and local law enforcement. So I would agree with you. That is who needs to arrest these individuals and work with the U.S. attorney to charge those individuals.

Unfortunately, for 60 days in Portland, we did not see that occur. No one was holding these individuals accountable. Night after night they would commit these acts. No one would hold them accountable. So DHS was put into a position that we had to start making arrests. We had to hold these individuals accountable.

As I indicated at the top, 99 Federal arrests thus far in Portland. All of those have either taken place on Federal property or within one to two to three blocks of that Federal property. There seems to be a misconception that we are somehow, across the city, policing the city. That is not the case. We are only targeting individuals that we see, that we know, and that we track, take, violent activities and criminal activities against that courthouse.

Chairman JOHNSON. Senator Rosen.

OPENING STATEMENT OF SENATOR ROSEN

Senator ROSEN. Thank you, Mr. Chairman, Ranking Member Peters. Acting Secretary Wolf, would you please convey and know that our thoughts and prayers are with the families of any officers injured in any of these attacks that were going on, and let them know that we are thinking about them in this difficult time.

But I do want to talk, like everyone else, about domestic terrorism, because this week we marked one year since a horrific terrorist attack in El Paso, in which 23 Americans lost their lives, after a white supremacist targeted the city's Latino community in a deadly rampage. According to the FBI, white supremacists are the nation's most significant domestic threat. Statistics show that racially motivated, violent extremism accounts for the majority of all domestic terrorist acts since 1994.

Unfortunately, instead of addressing the root causes of white supremacist violence, this administration is using the domestic terrorism label to crack down on peaceful protesters exercising their First Amendment rights.

To justify the presence of Federal law enforcement in Portland, Acting Deputy Secretary Ken Cuccinelli and other DHS officials have accused demonstrators made up largely of students, veterans, mothers, nurses, and other Americans crying out for racial justice, of terrorism. President Trump has referred to his fellow Americans as a beehive of terrorists. Branding peaceful protesters as terrorists is a tactic commonly used in autocratic societies, not in democracies.

Politicizing domestic terrorism distracts from DHS's mission to keep Americans safe from violent extremism, whether it is violence targeting the Latino community in El Paso, the Jewish community at the Tree of Life Synagogue in Pittsburgh, or any other Americans.

So just yes or no, Acting Secretary Wolf, because our time is limited, do you agree with the FBI's assessment that the top threat we face from domestic terrorists stems from racially motivated, violent extremists, particularly white supremacists.

Mr. WOLF. Yes, Senator. What I would agree with, and I have been on record, and our strategy back in September 2019, does support a growing threat from domestic individuals here in the United States, to include white supremacist extremism growing here. We see the number of incidents rising, and again, as I outlined to a question, I believe, from the Ranking Member, the Department has taken a number of initiatives to address that.

Let me just comment really briefly on a comment that you made that I strongly disagree with. DHS law enforcement in no way is cracking down on peaceful protesters in Portland. That is not accurate——

Senator ROSEN. I appreciate that, but I would like to claim my time back and follow up on Ranking Member Peters' question. Thank you.

This administration has gutted the DHS budget to combat domestic terrorism, including by closing offices and cutting programs. Does the Department have the resources it needs to prevent white supremacists from escalating their hateful rhetoric into violence?

Mr. WOLF. Yes, and again, we have actually increased the number of funding to our grant program for targeted violence and terrorism prevention. We have a number of individuals dedicated to this mission. I will just say that from DHS's perspective, we do not investigate these. Obviously that is the Department of Justice. What we do is training, information-sharing, and outreach to different communities, to make sure that they have the resources they need to respond to this.

So the Department is doing that. We are doing that in a fulsome way. We have a grant program that is going out. We have increased the number of staff in that office, and we are implementing, as I responded to the Ranking Member, on our strategy to address all forms of violent extremism.

Senator ROSEN. That is good to hear. Can you tell us about the amount of dollars that you have spent sending Federal law enforcement agents to Portland, that could have otherwise gone to combating violent extremism across our country? Do you have an estimate on that cost?

Mr. WOLF. Sure. I do not have the specific dollar figure that our assets being deployed to Portland, again, deployed assets to Portland, because a Federal courthouse was being set on fire every night.

Senator ROSEN. Could you supply that budget for us, what was spent on that, please?

Mr. WOLF. We will certainly provide that to the Committee.

Senator ROSEN. Thank you. I appreciate it. I want to move now to talk a little bit about Deferred Action for Childhood Arrivals (DACA). While you send law enforcement to major American cities without the consent of State and local leaders, in the background DHS, you are taking steps that are going to harm our dreamers, hundreds of thousands of them nationwide.

In Nevada we are home to 13,000 DACA recipients. Our dreamers are our friends, our neighbors, students, colleagues, small business owners, first responders, our medical professionals, in some cases they contribute to our community every single day.

And the U.S. Supreme Court recently sided against the administration in its quest to end the DACA program, including that its termination of DACA was arbitrary and capricious, and declaring that the matter be remanded to DHS so it may consider the problem anew. In other words, you, as Acting DHS Secretary, have the power, by choice, to protect dreamers by preventing the DACA program from being terminated.

However, in a July 28th memo you stated you were making changes to DACA and directing DHS personnel, and “to take all appropriate actions to reject all pending and future initial requests for DACA, to reject all pending and future applications for advanced parole, absent exceptional circumstances, and to shorten DACA renewals.”

This memo clearly ignores the U.S. Supreme Court’s decision requiring for the U.S. Citizenship and Immigration Services (USCIS), to continue to accept and process DACA renewal applications.

But you went on saying, and I am going to quote again, “I have concluded that the DACA policy, at a minimum, presents serious policy concerns that may warrant its full rescission.” Again, a decision to pursue rescission of DACA program lies in your hands, and I urge you to consider how your actions to rescind the DACA program will adversely affect the lives of hundreds of thousands of Americans.

In the midst of the coronavirus disease (COVID-19) pandemic, more than 200,000 DACA recipients have been working in areas that DHS identifies as part of the essential, critical workforce infrastructure, 41,000 DACA recipients working in the health care, physicians, nurses, paramedics, and the like. So please consider reviewing this and allowing these first responders, people on the front line, to continue to serve this Nation.

Thank you. My time is up.

Chairman JOHNSON. Secretary Wolf, you wanted to respond to something to Senator Rosen. I will give you a minute if you want to do so.

Mr. WOLF. The Supreme Court decision, obviously that we are adhering to. That is why I put out the new memo. That is why we are taking certain actions. In no way did the Supreme Court decision tell the Department to process new DACA applicants. The Supreme Court decision did not even say that the program was lawful. What it clearly did say is that DHS has the authority to rescind it. Now, of course, it did not like the way that we had done that over the past 3 years.

And so my memo that I signed out, and the direction that I have given to the Department, is to continue the program under certain parameters. As the Senator said, no new DACA applicants or applications are being received, and that we have limited renewals to 1 year. And we did that because we have ongoing, serious concerns about this program, that we are working through consideration based off the Supreme Court decision and guidance. We are going to work through that carefully. We are going to consider everything that the Court laid out.

But what we did want to do is to continue to operate a program that has serious reservations—unlawful, goes against deferred action, goes against Congress’s wishes. And as we do that, we will

continue to process and renew applicants as we have done over the past 3 years.

Chairman JOHNSON. That is responding to the last point she made. Was there something else she made a statement that you wanted to respond to.

Mr. WOLF. Again, there were several. One was the DHS law enforcement officials are cracking down on peaceful protesters in Portland, and that is a false narrative. It is a narrative that continues to be put out there, and it does a disservice to the men and women of law enforcement at the Department. In no way are we doing anything regarding peaceful protest.

I have said this time and time again. We see hours-long peaceful protesting that occurs in Portland every night, right across from the Hatfield Courthouse. There are no incidents. There are no arrests. There are no injuries. That is not what is occurring. That is not what our law enforcement officials are dealing with every night.

Chairman JOHNSON. OK. Thank you. Senator Lankford.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. Secretary, thanks for your work. Please pass on our gratitude to the men and women of law enforcement that serve with you around the country, but especially those that are serving in Portland right now.

I am astounded at some of the conversations that I have heard even during this hearing, but most certainly over the past several weeks, about the men and women that are serving there every single night. Please tell their families thank you. They are sending out their loved ones to be able to travel to Portland, and we discussed, peaceful protests across the street, your law enforcement have had 277 injuries. So while folks here want to blame the police, please tell them thank you. They have suffered chemical burns, being hit with bricks, being shot with pellet guns, had large-scale fireworks fired sideways into them, and mortar rounds. They have laser pointers shot at their eyes so they lose their sight, while Members of this Committee talk about peaceful protests and about your law enforcement being the problem.

I do not think your agents are the problem. I think they are defending Federal property, which is what this Congress originally told them to do.

This whole focus on defund the police and just walk away, like they did in Minneapolis, and just allow the building to burn down, and allow rioters to burn it down saying that is better, I do not agree with, and millions of other Americans do not agree with, just consenting to rioters to burn things down.

So for your men and women that are on the front lines, please tell them thank you, that we are exceptionally grateful for their work, and I do not believe that they are the problem, nor do I think that, as has been stated over and over again, and you have been in this hearing, well, I know that they have been shot at and that they have had bricks thrown at them, and that they have had mortar rounds fired at them, and that they have had trash set on fire and leaf blowers blowing the trash toward them.

But hey, there are two sides to the story. Just please tell them thank you from me.

I do want to ask you a whole series of questions, and I have a lot of them, so let me just kind of walk through this. I have heard over and over again that your Federal law enforcement are going out on the streets and harming peaceful protesters. Are you cracking down on peaceful protests?

Mr. WOLF. Absolutely not.

Senator LANKFORD. Your Federal agents are being accused over and over again as saying they are not marked as Police, they are just unmarked, wandering the streets, and they have no police markings. Do you have Federal law enforcement in Portland that are not labeled as Police on their uniform?

Mr. WOLF. Absolutely not. We are uniformed department. We have nine operating agencies. They all wear different uniforms. But all of the uniforms, as you can see here, are marked with Police. Some say Homeland Security. Others say Border Patrol, others say Customs and Border Protection (CBP), and others say ICE. They have Police on the front and they have Police on the back. They have patches on their shoulders. They clearly identify themselves as police.

And I will just say, these are individuals who are out here in this—it is essentially half a square block where most of this violence takes place—they are out there for 66 nights. After the 30th or 40th night, you know who they are. You know violence is taking place at this spot each and every night, and you know if you come there, that is what you are coming to do.

Senator LANKFORD. So it has also been accused that they are not wearing their nametags. So tell me a little bit about that.

Mr. WOLF. They are not wearing their nametags because of the doxing we have seen for a number of agents. Not only their personal information is put out on Twitter or social media, but individuals are showing up at their homes and then their families are being identified.

So what we did is we pulled off their nametags—so “John Smith,” we pulled that off—but we did put a unique identifier, numbers and letters, on their uniform, that we could keep track of them, the accountability for them. But their name is not specifically on there.

Senator LANKFORD. Thank you very much for that. I have heard over and over again these are folks that are out there that are not trained in de-escalation and they have been randomly pulled in from other places and they are actually causing the violence by escalating because they are not trained.

Mr. WOLF. So not true. Our Federal Protective Service officers are there. They are trained specifically for this mission. The ICE and the CBP officials that we have, law enforcement officers, are specifically trained for this mission. Our Border Patrol Tactical (BORTAC) unit from CBP, this is what they do at ports of entry (POE). Ports of entry every day, or I would say over the course of years, there are mass protests. Some try to barricade themselves at ports of entry. This is what these individuals do. ICE officers, this is what they do at detention facilities when riots take place.

They are trained in de-escalation, crowd control. This is what we do. These are only individuals that we sent to Portland. I did not send law enforcement from the U.S. Coast Guard (USCG) or from Transportation Security Administration (TSA) or anyone else to Portland. They are not trained. It would not have been appropriate for them to be there.

Senator LANKFORD. I have heard over and over again that Federal agents are wandering the streets of Portland, arresting people randomly. Snatch-and-grab is what I am hearing from my Democratic colleagues, that they are just out there, unlabeled, unmarked, grabbing people off the streets and putting them into unmarked cars.

Mr. WOLF. So again, not true. We use both marked and unmarked vehicles. Again, what we try to do is de-escalate the situation. So as an individual is throwing a Molotov cocktail at the Federal courthouse, they then disappear into a group of 500 to 1,000 or 2,000 individuals. What we do not do is try to go into the middle of that group. That is dangerous for our law enforcement officers and others. What we try to do is to keep track of that individual, and then begin to question that individual or arrest that individual when he breaks away from a group, so it de-escalates the situation.

We have done all of our arrests, all 99 arrests that I have talked to earlier, happened on Federal property or within two to three blocks of that Federal courthouse.

Senator LANKFORD. So I have also heard over and over again you are not cooperating with the local law enforcement, or that the local officials—and they are depicted by Democrats on this Committee and in Oregon, just so cooperative, and they have been so helpful and friendly, and you have just not reached out to them.

But yet as I go through your report, the day when the Portland City Council voted to prohibit their law enforcement, local law enforcement, from cooperating with you, engaging with you, any kind of sharing of information, the day that they voted for that, this was your report from the night before in that time period that DHS put out.

The report was around 10:20 local time, violent anarchists began a nightly assault on the courthouse. Rioters began to barricade in front of the courthouse, assaulted officers inside of the courthouse with lasers, which can cause permanent blindness. After repeated attacks from rioters, the plywood coverings at the front of the courthouse began to buckle. A group of rioters vandalized the south entrance to the courthouse with spray paint.

In response to the rioters' assault, Federal officers were forced to leave the building—because they had been inside—in order to repel the mob. When they did so they were immediately assaulted with lasers and a variety of objects designed to inflict harm. Crowd control measures were deployed to try to redirect the large amount of people in the courthouse vicinity. Rioters responded by using cars to block movement on the street. Rioters began to use wooden boards to block the main courthouse entrance with officers inside. They hurled projectiles to the front of the courthouse and charged the doors.

And then also this story as well, that in the early morning hours of July 22—that is the day of the vote when they said for police

not to cooperate with you—a group of individuals gathered in an exterior entry in the Hatfield Federal Courthouse. Several members of the group, including Mr. Maza, began removing plywood attached to the front of the building to protect the damaged glass facade. After the group successfully removed the plywood sheeting, Mr. Maza made multiple attempts to kick in the window, struck it with a metal object, repeatedly pounded on it with what appeared to be a hammer.

Shortly thereafter, a number of people successfully removed the entire wooden structure protecting the courthouse entry, and an unknown individual broke one of the windows. After this breach, Maza walked toward the building carrying a cylindrical object, then appeared to light a fuse, connect it to the object, place it inside the broken window. A short time later the object exploded in close proximity to law enforcement officers exiting the building through a broken window, and injuries were sustained.

That was the night before Portland voted to make sure law enforcement would not cooperate with you in the night after night after night. These are the peaceful protests that are occurring that Members of this Committee continue to blame your officers as the problem, when that is actually happening on the street.

So thanks for clarifying what the news is not reporting, and just tell your folks thank you for standing up for what is good and right. Thank you.

Chairman JOHNSON. Thank you for that clarifying line of questioning, Senator Lankford. Senator Romney.

[No response.]

I do not see him on the board here anymore. I will go to Senator Harris.

OPENING STATEMENT OF SENATOR HARRIS

Senator HARRIS. Thank you, Mr. Chairman. Congress, and this Committee in particular, has the responsibility, of course, to ensure that the Census Bureau completes a full and accurate 2020 Census, free from political interference. Yet in the last week, the administration made clear that it is overriding Census Bureau professionals by forcing them to rush, by 1 month, remaining census operations, regardless of the quality and the accuracy of that data.

This political interference, if not checked by Congress, will harm hard-to-count communities, including rural communities, communities of color, Tribal nations, and low-income communities, for the next decade, at least.

So Chairman, I urge you to schedule a hearing on this topic, because, of course, we have a duty to ensure a fair and accurate census.

Chairman JOHNSON. We have already reached out, so, again, we are probably leave session here and I am not sure when a hearing would be scheduled. But I have already reached out to the Department.

Senator HARRIS. I appreciate that.

Mr. Acting Secretary, on August 3, The *Washington Post* reported that you regularly talk with the President and Stephen Miller. Have you discussed the deployment of DHS agents to protests

in connection with the President's reelection effort and with the President or any of his staff, White House staff or campaign staff?

Mr. WOLF. Again, I am not going to comment on my discussions with the President or senior staff. All the events that have taken place in Portland or the events as it—with respect to——

Senator HARRIS. Sir, have you discussed——

Mr. WOLF [continuing]. Have all been——

Senator HARRIS [continuing]. Have you discussed the deployments with any of his campaign staff?

Mr. WOLF. No. They have all been at the direction of the Department.

Senator HARRIS. I am not sure if I heard your answer. Have you discussed the deployments with any of the President's campaign staff?

Mr. WOLF. No.

Senator HARRIS. Has the party affiliation of particular mayors or Governors come up in any of your conversations with anyone about the deployments?

Mr. WOLF. Not in my conversations.

Senator HARRIS. Are you aware of any conversations that have addressed that?

Mr. WOLF. I am not. Again, I am not going to comment on any specific conversations that I have with the President.

Senator HARRIS. So you are not going to comment on whether the party affiliation of the mayors or Governors has come up in any of your conversations?

Mr. WOLF. Not in mine. I have just a general statement, because I see where you are going, is I am not going to comment specifically on any discussions that I have had with the President or senior staff. What I can tell you is our deployment of law enforcement officers to Portland or in support of Operation Legend are done within DHS authorities and not for any political-specific reasons.

Senator HARRIS. On July 23, a United States Federal District Court judge ordered DHS and U.S. Marshals to stop arresting, threatening, or using force against journalists and legal observers. I am assuming that you were aware of that ruling on the day it came down.

Mr. WOLF. Yes.

Senator HARRIS. Can you tell this Committee what you did to inform your agents about that ruling, and what exactly did you inform them, and when did you inform them?

Mr. WOLF. It was that evening, I believe. I believe that came down in the afternoon. We worked with our Office of General Counsel (OGC) along with the Department of Justice to make sure that our officers there in Portland, specifically, were aware of that, and provided some additional training along with FPS, and I believe DOJ did the same with the U.S. Marshals.

Senator HARRIS. By what method did you inform your agents in Portland that day, or that evening?

Mr. WOLF. Our Office of General Counsel, back at headquarters liaised with a lawyer there in Portland, and then briefed out all of our law enforcement operators there.

Senator HARRIS. Did you issue a memorandum to your agents that evening?

Mr. WOLF. I believe that the individual component heads from FPS and OGC, which would normally do that, our Office of General Counsel, provided not only the verbal briefing but also in paper.

Senator HARRIS. Is that your normal protocol, that you, as the Secretary of this agency, would not directly inform your agents who are on the ground of a court ruling regarding the parameters and the permissible parameters of their enforcement?

Mr. WOLF. So the normal protocol would be to make sure that our Office of General Counsel, our general counsel would inform them, and then the individual operating heads, component heads, of those additional law enforcement agencies would inform them as well.

Senator HARRIS. The next day, on July 24, a Californian, who was a law student studying in Portland, attended the protests. She was wearing a green hat identifying her as a legal observer. She was filming the protest when a Federal agent shot her with a rubber bullet near her heart, at point-blank range. Was there any disciplinary action taken against that agent?

Mr. WOLF. I am unaware of that specific instance. What I can say is no DHS law enforcement officers in Portland use rubber bullets.

Senator HARRIS. You have not been informed of this in any manner, even through the news?

Mr. WOLF. Not of that specific one. Again, DHS law enforcement officers do not use that type of less-than-lethal munitions.

Senator HARRIS. Will you follow up, please, with this Committee and ask your staff if they are familiar with this case——

Mr. WOLF. Well, again——

Senator HARRIS [continuing]. And if that was a DHS agent?

Mr. WOLF [continuing]. U.S. Marshals——

Senator HARRIS. Sir, may I finish, please?

Mr. WOLF. U.S. Marshals——

Senator HARRIS. And will you answer to this Committee once you have checked with your staff, if they are familiar with this incident, and if it was one of your agents, was there any disciplinary action taken? Will you follow up with the Committee?

Mr. WOLF. I just answered it was not one of our agents, because we do not use that type of less-than-lethal munitions.

Senator HARRIS. Public reports show Federal agents using chemicals against mothers and veterans. Agents are also using military-style flash bangs that explode almost like a bomb, and make people feel they are going deaf. Have you consulted with medical experts about the impact of chemical irritants on protesters, including pregnant women?

Mr. WOLF. We have looked at a variety of our less-than-lethal munitions as regards to crowd control and dispersing crowds.

Senator HARRIS. Have you checked with medical experts about the impact of those chemical irritants on pregnant women?

Mr. WOLF. Not on pregnant women, I have not.

Senator HARRIS. I would advise you to do that.

Mr. WOLF. Again, the less-than-lethal munitions——

Senator HARRIS. Have any DHS——

Mr. WOLF [continuing]. That we use in Portland occur between midnight and 5 a.m. every night.

Senator HARRIS. Sir, I would advise you——

Mr. WOLF. We do not use that——

Senator HARRIS [continuing]. Knowing there are women, including pregnant women, in these protests——

Mr. WOLF [continuing]. At peaceful protests.

Senator HARRIS [continuing]. I would advise you, and it is well known there are mothers, including pregnant women, who are attending these protests. I would advise you, sir, to consult with medical experts to determine the impact of chemical irritants on pregnant women.

Moving on, have any DHS personnel been suspended, terminated, or otherwise disciplined for using excessive force at the protests?

Mr. WOLF. Are you referring to Portland specifically?

Senator HARRIS. Any protests.

Mr. WOLF. Not to my knowledge, no.

Senator HARRIS. Have there been any complaints that have been investigated by your agency?

Mr. WOLF. I know that our Office of Civil Rights and Civil Liberties, has received a number of complaints.

Senator HARRIS. And what is the protocol that you have for being personally informed of those complaints and the investigations, if any, that have taken place?

Mr. WOLF. CRCL, as I know, is looking into them. The DHS OIG is also looking—has an open investigation as well.

Senator HARRIS. And at what point does it come to you?

Mr. WOLF. It would come to me after the investigation is complete.

Senator HARRIS. My time is up. Thank you, sir.

Chairman JOHNSON. Senator Hawley.

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you, Mr. Chairman. Thank you, Mr. Secretary, for being here.

Can we just start by—is it your estimation that the riots that have been occurring in Portland around the Federal courthouse are coordinated and organized operations against Federal property and law enforcement?

Mr. WOLF. We have seen certainly some coordination involved there and organization in there. Some of the tactics that they use are very similar to law enforcement as well as military.

Senator HAWLEY. Why do you believe that the rioters have chosen—the violent rioters, we are now talking about, the ones who are firing munitions, who are attacking Federal officers, who are doxing Federal law enforcement—why is it that they have chosen to target a Federal courthouse? Is there some symbolism here?

Mr. WOLF. I am not sure, because it is interesting, because, it is obviously the seat of justice there in Portland. A lot of lawsuits that I am sure some of the individuals that are peacefully protesting that want to see some changes in law enforcement are taking place in this courthouse.

What we see on the site of the courthouse is they want to burn it down. They are very specific about that. They are on social media about that. Again, what I would say is night after night, for

60 nights, someone showing up at 3 a.m., on a site that has been very violent, night after night, is not a peaceful protester, is not a mother that wants to peacefully protest at that courthouse. They are showing up for a reason at 3 a.m., and that is to do damage to the courthouse or our officers.

Senator HAWLEY. You have been to Portland yourself, haven't you?

Mr. WOLF. I have.

Senator HAWLEY. You have been on the ground. You have seen the situation. What are the law enforcement officers who are there on the ground protecting this property, what have they told you, and what do you think that they might like this Committee to know?

Mr. WOLF. My DHS law enforcement officers, who I met with when I was there, are extremely frustrated, or they were, I would say, before Oregon State Police got involved. They are extremely frustrated. They are a target each and every night. They are in a courthouse, and you have these violent individuals that are staging in city parts, on city streets, coming at them from various directions. They know which entrances we come in and out of that courthouse at. They have a target and it is very specific.

So they feel under attack each and every night, and they are looking for State and local law enforcement to step up, patrol their parks, patrol their streets, and make arrests.

Senator HAWLEY. Let us talk a little bit about the doxing. You referenced this, and just to give us a better idea of what is going on. I understand that at least 38 law enforcement officers in Portland, Federal law enforcement officers, were doxed, meaning that their personal information, including perhaps where they lived, their personal residence, was made publicly available. I think we can all agree that this is the worst form of a sort of public—it is really a form of social terrorism, in a way, I mean, to try and get these folks, put them in danger, put their families in danger, discourage them from undertaking their responsibilities.

Can you describe for us, in more detail, what happened in that instance and who you think was responsible?

Mr. WOLF. Yes. What we see, again, open source reporting is information that is put out on Twitter or on message boards that are identified by violent individuals that are taking place in Portland. It is exposing their personal information. And it is not only those individuals. It is also the individuals that we have brought in. Where they are staying, certain hotels that they are staying at are being put out on social media, and we have had to beef up security around those hotels as well.

So it is very dangerous. It is just as dangerous as being in that courthouse. Once they leave, their danger does not go away. The threat does not go away for them. So individuals that we have there, night after night after night, are not only having to fight the fight between midnight and 5 a.m., but also when they leave to go back to their hotel to get some sleep.

Senator HAWLEY. And you just referenced this in terms of what you are doing at the hotel. Give me some sense of what measures DHS is taking to protect both the officers who have been doxed and then others who are there, serving, carrying out their responsibilities.

ities, trying to keep Federal property and citizens, law-abiding citizens, safe. What are you doing to protect them and their families?

Mr. WOLF. So each of our law enforcement agencies, whether it is FPS or whether it is ICE or CBP certainly have protocols that are put in place once a law enforcement officer's information is put out on social media. So we are making sure that we can pull that down as much as possible. Once it is out it is very difficult to do that. But making sure that they are protected as well. We have a Chief Security Office at the Department that obviously looks into all of this as well.

So we are doing our very best, and while they are there at the courthouse they are very safe, they are very secure. We make sure of that. They come in well before any of the violent rioting starts, and then they will stay at that courthouse until it subsides.

Senator HAWLEY. Just one final question on this, on the Portland situation. It is my understanding, and I think you referenced this a moment ago, that the Homeland Security Act of 2002 actually charges the Homeland Security Secretary with protecting Federal buildings and grounds. I mean, that is a statute passed by this body, by the U.S. Congress, and that there is, therefore, a legal obligation for you to undertake the protection of Federal property. Can you just elaborate on that?

Mr. WOLF. No, it is absolutely right. 40 USC 1315 directs the Department, directs the Secretary, and then FPS as an extension, to protect Federal properties. And I think a lot has been made about us sending additional law enforcement. What we saw in 2014, Secretary Johnson, DHS Secretary, sent additional law enforcement to FPS sites across this country, as the threat warranted. The threat warranted it in this case, as well, in Portland, and that is what we did.

Senator HAWLEY. I wanted to just, in my remaining time here, talk a little bit about Operation Legend, which is happening across the United States. DHS is involved with that. It began in my home State, in the city of Kansas City, where a young boy, 4-year-old, LeGenD Taliferro, was killed by gunfire while he slept in the early morning of June 29.

Can you just elaborate for us on DHS's role in Operation Legend?

Mr. WOLF. We are supporting the Department of Justice mainly through our Homeland Security investigators. Those are our HSI agents, part of ICE. And that is what they do each and every day. So they are looking at transnational criminal gangs. They are looking at illicit narcotics. They are looking at all the violent street crime that we see is on the rise in many of these metropolitan cities.

So in Chicago we have over 100 HSI agents that are there every day, that are focusing on this, and what we are doing is we are prioritizing the cases that they work on to make sure that we address, in partnership with ATF, DEA, FBI, and Marshal Service, making sure that we are coming at it as a team, as a Federal team, along with State and locals there, to address that.

Senator HAWLEY. I have had several conversations with the Department of Justice about Operation Legend as it has unfolded and continues to unfold. My understanding is that this operation is designed to assist State and local leaders in protecting their citizens,

also in prosecuting crimes. Of course, oftentimes I can say, as a former State prosecutor, that a crime can be duly charged at the State and Federal level. I can say, again as a former State law enforcement official, that we always welcomed Federal assistance.

But is it your understanding that this operation is designed to assist State and local leaders, and how would you assess so far the coordination and communication between State and local leaders and at least what you are seeing at DHS?

Mr. WOLF. It was certainly designed that way, and I think it is working very well. So we have seen it work in Kansas City, St. Louis, Chicago, and a number of other cities. I think what you see is mayors and other elected officials in those cities, once they understand what it is, once they understand that we are there to work with them, designed to go after some of the violent crime, you see them saying, "Great, I welcome you into my city. I want you to work with us."

Senator HAWLEY. Very good. My time has expired. I just want to say, in conclusion, thank you to the DHS law enforcement officers. Thank you to you, Mr. Secretary, for your service. But thank you especially to those law enforcement officers who are out there putting their lives on the line. I know that they do not have to do that. They are choosing to serve in this way. They are choosing to go out and to try and keep safe American citizens, Federal property, just like the Capitol Police do every single day in this building, just like the law enforcement do at home who keep us safe.

So as someone who had the privilege, as the Attorney General (AG) of my State, to work with law enforcement in my State every single day, I just want to say thank you to them for what they are doing, and for choosing to serve our country in this way, and I am sorry that they are being dragged through the mud as they are.

Mr. WOLF. Thank you. I will pass that along.

Senator HAWLEY. Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thank you.

Mr. Secretary, thank you very much for joining us.

Long before I came to the U.S. Senate I was a Boy Scout. I was a Civil Air Patrol cadet. I was a midshipman. I was a naval flight officer (NFO), one of today's last Vietnam veterans still serving in the U.S. Senate with the death of John McCain.

One of the people I served with later on when I was elected to the U.S. Congress was a guy named Tom Ridge. Tom Ridge had also served as a Vietnam veteran, and we served together in the Congress. We served together as Governors.

I ended up in the U.S. Senate and he ended up on the Homeland Security Committee, and he ends up as Secretary of Homeland Security, and he was and remains one of my dear friends. I am sure you have lifelong friends. He is a lifelong friend for me.

He was quoted recently as saying—and I will just read what he said. Again, he was Secretary of Homeland Security during the George W. Bush Administration. He said, "You may have statutory authority to do certain things, but that does not always mean it is the right thing to do. The insertion of a Special Weapons and Tac-

tics (SWAT) team like this did not defuse the situation. It exacerbated it.”

He went on to say, “The department that was established to protect America from the ever-present threat of global terrorism was not established to be the President’s personal militia.” Then he added, “It would be a cold day in hell before I would consent to an uninvited and unilateral intervention into one of my cities.”

When he was Governor of Pennsylvania we were Governors at the same time. He and I took an oath—this is a copy of the Constitution—we took an oath to defend the country and Constitution, and the First Amendment of the Constitution says that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

The kind of activity that occurred in the wee hours of the morning in Portland, apparently for days or nights and weeks on end, was not peaceful assembly, and it, I think, is not the kind of behavior that any of us would count as.

When I was Chairman several years ago, my colleagues may recall, I would go, as the Chairman of Homeland Security Committee, I would go to the floor of the Senate every month. I would talk about a different piece or a different part of the Department of Homeland Security. It could be Border Patrol. It could be TSA. It could be U.S. Coast Guard. It could be a variety of things. I would talk about their mission, and thank the men and women of the Department of Homeland Security for their service to our country, and thank their families for sharing their husbands, their wives, their moms, their dads, with the people of America.

I understand the Department. I understand the many challenges that the Department faces. I do not count the occasions, in incidents in which the men and women of the Department who were deployed behaved badly. That certainly does not excuse the behavior of those who are up at 2 a.m. in the morning and violently demonstrating.

When I was Congressman, my office was actually in the Wilmington Federal Courthouse. About a month or so ago, when violence popped up all over many of our cities around the country, there were violent protesters in the late hours, the wee hours of the morning, who came right down King Street, right in front the Federal building, where I used to work, along with Joe Biden’s office was there, Bill Roth’s office was there, all of the Federal judges’ offices were there. And our Federal building was not attacked. That is about over a month ago.

What happened in the hours that followed that was a remarkable thing, and what happened is the chief of police of the Wilmington Police Department, Robert Tracey, who a veteran of the New York City Police and I think the Chicago Police force, he and our mayor, Mike Purzycki, met with demonstrators, on their own turf, and talked to them, and began communications that ended up defusing violence that weekend, for the next week, and the week after that, and it has not occurred again.

There is a great part in the movie called—I think it was called Cool Hand Luke. I might have that wrong, but it was a great Paul

Newman movie. He ended up in prison, escaped from prison, and he was tracked down. And the great line that the prison wardens said when they finally got Paul Newman back, put him in jail, said, "What we have here is a failure to communicate." And I think what we have right here in Portland is a failure to communicate.

I used to be chairman of the National Governors Association (NGA). I have been a guest of every President we have had for probably the last 20 to 25 years, in their homes, the White House. And every President I have known literally has the ability to communicate with Governors. But he hosted, and many on a first-name basis, Democrat and Republican. And the idea that we face a situation like this, where the President never picked up the phone, as far as I know, to call the Governor or the mayor of Portland to say, "This is just unacceptable. What can we do to help? How can we help make sure that this kind of violence stops?" And to be invited into the city made, I think, a huge difference.

Let me just stop here and say, I ask my staff, I say, "What is going on now that the Federal officers has stepped down? What is going on in terms of violence?" And what I have on DHS's own website—I think this is August 2, it says "protest activity continues in an overall trend of diminishing violence as a result of the increased cooperation between the State and Federal law enforcement, in stark contrast to intense violence in Portland over the past 2 months."

I do not want us to cry over spilled milk, if we can do this all over again, the idea of the President of the United States, in a personal way, communicating with the Governor, the mayor of Portland, it could have made all the difference in the world. It could have made all the difference in the world.

I have taken all of my time. I apologize for that. Mr. Chairman, if you might allow the Secretary to speak for a minute or so I would be grateful.

Chairman JOHNSON. You can respond, sure.

Mr. WOLF. Thank you, Senator. My apologies. It was a little difficult to hear, but let me take a couple of those comments and questions in order here.

I appreciate you holding up the Constitution. That is exactly what the men and women, the law enforcement officers of DHS defend every day, the ideals in that Constitution, to include the First Amendment. And as I have said here, we both support and defend individuals who are going to peacefully protest, but again, what we see in Portland is absolutely the opposite between midnight and 5 a.m. for 60 days straight. So I just want to be very clear on that.

Regarding Portland and a failure to communicate, I would disagree. There has been no failure to communicate. We have been very clear on what we need from State and local officials and law enforcement, and for 60 days they refused to engage. Finally, the Governor reached out, and now you see Oregon State Police patrolling the streets, patrolling, along with Portland police, around that Federal courthouse, and guess what? The violence has stopped. We knew it would stop once you have State and local law enforcement engaging and doing their job. We knew the violence would decrease, and it has. Unfortunately, it took until day 60, and it should have occurred on day 2 or 3, so that is unfortunate.

And then regarding the comment on former Secretary Ridge, former Secretary Chertoff has also been mentioned here, and what I will again respectfully say is that I appreciate their service, not only to the Department, the country, but again, they are wrong on this issue. They do not understand the situation that is occurring in Portland. They do not understand the facts on the ground. And as I talked to them, I did reach out and I talked to them and I explained that, they understood what the men and women of DHS law enforcement, and their response was, "You have to work better with State and local."

I agree with you. I agree with them. We have to work better with State and local. We need a willing partner in order to work with them, and for 60 days we did not have a willing partner to work with us.

Senator CARPER. Mr. Chairman, if I could just respond briefly. There is a lot to be said—when I was privileged to be chief executive of my State, I would pick up the phone and call people.

Mr. WOLF. I called both the Governor and the mayor.

Senator CARPER. I would just hope that not just the Secretary would reach out, but in a case like this I think it good for the President to do that, and maybe to have the kind of relationships where, just talk to the mayor, and maybe actually find, by communicating, find a way to defuse this, and figure out whose role could be better served. Thank you.

Chairman JOHNSON. It does take two to tango. Senator Sinema.

OPENING STATEMENT OF SENATOR SINEMA

Senator SINEMA. Thank you, Mr. Chairman. I appreciate the Chairman and the Ranking Member holding this hearing today, and especially the diligent efforts to ensure that Members can participate remotely. I appreciate that, Mr. Chairman. The Senate should set a good example regarding the importance of social distancing and making smart decisions during this pandemic, especially as an increasing number of Members of Congress and Capitol staff are diagnosed with COVID-19. So we are doing that today.

I also appreciate Acting Secretary Wolf joining us today. Acting Secretary, my colleagues have discussed the challenges we saw in Portland regarding communication between DHS, State, and local officials. It is vitally important that this communication is frequent, open, honest, and flows in both directions. I share the concerns my colleagues expressed on these matters.

Will you follow up with me and my office regarding how DHS intends to improve its partnerships with State, local, and Tribal officials and improve its communication strategies to prevent the types of challenges that we saw in Portland?

Mr. WOLF. I will, Senator, and I will say that, again, we do not have any other issue in any other city around the country. It is very specific to Portland. I continue to reach out to both the mayor and the Governor. But again, I would direct you to the Portland City Council passed a resolution that prohibited Portland police from coordinating, supporting, and sharing information with Federal law enforcement.

Senator SINEMA. Thank you. Unfortunately, there are additional situations where DHS has not successfully communicated with

State, local, and Tribal officials. I continue to be very troubled by recent reports that ICE housed migrant children, in many cases very young children, in temporary hotel accommodations in Arizona while deportation flights to their home countries were arranged. DHS did not notify the city of Phoenix about this initiative, and as we are aware, the city of Phoenix does not have a similar type of resolution passed, and we are willing and able to communicate with DHS and ICE.

So we are in the middle of a global pandemic and communication across all levels of government is vital to maintaining a coordinated and strategic response. Frequent and robust communication between Federal, local, and State officials is both important to ensure law enforcement de-confliction efforts and a coordinated message. And it is also critical to protecting the public health in individuals States and communities.

So my question for you, Acting Secretary Wolf, is why did DHS choose not to communicate with the city of Phoenix in advance of this initiative, and what specific steps have you taken to improve communication with appropriate local officials regarding the transport and detention of children in DHS custody, especially when children are not being held in traditional DHS facilities?

Mr. WOLF. Our use, or ICE's use specifically of hotel housing accommodations have been ongoing for decades, so it is nothing new. So we do that because the Office of Refugee Resettlement (ORR) is not able to take those unaccompanied alien children (UAC) at that specific time, or another housing location, ICE facility, is not readily available because of the part of the country. Or as you indicated, they are being deported the very next day. So this is a practice that the Department has used going back, again, for decades.

The communication, though, I will say, should be occurring there locally, in Arizona, specifically both with the ICE director there as well as the CBP official, making sure that there is close coordination as those individuals are either being moved out of the hotel accommodations in housing, whether they are being deported, or they are being moved to ORR for further action.

Senator SINEMA. I appreciate that. I would like to follow up and ensure that happens in the future, because as you mentioned, if this has been going on for decades I assume it will continue to occur. In a State like Arizona, where we have high levels of apprehensions and deportations, we want to solve this before it continues.

Since the initial report of this situation, the identified hotels have said they will no longer allow migrant children to be held at their properties. So is ICE continuing to hold children at non-ICE facilities now, and if so, where are they being held, and if not, can you tell me where this population of migrant children are being held?

Mr. WOLF. Again, we have contracts that have been going on for decades to house individuals that we are in the process, or in the course of processing, again, if it is a UAC moving those from DHS custody to ORR or the Department of Health and Human Services (HHS) custody or to deport them. And as we do that, and then from a family we also do that with family units as well. So we do that not only using ICE housing facilities, detention facilities, and we

have several of them in Texas and in Arizona, but we also continue to use that with housing accommodations as well.

Senator SINEMA. So are you using additional hotels other than the ones that have said they will no longer accommodate ICE's request to house immigrant children?

Mr. WOLF. Yes. So we continue to work with local hotels, and again with our contractor that mans and supports that. So we have continued to use that moving forward, but we understand, again, some hotels fall on and off of that contract and we continue to use that as a way to house the individuals that we are picking up that legally have no right to remain in the United States and we continue to process them.

Senator SINEMA. So if I were to communicate with the mayor of Phoenix, Mayor Gallego, she would be aware of the current situation of migrant children being housed in non-ICE facilities inside of the city of Phoenix, including other hotels?

Mr. WOLF. So we can certainly reach out to the mayor and to any other city officials and certainly explain the process, explain how that occurs and what they will see in their communities. And we should certainly be doing that from the ICE director there in Arizona. We can certainly have that outreach take place.

Senator SINEMA. Let us follow up on this, because in my last question we both agreed that this should be happening, and now we know that it is not happening. And since you have said that ICE will continue to transport children and hold them in hotel-type facilities in the city of Phoenix, to my knowledge there has been, as of this moment, no outreach to the city of Phoenix, to the mayor's office. So I would like to follow up and make sure that this actually does occur.

Mr. WOLF. Absolutely. Again, as we do our mission each and every day in transporting individuals between DHS custody, HHS custody, and the like, we do that every day, we will certainly communicate with mayors and local officials as much as we certainly can. But these are missions that we do day in and day out, every single day.

Senator SINEMA. Thank you.

Mr. Chairman, my time has nearly expired. I do have some additional questions but I will submit those to Acting Secretary Wolf, and again, I thank you for holding this hearing today and for the accommodations to allow for remote participation. I appreciate it.

I yield back my time.

Chairman JOHNSON. Thanks, Senator Sinema.

Mr. Secretary, again, thank you for appearing here. As is often the case, when I reserve my time in terms of questioning, a lot of the other Senators asked questions and most of those questions have already been asked, so I will not repeat them.

I think there is just kind of one area that I do want to explore a little bit with you, and it really is the makeup of the rioters. I know Senator Peters and a number of folks on the other side of the aisle were making a statement in terms of white supremacists, which I think we all know is a growing problem and one that I know the Department is not ignoring. This Committee certainly is not as well.

Do you have any kind of intelligence in terms of the rioters? First of all, is it a coordinated effort? Are you seeing coordination between some organization and different riots in different cities, or is this just locally spawned and potentially inspired by more the national movement? What are we finding out in terms of what is causing all this?

Mr. WOLF. I will talk specifically about Portland. What we do see in Portland, or what we saw over that 60-day period was some organization to how they attacked the Federal courthouse, and that was just there locally, so I am not talking about any coordination with other cities.

But specifically how they approached the courthouse, the tactics that they used, it was clear that they were trained. It was clear that there was some organization involved there, and it was not just this, natural outgrowth, for them to arrive there at 2 a.m. with weapons in hand.

Chairman JOHNSON. OK. So there are signs of organization. Have you been able to, with investigation techniques, that type of thing, determine who is organizing this?

Mr. WOLF. Our Homeland Security investigators are working specifically with the FBI and DOJ. They have a number of cases open specifically regarding Portland. I think what we are going to see over the course of the next 30 days to a month, you are going to see a lot more activity coming out of the Department of Justice and charging individuals.

Chairman JOHNSON. So again, you just spoke about Portland but there are riots, and very destructive riots, all over the country, in a number of different cities.

Mr. WOLF. Right.

Chairman JOHNSON. Without revealing, the final findings of your investigations, which obviously you are not ready to do—

Mr. WOLF. Right.

Chairman JOHNSON [continuing]. Are you finding organizing groups? Are you finding commonality in terms of what is happening?

Mr. WOLF. Overall we are, in individual cities. I do not see, or I have not seen the intelligence that they are coordinating across multiple cities, all at the same time. But what we do see, and I have said it time and time again, violent criminals, violent opportunists—these are individuals that perhaps do not have an ideology but are taking advantage of an environment, specifically in Portland, that for 60 days you could show up and you could do any type of violent things to a courthouse, and then you could leave, and no repercussions. So violent opportunists.

We also see violent anarchists, specifically trying to burn down a courthouse. We see Antifa on social media, promulgating and inspiring others to do more violence in Portland, organizing. So there is certainly the Antifa. We also see boogaloo, and the Ranking Member mentioned it, that has been attributed there in Portland as well.

So we see a number of violent extremists and ideology that is occurring. And what is dangerous about Portland is they have fostered this environment that you can show up, you can do any number of dangerous and criminal acts with no consequence to you.

And that is why they showed up night after night, on the 30th, 40th, 50th, and 60th night, because they know, for the vast majority, until DHS started arresting people, that there was no consequence.

Chairman JOHNSON. So of the people you have arrested, in might be best in terms of gathering intelligence of what is causing this, my guess, we have already talked about white supremacists, we have talked about Antifa. I mean, that is the full spectrum of political ideology. Are you finding the full spectrum? Is there a majority, one side versus the other? Are anarchists—do they have ideology or are they just simply anarchists for the sake of being an anarchist?

Mr. WOLF. So of the arrests that we have made it has been almost 199 different Federal arrests, we are seeing all of the above that you mentioned and I have mentioned as well. What we are also seeing is that these individuals are trained not to talk to law enforcement. So as soon as they are picked up, as soon as they are arrested, they do not talk to law enforcement. So the intel that we get from them is very little, and then obviously we turn it over to the Department of Justice, the U.S. attorney there, and then that process plays itself out.

Chairman JOHNSON. So from past investigations do you know which groups train people not to talk to law enforcement?

Mr. WOLF. All of the above, anywhere from just anarchists to Antifa and others. But yes, we do see that.

Chairman JOHNSON. OK. I am going to find it quite interesting when some of your investigations conclude and we can maybe get some sort of sense of what is happening here, who is driving all this.

Certainly we saw broad support from this Committee to the men and women of your Department, and I think that is fitting, I think that is proper. I am glad to hear there is very strong show of support. What I tried to do in my opening statement is lay out the significant challenges the men and women of DHS and, in general, law enforcement, face. It is not an easy task.

I tried to describe the sacrifices made. Again, it is not only the sacrifice made by the men and women on the front lines but it is their family, that have to worry every time their loved one steps out the door, goes to work, and puts their life on the line. I mean, that is what is happening.

So certainly from my standpoint I want to encourage you to convey our appreciation, my appreciation to all law enforcement, particularly those in your Department.

Again, I mentioned the sacrifice. So, please wish the injured a full and speedy recovery.

Mr. WOLF. Absolutely.

Chairman JOHNSON. There is something that is particularly evil, which is one of the reasons I put it in the video, the green laser lights. Broken bones will heal. Other injuries will heal. You lose your sight, you have lost a quality of life. You have lost one of your senses. And for any human being to do that to another human being just strikes me as particularly evil. I hope they stop. I hope they question what it is they are doing to another human being.

Mr. WOLF. Just on that point, I agree with you 100 percent. It is why I talk so passionately about our mission in Portland and about our law enforcement officers, and I welcome the opportunity to have, discussions like this, where I can refute some very inaccurate and dangerous information about DHS law enforcement. Because what is occurring in Portland and what is being reported by the mainstream media are two different things that are going on. DHS is out there. We are supporting our law enforcement officers. But it certainly helps, Chairman, when you and other Members of the Committee show that support as well.

Chairman JOHNSON. I just want Americans to just really consider. Let us say that was your father, or your husband, or your wife that is being confronted by somebody who puts a little hole in their shield and hits a laser light to try and blind your loved one. Again, there is just something horribly despicable about all of this, but in particular that one really just affects me.

So anyway, Mr. Secretary, thank you for your service. It is not an easy job. Coming before this Committee is not an easy task. I think you did a good job of being very forthright in your testimony. And please convey the strong support to the men and women of your Department of this Committee, and also from me personally.

So with that the hearing record will remain open for 15 days, until August 21, at 5 p.m., for submission of statements and questions for the record. This hearing is adjourned.

[Whereupon, at 12:03 p.m., the hearing was adjourned.]

A P P E N D I X

OPENING STATEMENT FOR CHAIRMAN RON JOHNSON Oversight of DHS Personnel Deployments to Recent Protests THURSDAY, AUGUST 6, 2020

Federal Protective Service Officer David Patrick Underwood was 53 on May 29th, when he was shot dead guarding a federal building in Oakland, California during a protest. His partner was also shot, but survived. News reports said the protest, involving approximately 8,000 people, “turned chaotic and violent” as “demonstrators smashed windows, looted stores” and broke into a bank a few blocks from where Officer Underwood was on duty.

The suspect had killed a sheriff’s deputy a few days before. His anti-police views drew him to Oakland, where he saw the anti-police protest as an opportunity for more bloodshed.

David Dorn was a retired police chief of St. Louis. He responded to the alarm going off at a shop owned by his friend during a night of anti-police protests that turned into a night of looting. Chief Dorn, 77 years old, father of five, grandfather of 10, died on June 2 in the anarchy unleashed in St. Louis.

Unfortunately, the violence did not end there. Just yesterday morning, protesters in Portland broke into a police association building and started a fire inside. Protesters slashed a truck’s tires. Shots were fired. It was the sixty-ninth straight day of what we’re constantly told are “peaceful protests” against the existence of police in Portland.

According to the Department of Homeland Security, 277 attacks on police and federal officers throughout America have occurred during those “peaceful protests” that started in May.

At least 140 federal officers have been injured in Portland alone. At least 113 federal officers have suffered injuries to their sight after “peaceful protesters” have deliberately attempted to blind them with lasers and other weapons.

At least 930 non-federal law enforcement officers have been injured. At least one has died.

At least 38 federal officers have been “doxed” in Portland — meaning personal information about them, such as addresses or phone numbers, were put online as a means of intimidation.

At least 21 federal courthouses have been vandalized this summer.

Protesters in Nashville broke into City Hall and lit fires in late May. A woman charged this week was caught on video holding a poster reading “Fuck the Police,” lighting it, and tossing it into a broken window.

Protesters in suburban Denver broke into a courthouse and lit fires. Protesters in Minneapolis burned down a police station. Others tried doing the same in Seattle. A “peaceful protest” in Oakland in July “intensified,” as news reports put it, after protesters set fires inside a courthouse and launched fireworks at officers.

During a “peaceful” protest in Madison, Wisconsin, at least one individual hurled a gasoline bomb into the City-County Building, which holds the city’s 911 dispatch center and a jail. That night also

included the beating of at least two individuals, one of them a state lawmaker who collapsed into the landscaping near the state Capitol.

These “peaceful” protests that include arson and assault have left a mark on our cities, our culture, and our country. As journalist Michael Tracey recently wrote, “From large metro areas like Chicago and Minneapolis/St. Paul, to small and mid-sized cities like Fort Wayne, Indiana and Green Bay, Wisconsin, the number of boarded up, damaged or destroyed buildings I have personally observed — commercial, civic, and residential — is staggering. Keeping exact count is impossible. One might think that a major media organization such as the New York Times would use some of their galactic journalistic resources to tally up the wreckage for posterity. But roughly six weeks later, and such a tally is still nowhere to be found.”

And while police were tied up dealing with “peaceful” protests, homicides elsewhere in our cities were skyrocketing. By the end of July, homicides are up 53% in Chicago over the same period in 2019.

In Minneapolis, murders are up 86%.

In Milwaukee, 84%. In New York, 29%. In Atlanta, 34%. In Seattle, 42%. In Philadelphia, 33%. In New Orleans, 36%. In Denver, 46%.

Those numbers measure the loss of human lives. Many are black lives that don’t seem to matter much to the movement. Some are children whose lives have been cut tragically short, children whose lives and names matter. In Chicago alone, child victims include:

15 year old Terrance Malden.

15 year old Jeremiah James — shot in the head.

15 year old Michael Ike.

14 year old Vernardo Jones Jr.

10 year old Lena Nunez.

7 year old Natalia Wallace — shot at a backyard party.

3 year old Mekhi James — killed when someone shot at his father’s car in traffic.

1 year old Sincere Gaston — killed when someone shot at his mother’s car.

And that’s just since Memorial Day — in one city.

These people have died because criminals killed them. But they may have also died because police were constrained and prevented from doing their job to protect them.

When you encourage disdain for police, you encourage criminals. When you do little or nothing to stop riots, you unleash anarchy.

And when you encourage criminals and unleash anarchy, people die. And all of us suffer.

**U.S. Senate Committee on Homeland Security and Governmental Affairs
“Oversight of DHS Personnel Deployments to Recent Protests”**

OPENING STATEMENT OF RANKING MEMBER GARY C. PETERS

August 6, 2020

AS PREPARED FOR DELIVERY

Acting Secretary Wolf, thank you for being here today. I know you have an awful lot on your plate and I appreciate that time is precious.

You have a challenging role, especially in these unprecedented times. Nevertheless, I am extremely disappointed in recent actions DHS has taken under your leadership. Actions that put at risk your ability to effectively protect the homeland.

I do not dispute that the situation in Portland required a response.

We cannot allow a small number of bad actors who want to instigate violence, or harm law enforcement personnel, take advantage of peaceful demonstrators exercising their First Amendment rights.

However, DHS’s chosen response to the situation on the ground is unacceptable. Instead of working together with state and local partners, you sent a surge of federal personnel who did not have the proper training to deescalate the situation.

Your heavy-handed tactics caused additional chaos and I am concerned this singular focus on protecting federal property is distracting the Department from addressing the threat posed by domestic terrorism.

Last year at my urging, this Committee held the Senate’s first-ever hearing focused on white supremacist violence and domestic terrorism threats.

We have seen far too many attacks in this country at the hands of white supremacist terrorists. Attacks that have taken the lives of far too many Americans.

When Americans were murdered in shopping centers or while at worship by domestic terrorists with ties to white supremacist movements, your Department failed to respond with the same urgency we saw on the streets of Portland.

When one Federal Protective Services officer was tragically murdered and another was seriously wounded in the line of duty earlier this year – it was by Americans with ties to the Boogaloo Boys. A movement rooted in white nationalism.

Yet you still have not released a complete plan to combat white supremacist violence nearly a year after the long delayed release of the “Strategic Framework for Countering Terrorism and Targeted Violence.”

I want to know why your agency is not focusing on the threat posed by white supremacist violence in our country with the same sense of urgency.

I want to know why your own Office of Intelligence and Analysis has no trouble sharing intelligence on journalists with police in Portland but makes excuses for not being able keep tabs on suspected domestic terrorists who frequent white nationalist forums online.

The Department of Homeland Security and decisions made to keep our communities safe should not be or ever be driven by politics.

Terrorism is terrorism whether it fits the ideological narrative of DHS leaders or not. DHS must never let politics define, limit, or overshadow the truth about the security risks to our country.

Instead of aligning your Department’s resources, personnel, and mission to tackle the white supremacist terrorist threat you have chosen to focus on optics.

I know that our law enforcement personnel put their lives on the line every time they go to work. I have fought hard in Congress to make sure they have the resources they need to stay safe in the line of duty.

But let me be crystal clear, the decisions this Administration has made in recent months have put DHS personnel at unnecessary risk. And because you chose to escalate conflicts, you not only risked your officers’ safety, you risked the safety of American civilians.

Now more than ever we need leadership at the Department of Homeland Security.

We need coordination with state and local officials.

We need to be focused on the most prevalent and deadly threats facing our nation.

I continue to hope the Department can juggle its complex missions. But what I have seen so far calls into serious question this Administration’s priorities when it comes to national security.

I look forward to speaking with you further today and continuing to work together to protect our national security and the American people.



TESTIMONY
OF
CHAD F. WOLF
ACTING SECRETARY
U.S. DEPARTMENT OF HOMELAND SECURITY
REGARDING A HEARING ON
“OVERSIGHT OF DHS PERSONNEL DEPLOYMENTS TO RECENT PROTESTS”

BEFORE THE

U.S. SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
August 6, 2020
Washington, D.C.

Chairman Johnson, Ranking Member Peters, and distinguished members of the Committee:

Thank you for the opportunity to testify today regarding the Department of Homeland Security's (DHS) statutory role in protecting federal facilities and the men and women who conduct business within them.

For over 40 years, the Federal Protective Service (FPS) has protected federal property around the country. They have done so with little fanfare or recognition—largely because of the cooperative relationships they have with state and local law enforcement.

As you know, Congress directs the Secretary of Homeland Security to “protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government, and the persons on the property.” 40 U.S.C. § 1315. This statute leaves no room for interpretation—inaction is not an option for DHS.

At DHS, we are sworn to protect and defend the U.S. Constitution, including our First Amendment right to peaceably assemble. We support those who lawfully exercise their Constitutional rights. At the same time, we must protect our communities and our institutions by holding criminals accountable for their actions.

For more than 60 days, violent criminals, opportunists and anarchists have attacked the federal seat of justice in Portland, Oregon: the Mark O. Hatfield Courthouse. For more than 60 days, criminals violently attacked federal law enforcement officers who carried out their statutory mission.

During this time period, DHS law enforcement officers received almost no assistance from state and local law enforcement in Portland. They were left to defend the courthouse besieged by attempts of arson and constant destruction. This circumstance should never have happened. Local law enforcement should have partnered with DHS at the earliest possible moment.

Instead, our law enforcement officers were assaulted with, among other weapons, mortar-style commercial grade fireworks, accelerants, IEDs, sledgehammers, concrete, and slingshots. Officers have suffered chemical burns, bloody wounds, and attacks with blinding lasers, leaving some of our colleagues with eye injuries. The security fence we installed to protect the Courthouse and our officers has been repeatedly attacked with power tools in a dangerous attempt to topple the barrier.

To be clear—these are not the actions of peaceful protesters, they are the actions of criminals.

From July 4 to 31 Federal Officers and Agents have suffered a combined total of 277 injuries, which include the following:

- 113 officers and agents have reported eye-injuries; many due to being targeted with commercial grade laser devices causing “momentary-blindness, blurred-vision, dark spots in their vision and headaches.”

- An FPS Special Agent received an injury to his foot by coming in contact with nails that were purposely placed immediately adjacent to the front entrance of the Mark O. Hatfield Courthouse.
- An FPS Special Agent received several burns to his torso and extremities from an undetermined liquid that was thrown at him by a violent rioter.
- A Deputy U.S. Marshal was bludgeoned in the head with a sledgehammer.
- An FPS Inspector was injured by a commercial grade firework receiving several lacerations and 3rd degree burns – the fireworks burned through his uniforms and PPE.
- 142 additional DHS Officers have reported receiving minor burns, lacerations, being hit over the head with a sledgehammer, or hearing issues resulting from the fireworks.

Some elected officials and those in the media have tried to smear our law enforcement officers, who are performing their jobs valiantly and consistent with the law and use of tactics and procedures. They have called our law enforcement professionals “stormtroopers,” the “Gestapo” and “thugs.” These are offensive and irresponsible terms.

Despite inaccurate descriptions of the Department’s actions and false criticisms leveled against DHS on a near constant basis, here are the facts:

- All DHS law enforcement personnel deployed to Portland are trained in the appropriate use of tactics and procedures to conduct missions while protecting civil liberties and promoting public safety and the safety of our officers. Further, we have the necessary oversight mechanisms from the Office of the Inspector General, the Office for Civil Rights and Civil Liberties, and the respective Offices of Professional Responsibility at DHS Components to review any allegations of misconduct, including alleged violations of civil rights or civil liberties.
- All DHS law enforcement deployed wear their respective uniform with the appropriate insignia –including clearly visible “POLICE” markings, along with patches and badges identifying their agency. The names of agents are no longer displayed as they are the target of recent doxing incidents. Instead, officers wear alphanumeric codes as personal identifiers.
- It is a common de-escalation tactic for law enforcement officers with probable cause to arrest suspected criminals away from volatile crowds. This practice protects the officers and the suspected criminal from unnecessary potential attacks. Unmarked vehicles routinely are used as part of these de-escalation tactics, as violent actors across the country have intentionally attacked marked police vehicles and attempted to set them on fire, creating significant danger for the public and for our officers.

After 60 days of nightly violence, the Governor agreed to send in Oregon State Police to begin patrolling the Portland streets, clearing the parks that served as staging grounds for nightly

violent and criminal assaults. As was expected, the violence quickly dissipated and while there remains violence targeted towards local law enforcement, the federal facilities have fared much better.

At the city level, we continue to see a lack of coordination and information sharing with the Portland Police Bureau. Recently, the Portland City Council has prohibited local police cooperation, support, and information sharing with federal law enforcement. This is dangerous and counterproductive.

Before concluding, I would also like to briefly address an incident, recently brought to my full attention, regarding the DHS's Office of Intelligence and Analysis dissemination of journalists' open-source information to state and local law enforcement partners. On learning of this incident, I immediately directed an independent OIG investigation into the matter, reassigned the Acting Undersecretary and have taken additional, proactive measures to prevent this from ever happening again and to hold individuals accountable for their actions.

In closing, Mr. Chairman, let me affirm to the Committee and the American People that DHS will not shy away from our responsibilities to ensure public safety and security through the protection of federal property and our officers. While we prefer to partner with state and local authorities, we must continue to enforce federal law and hold those who break it accountable.

I look forward to responding to your questions. Thank you.

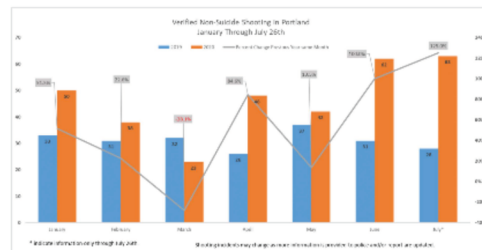




Crime

Portland police record highest number of death investigations in single month in more than three decades

Updated Jul 30, 2020; Posted Jul 30, 2020



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There have been 63 shootings so far this month of July, compared to 28 shootings in July 2019, according to Portland police.

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By [Maxine Bernstein](#) | [The Oregonian/OregonLive](#)

Portland police are scrambling to respond to 15 homicides in the city so far in July. That's the most killings in one month in more than three decades, they said.

So far this year, 24 people have died in homicides in Portland.

Advertisement

The most recent killing was Tuesday night, a 34-year-old woman who was stabbed at a Northeast Portland residence after returning from a vigil in memory of 27-year-old [Tyrell Penney, who was killed](#) in a shooting Saturday night at Southeast Division Street and 158th Avenue.




Homeland Security




Homeland
Security



anarchist noun

 Save Word

an·ar·chist | \ ˈa-nər-kist , -när-\

Definition of *anarchist*

- 1 : a person who rebels against any authority, established order, or ruling power
- 2 : a person who believes in, advocates, or promotes [anarchism](#) or anarchy
especially : one who uses violent means to overthrow the established order









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Official account for the 53rd Mayor of the City of Portland, Oregon. (Pronouns: He/Him/His)

 Portland, OR  [portlandoregon.gov/wheeler](#)  Joined January 2009

946 Following 56.1K Followers



Mayor Ted Wheeler 

[@tedwheeler](#)

This has been going on for more than a month now.

Violence and vandalism detract from the importance of the larger movement for justice.

Groups continue to target the Justice Center, threatening the safety of hundreds of inmates and employees inside.

6:44 PM · Jul 3, 2020 · [Twitter Web App](#)

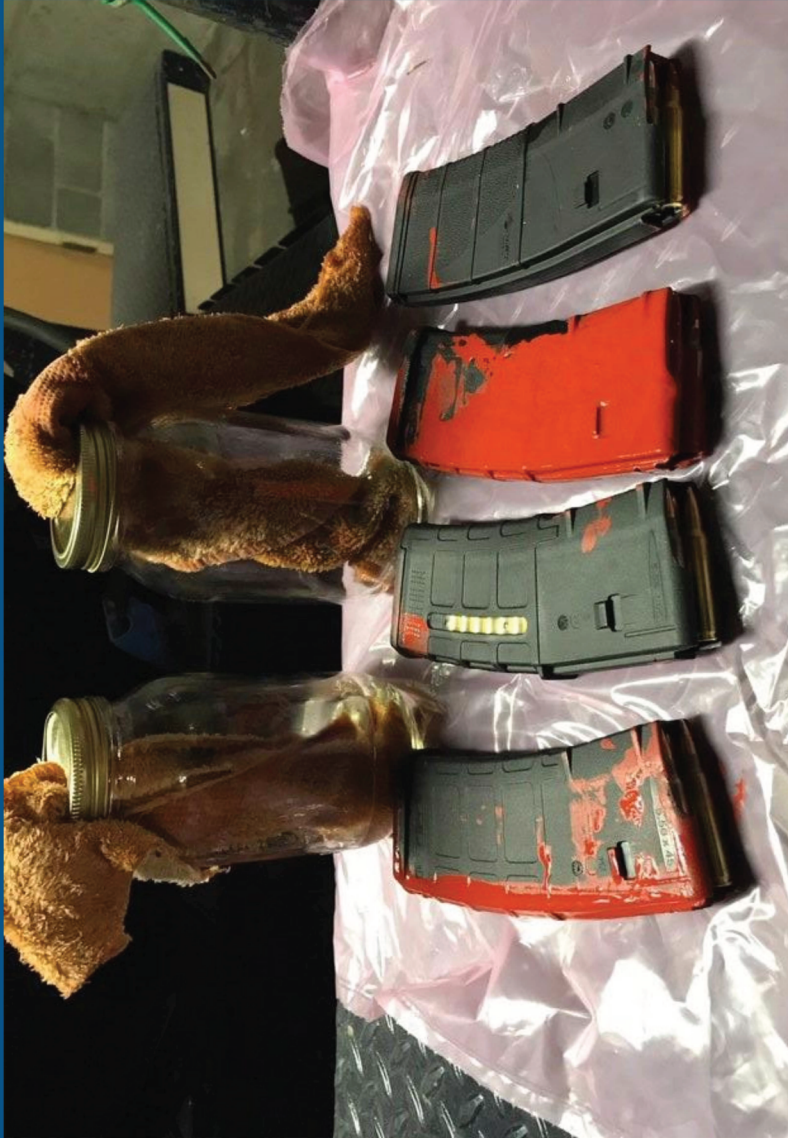
29 Retweets and comments 23 Likes

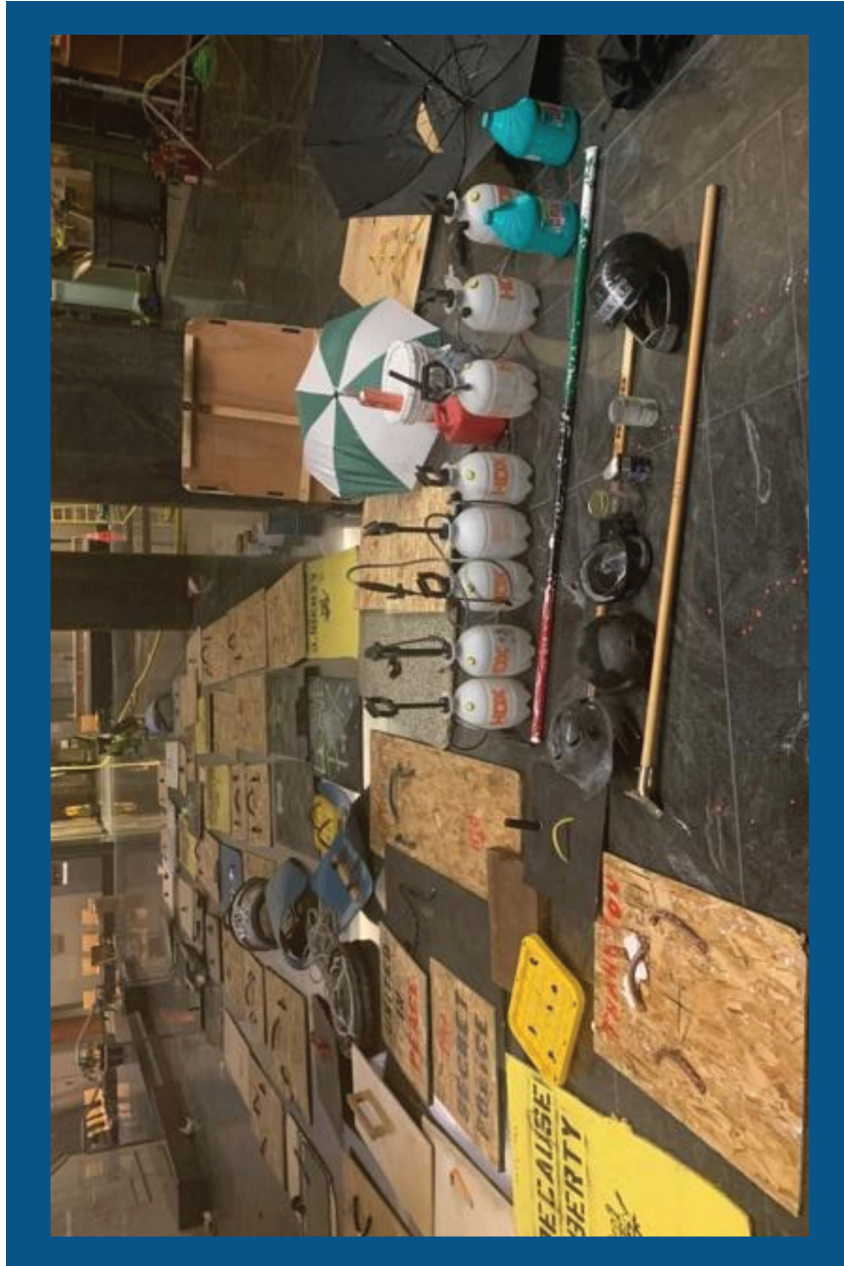
















Homeland
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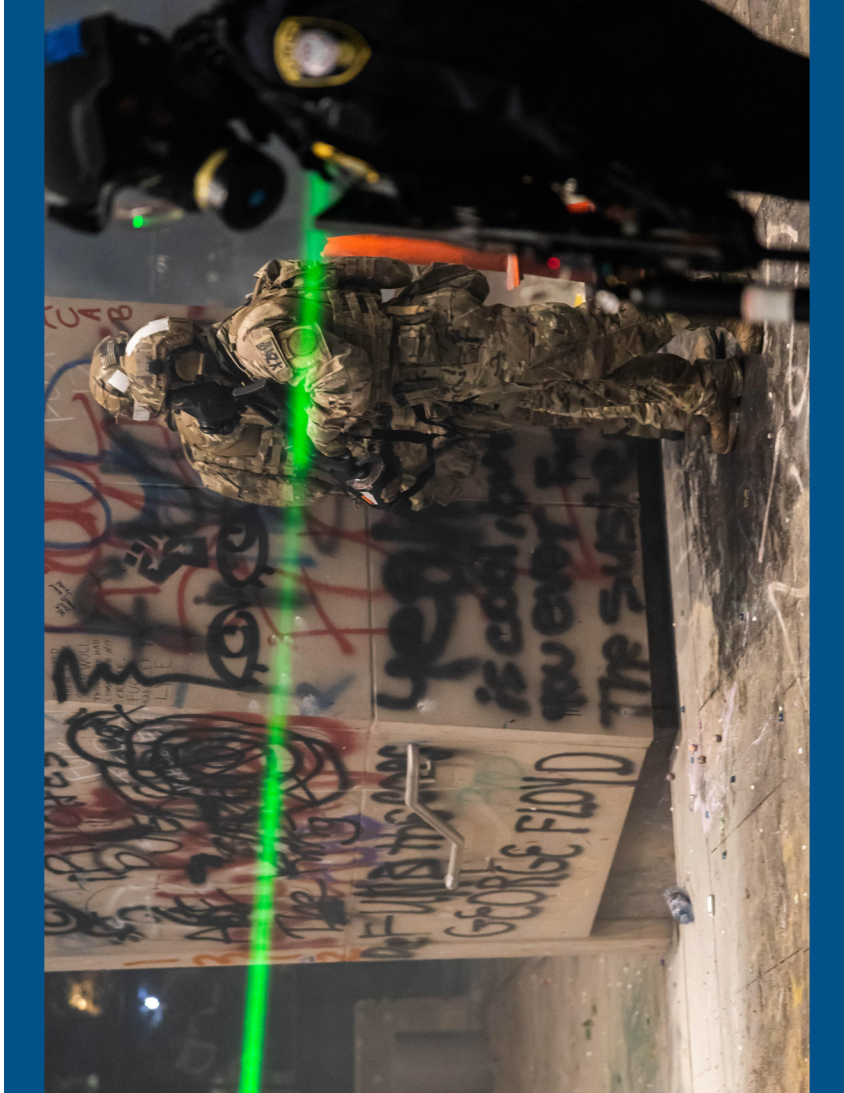


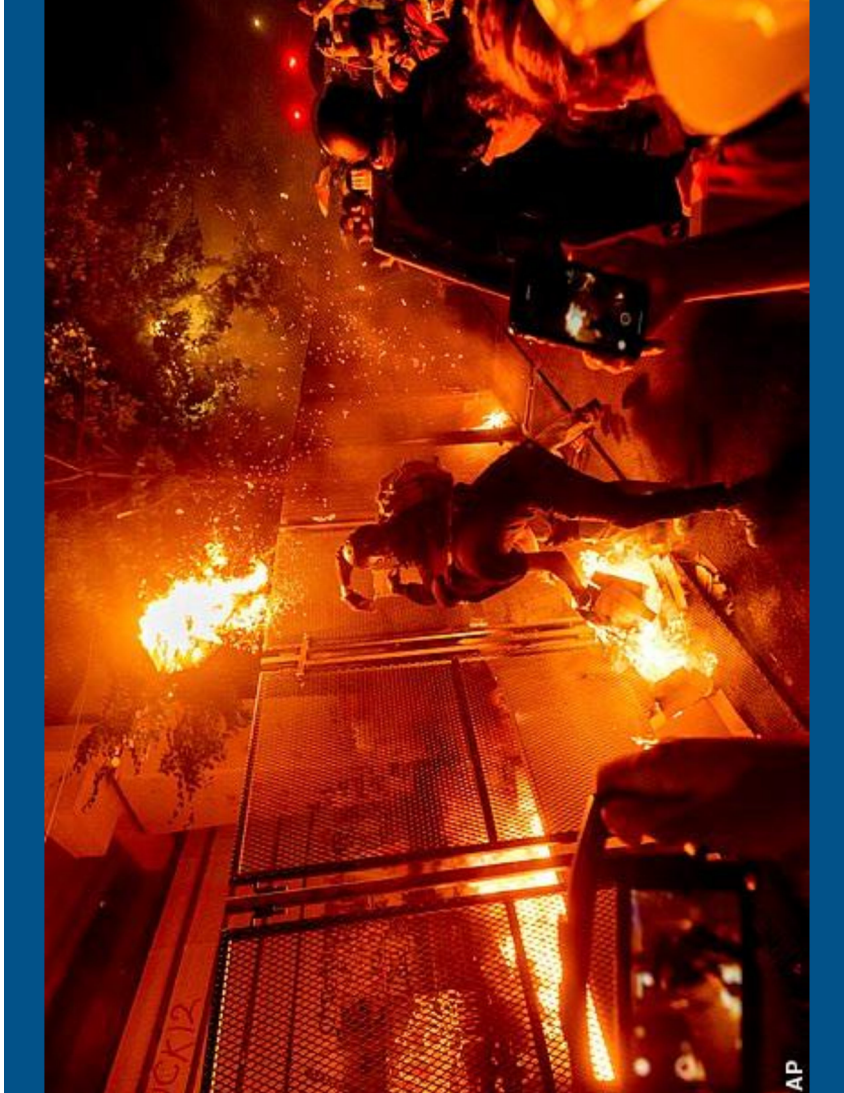


Homeland
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OCTOBER 28, 2014

U.S. DEPARTMENT OF
HOMELAND SECURITY

PRESS RELEASE

STATEMENT BY SECRETARY JOHNSON ON ENHANCED PRESENCE OF THE FEDERAL PROTECTIVE SERVICE AT U.S. GOVERNMENT BUILDINGS IN THE UNITED STATES

Today I am announcing that I have directed the Federal Protective Service to enhance its presence and security at various U.S. government buildings in Washington DC and other major cities and locations around the country. The precise actions we are taking and the precise locations at which we will enhance security is law-enforcement sensitive, will vary and shift from location to location, and will be continually re-evaluated.

The Federal Protective Service is responsible for the protection of over 9500 federal facilities owned or leased by the General Services Administration, through which 1.4 million visitors and occupants pass daily.

We are taking this action as a precautionary step, to safeguard U.S. government personnel and facilities, and the visitors to those facilities. The reasons for this action are self-evident: the continued public calls by terrorist

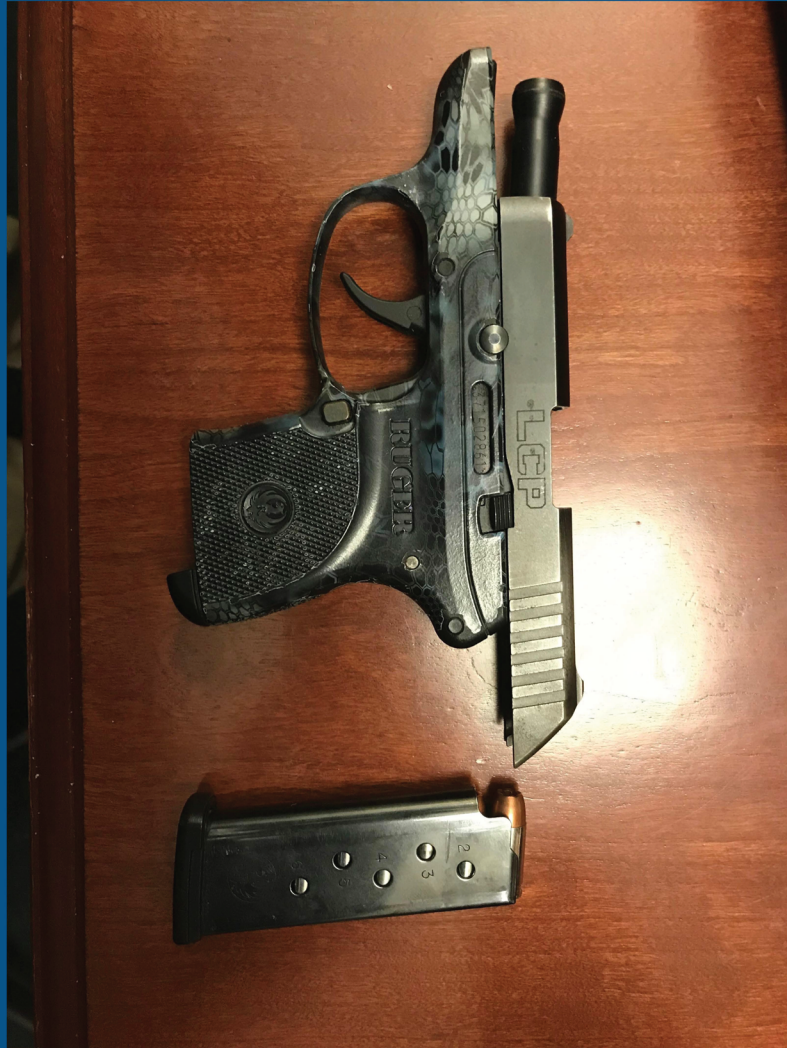
organizations for attacks on the homeland and elsewhere, including against law enforcement and other government officials, and the acts of violence targeted at government personnel and installations in Canada and elsewhere recently. Given world events, prudence dictates a heightened vigilance in the protection of U.S. government installations and our personnel.

As we have stated in prior advisories, we urge state and local governments and their law enforcement personnel, along with critical infrastructure owners and operators, to be equally vigilant, particularly in guarding against potential small-scale attacks by a lone offender or a small group of individuals.

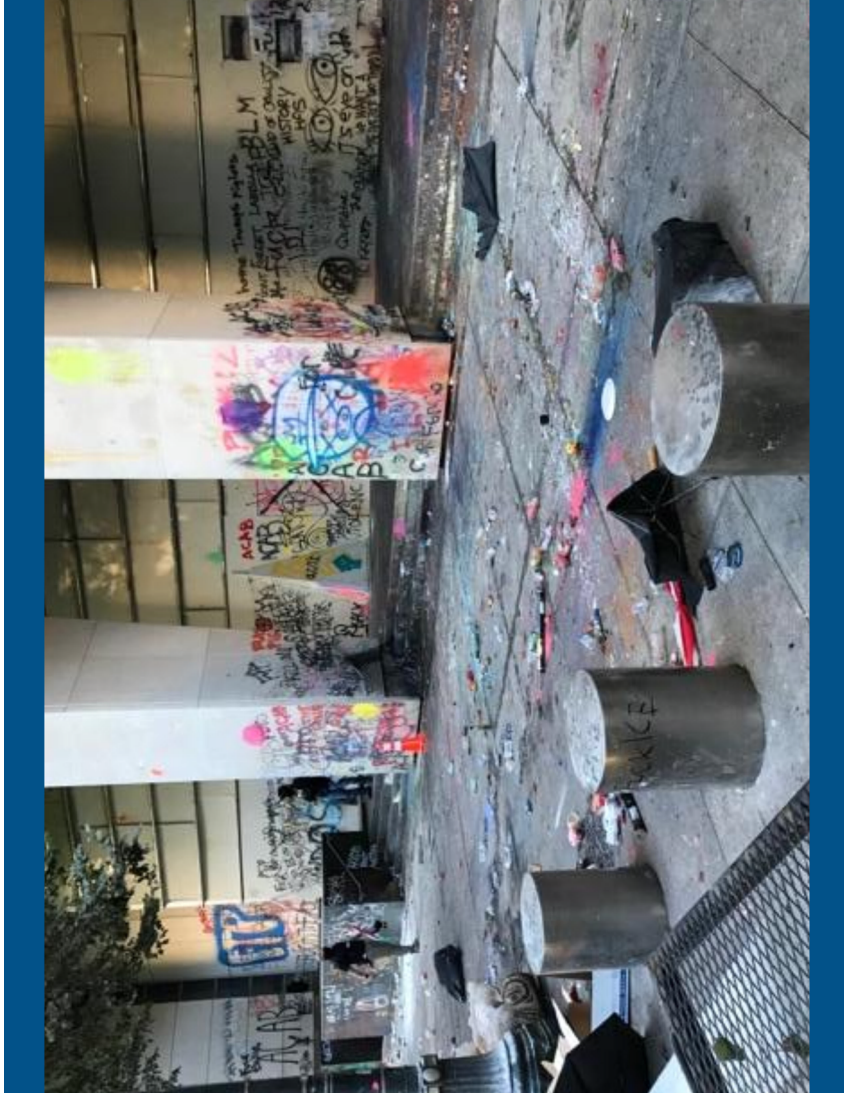
Likewise, we continually urge the public at large to be vigilant and report any suspicious activities to appropriate authorities.



Homeland
Security



Homeland
Security







**AMNESTY
INTERNATIONAL**



August 5, 2020

Senator Ron Johnson, *Chair*
 Senator Gary Peters, *Ranking Member*
 Senate Committee on Homeland Security & Governmental Affairs

RE: Amnesty International Statement for Hearing on "Oversight of DHS Personnel Deployments to Recent Protests"

Dear Chairman Johnson, Ranking Member Peters, and Members of the Committee:

On behalf of Amnesty International USA and our members and supporters in the United States, we hereby submit this statement for the record. This hearing comes on the heels of alarming reports of excessive force by Department of Homeland Security ("DHS") officers against protesters in multiple cities, in violation of the public's rights to freedom of expression and assembly.

Amnesty International is the world's largest grassroots human rights movement, comprising a global support base of millions of individual members, supporters, and activists in more than 150 countries and territories. Amnesty has fought for decades to protect the right to peacefully protest: from the historic uprising in Tahrir Square in 2011 to the roar of protests across Latin America and the Caribbean in 2019. In 2014, a team of Amnesty researchers monitored protests challenging police killings of Black people in Ferguson, Missouri – a precursor to the nationwide protests of today.

This week, we published "The World Is Watching: Mass Violations by U.S. Police of Black Lives Matter Protesters' Rights," about police violence in the wake of historic civil rights protests across the country.¹ Ever since the torture and extrajudicial execution of George Floyd on May 25, people have taken to the streets across the United States to call for accountability for the police killings of Black people and an end to systemic racial injustice and police violence. In response, police forces throughout the country have erupted in violence and engaged in excessive use of force: between May 26 and June 5, Amnesty International documented at least 125 separate incidents of police violence against protesters in 40 states and the District of Columbia, including beatings, misuse of tear gas and pepper spray, and inappropriate and, at times, indiscriminate firing of less-lethal projectiles.² These acts were committed by agents of state and local police departments, as well as by National Guard troops and personnel from several federal agencies, including DHS.

DHS agents have played a key role in protest crackdowns: according to one recent report, Customs and Border Protection (CBP) alone deployed over 2,000 personnel in response to the

¹ Amnesty International, "The World Is Watching: Mass Violations by U.S. Police of Black Lives Matter Protesters' Rights," Aug. 2020, <https://www.amnestyusa.org/worldiswatching/>.

² Amnesty International, "Unlawful Use of Force by Police at Black Lives Matter Protests," June 2020, <https://www.amnesty.org/en/latest/news/2020/06/usa-unlawful-use-of-force-by-police-at-black-lives-matter-protests/>.

protests in an unknown number of cities.³ Following President Trump's June 26 executive order calling for prosecution of people who deface federal monuments or statues, the administration commenced "Operation Diligent Valor," under which it deployed teams of over 100 DHS agents, including a CBP Border Patrol Tactical (BORTAC) unit, to Portland, Oregon.⁴ BORTAC has been previously used by this administration for political ends to surveil, police, and arrest undocumented immigrants in cities that declined to cooperate with its anti-immigration policies.⁵

According to an internal DHS memorandum, the agents sent to Portland had never been trained in crowd control of mass demonstrations.⁶ Multiple media reports have documented federal agents using excessive force, purportedly in defense of the federal courthouse in Portland, and collectively punishing protesters exercising their rights to freedom of expression and assembly.⁷ Videos depict camouflage-clad officers with generic "POLICE" patches on their clothing and without any other identifying information such as their names or agency affiliation using force to arrest and whisk away protesters in unmarked vehicles.⁸

In recent weeks, CBP confirmed that its agents seized and detained protesters in unmarked vans. A Portland protester named Mark Pettibone, was detained by several men in green military uniforms and searched and taken in an unmarked minivan to a federal courthouse where he was held for several hours. Pettibone said that the CBP agents never told him why he was arrested, nor did they provide him with any paperwork, citation, or record of his arrest, which amounts to arbitrary arrest and detention in violation of domestic and international law.⁹ Recent reports suggest that those arrested for the minor crimes of vandalism of federal property or failure to disperse are required to refrain from attending "any other protests, rallies, assemblies or public gathering in the state of Oregon" while their case is pending – an indefinite condition since federal courts are shuttered for the foreseeable future due to the COVID-19 pandemic – in clear violation of their rights to freedom of expression and assembly.¹⁰

On July 22, federal law enforcement officers unleashed multiple rounds of tear gas on a crowd of hundreds of people, including Portland Mayor Ted Wheeler, who described DHS as waging "urban warfare" on Portland.¹¹

³ Ken Klippenstein, "The Federal Response to Protests Extends Far Beyond Portland," *The Nation*, July 23, 2020, <https://www.thenation.com/article/society/cbp-deployment-harris/>.

⁴ Marissa J. Lang, Josh Dawsey, Devin Barrett & Nick Miroff, "Operation Diligent Valor: Trump showcased federal power in Portland, making a culture war campaign pitch," *Washington Post*, July 24, 2020, https://www.washingtonpost.com/national/portland-protests-operation-diligent-valor/2020/07/24/95f21ede-cce9-11ea-89ce-ac7d5e4a5a38_story.html.

⁵ Caitlin Dickerson, Zolan Kanno-Youngs & Annie Correal, "'Flood the Streets': ICE Targets Sanctuary Cities With Increased Surveillance," *NY Times*, March 5, 2020, <https://www.nytimes.com/2020/03/05/us/ice-bortac-sanctuary-cities.html>.

⁶ Sergio Olmos, Mike Baker & Zolan Kanno-Youngs, "Federal Officers Deployed in Portland Didn't Have Proper Training, D.H.S. Memo Said," *New York Times*, July 18, 2020, <https://www.nytimes.com/2020/07/18/us/portland-protests.html>.

⁷ Katie Shepherd & Mark Berman, "'It was like being preyed upon': Portland protesters 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/>.

⁸ *Id.*

⁹ *Id.*

¹⁰ Dara Lind, "'Defendant Shall Not Attend Protests': In Portland, Getting Out of Jail Requires Relinquishing Constitutional Rights," *ProPublica*, July 28, 2020, <https://www.propublica.org/article/defendant-shall-not-attend-protests-in-portland-getting-out-of-jail-requires-relinquishing-constitutional-rights>.

¹¹ Lauren Thiessen, 'This is urban warfare': Protests escalate in Portland, Oregon" *N.Y. Daily News*, July 26, 2020, <https://www.nydailynews.com/news/national/ny-this-is-urban-warfare-protests-escalate-in-portland-ore-20200726-7k2zs6o2enfctdrd3maz55wxca-story.html>.

Local and state leaders have questioned the federal agents' legal authority to police demonstrations and conduct arrests, and have called for their withdrawal from Portland. On July 23, a federal court issued a temporary restraining order barring federal officers, including DHS agents deployed to Portland, from arresting, threatening to arrest, or using physical force against someone whom they should "reasonably know" is a journalist or a legal observer unless they have probable cause to believe that person has committed a crime.¹² The court stated that journalists and legal observers are not required to follow federal agents' orders to disperse or to stop documenting a protest.¹³ However, agents proceeded to ignore and violate the order just hours after it was issued: the ACLU of Oregon cited numerous instances in which the federal agents have violated the order by firing less-lethal munitions, such as rubber bullets, and using pepper spray against people who were clearly marked as press or legal observers.¹⁴

Amnesty International strongly denounces the deployment of these DHS agents to Portland and their excessive use of force against protesters. Their presence in Portland has only served to inflame tensions and increase violence. We are alarmed that senior DHS officials, including Ken Cuccinelli, have suggested that DHS agents might deploy similar approaches in other cities, and that deployments are reportedly taking place in Seattle and Chicago.¹⁵ Multiple former DHS Secretaries and senior officials have denounced DHS's actions in Portland, describing how the administration is using the agency in a manner "not consistent with its mission."¹⁶

DHS agents should not be deployed to conduct domestic law enforcement unless under exceptional and temporary circumstances, based on a clear needs assessment of their added value – if any – in a concrete situation. They should be specifically prevented from the policing of protests, due to their lack of training on crowd control and facilitating the right to peaceful assembly. We are especially alarmed by the deployment of CBP agents to Portland, given CBP's abysmal track record of using excessive – sometimes lethal – force and violating the rights of those it encounters, as Amnesty International has long documented.¹⁷ The agency's history of abuses against immigrants and border rights activists are a clear precursor to the brutal crackdowns against people exercising their right to protest today.

Americans across the country are exercising their rights to freedom of expression and assembly. All law enforcement agencies, including DHS and CBP, are required to uphold, protect, and facilitate these human rights. Amnesty International therefore urges Congress to:

¹² Maxine Bernstein, "Judge temporarily bars federal officers from using force, threats, dispersal orders against journalists, legal observers," *The Oregonian*, Jul. 23, 2020, <https://www.oregonlive.com/portland/2020/07/judge-inclined-to-restrain-federal-law-enforcement-from-using-force-threats-dispersal-orders-against-journalists-legal-observers.html>.

¹³ ACLU of Oregon, "Order in ACLU Lawsuit Blocks Trump's Militarized Agents from Attacking and Arresting Journalists and Legal Observers at Portland Protests," July 23, 2020, <https://aclu-or.org/en/press-releases/federal-court-issues-restraining-order-federal-agents-portland>.

¹⁴ Tucker Higgins, "Feds are flouting court order to stop targeting journalists and observers at Portland protests, ACLU tells judge," *CNBC*, July 28, 2020, <https://www.cnn.com/2020/07/28/portland-protests-feds-are-flouting-court-order-to-stop-targeting-journalists-aclu-says.html>.

¹⁵ Kevin James, "DHS team deployed to Seattle; unit on standby in case of new unrest in city," *USA Today*, July 24, 2020, <https://www.usatoday.com/story/news/politics/2020/07/24/dhs-team-deployed-seattle-unit-standby-case-protests/5503909002/>.

¹⁶ See, e.g., Rachel Janfaza, "Ex-DHS Sec. Tom Ridge says presence of federal authorities in Portland 'not consistent' with agency's mission," *CNN*, July 27, 2020, <https://www.cnn.com/2020/07/27/politics/ridge-portland-force-not-consistent/index.html>; Luke Barr, "Trump administration has taken a 'belligerent, aggressive tone' with Oregon officials: Former DHS Secretary Michael Chertoff," *ABC News*, July 22, 2020, <https://abcnews.go.com/Politics/trump-administration-belligerent-aggressive-tone-oregon-officials-dhs/story?id=71925276>.

¹⁷ See, e.g., Amnesty International, "Saving Lives Is Not a Crime," July 2019, <https://www.amnesty.org/en/documents/amr51/0583/2019/en/#:~:text=USA%3A%20'Saving%20lives%20is%20not,by%20the%20USA%20%7C%20Amnesty%20International>.

- Place strict limitations on funding for DHS to ensure its agents are not used, under the pretext of protecting federal property, to prevent constitutionally protected public assembly and free speech. Any future funding for DHS must include strict safeguards against unlawful use of force by agents and redress mechanisms for individuals who have suffered such use of force. Given DHS's history of unchecked abuses towards immigrants, border activists, and protestors, Congress should carefully examine options for wholesale reform of the agency – including possible dissolution of DHS and transfer of its functions across other federal agencies.
- Call on DHS to:
 - Immediately halt arrests and use of physical force against protesters;
 - Immediately withdraw all DHS agents, including CBP agents, from Portland and any other cities in which agents have been deployed for protest response;
 - Refrain from deploying any DHS agents, including CBP agents, to Seattle, Oakland, Washington, D.C., or any other city for purposes of policing protests.

For further information, please contact Charanya Krishnaswami, Americas Advocacy Director, at ckrishna@aiusa.org.

Sincerely,



Joanne Lin
National Director, Advocacy & Government Relations



Charanya Krishnaswami
Americas Advocacy Director

**Post-Hearing Questions for the Record
Submitted to The Honorable Chad Wolf
From Senator Kamala Harris**

“Oversight of DHS Personnel Deployments to Recent Protests”

August 6, 2020

***Due to the change-over in Administration, responses were not received
to these questions for the record.***

Operation Legend

On July 8, Attorney General William Barr announced the launch of Operation Legend, a purported federal-state-local partnership designed to fight violent crime in certain cities, beginning in Kansas City, Missouri. On July 22, Attorney General Barr announced that he planned to extend Operation Legend and deploy federal law enforcement agents—including DHS agents—to Chicago, Illinois, and Albuquerque, New Mexico.

1. What legal authority is DHS relying on to support its involvement in Operation Legend? Please cite specific statutory authorities.
2. What specific role will DHS agents play in executing Operation Legend?
 - a. How long will DHS agents be involved in Operation Legend?
 - b. To which cities will DHS agents be deployed as part of Operation Legend? Please provide the anticipated dates of each deployment.
3. Will DHS and/or DOJ execute MOUs with every jurisdiction to which federal law enforcement agents will be deployed as part of Operation Legend?
4. Are there any existing MOUs or cooperative agreements governing the scope, terms, and limits of federal involvement as part of Operation Legend? If yes, please produce those documents.

DACA

When DACA was first implemented, the federal government promised these young people that the extensive information they provide when they apply for DACA protections would not be used for enforcement purposes. Multiple prior DHS officials, including General Kelly, Acting Secretary Duke, and Secretary Nielsen, confirmed to me that the policy continues to apply. Most recently, Acting Deputy Secretary Ken Cuccinelli responded in questions for the record that “USCIS is continuing to comply with all existing federal court injunctions and other orders regarding the Deferred Action for Childhood Arrivals (DACA) policy for certain illegal aliens. This includes continuing to follow the DACA information sharing policy as expressed on the Instructions to the DACA request Form I-821D at pg. 13.”

On July 28, you issued a memorandum barring 300,000 young people who would otherwise be eligible for DACA from receiving it, many of whom had already applied based on the Supreme Court's decision preserving DACA. Your memorandum states that it continues to "comply with the information-sharing policy as reflected in the DACA Frequently Asked Questions issued alongside the Napolitano Memorandum, and as set forth in USCIS's Form I-821 D instructions" and continues to confirm that "nothing in [your] memorandum makes any change to that policy."

5. **Do you commit that information for new DACA applicants, even if they have been denied under your new policy, will not be used for enforcement purposes?**
6. **As of July 28, please provide the number of DACA renewals that had been properly accepted for adjudication and were pending final adjudication.**
7. **As of July 28, please provide the number of initial DACA applications that had been filed after the Supreme Court decision in *Regents* and were pending at the agency.**
 - a. **Please confirm whether all of these applications have now been rejected.**

On April 21, ProPublica reported that ICE has access to DACA-related information through shared databases within DHS.

8. **Please explain what information about DACA applicants DHS collects and stores.**
9. **Please list the exact information from DACA recipients that is currently, or has been previously, available to ICE or CBP, or any other component within DHS.**
10. **Please provide any instances where ICE or CBP are accessing any databases that contain DACA applicant or recipient information.**
 - a. **What information was accessed?**
 - b. **How many times was this information accessed?**
 - c. **Under what circumstances can ICE or CBP access these databases?**
11. **What steps has USCIS taken to ensure that DACA-related information in its databases are not used by ICE or CBP for enforcement purposes?**

On June 18, 2020, the Supreme Court struck down DHS' decision to end DACA. Chief Justice Roberts acknowledged that these young people have "enrolled in degree programs, embarked on careers, started businesses, purchased homes, and even married and had children, all in reliance" on DACA, and that this reliance impacts their 200,000 U.S. citizen children. The Supreme Court's decision makes clear that you must consider the impact of policies relating to DACA before making changes to it. Your July 28 memorandum makes a series of policy changes to the DACA program that have a significant impact on DACA recipients, including shortening the period of deferred action to one year, which effectively doubles the cost for applying for DACA.

12. **Before issuing your July 28 memorandum, did you conduct an analysis on:**
 - a. **the ability of individuals eligible for DACA to seek and renew protections,**

- b. the potential impacts of reducing the renewal period for DACA recipients from two years to one year,
 - c. whether DHS should reduce the fee to be paid by DACA recipients in applying for renewal given DHS' decision to cut the renewal period in half,
 - d. the potential impact on participation by DACA recipients as essential workers during the pandemic, and
 - e. how many DACA recipients will be unable to renew their DACA under your new policy?
13. Please provide the length of time DACA renewals are currently taking for processing from the time of submission of the renewal request to the delivery of the work authorization to the recipient.
14. Please confirm:
- a. whether DACA renewal requests approved on or before July 28, 2020 have received DACA for a 2-year period,
 - b. whether DACA renewal requests approved on or before July 28, 2020 have received work permits valid for a 2-year period, and
 - c. whether any guidance documents have been shared since July 28, 2020 with USCIS, ICE, CBP or any other component within DHS regarding DACA, and provide copies of the same.
15. Please provide the total number of deferred action requests received by DHS and the subset that have been approved by DHS in the last year.

Your memorandum states that advance parole applications, which allow DACA recipients to travel abroad for humanitarian and other reasons, will be rejected absent "exceptional circumstances." However, no further guidance or clarification is provided on what DHS considers to be an "exceptional circumstance."

16. What constitutes an "exceptional circumstance" meriting a grant of advance parole to a DACA recipient? Please include examples in your response.
17. Please provide the date by which DACA recipients who have pending advance parole applications will be notified whether their applications have been granted.

Detention

According to public reports, detained individuals have organized and participated in hunger strikes, labor strikes, and other internal organizing efforts to protest their inability to practice physical distancing in detention, lack of sufficient personal protective equipment and soap, medical neglect, prolonged detention, and insufficient COVID-19 testing. Reports indicate that, in some instances, facility staff have retaliated by withholding commissary items including hygiene products, limiting phone usage, placing individuals in solitary confinement or other forms of isolation, and using pepper spray, chemical irritants, and rubber bullets.

- 18. For each facility in California, please provide a list of all instances since January 1, 2020 in which an individual in DHS detention declined food or water for any period of time. Please include the following in your response.**
- a. the facility at which they were detained,**
 - b. the duration of their refusal,**
 - c. any known grounds for their refusal,**
 - d. the response by facility staff during the period of refusal, and**
 - e. any subsequent disciplinary action that individual experienced regardless of whether it was directly related to their decision to decline food or water.**

According to public reports, DHS continues to transfer individuals between DHS facilities and accept transfers from state and local facilities, which has led to increases of COVID-19 cases in several facilities. ICE has reportedly transferred people from facilities with high numbers of positive COVID-19 cases to facilities with no known cases of COVID-19. In some cases, these transfers have sparked increased confirmed cases at particular facilities and risked spreading infection to surrounding communities.

- 19. Did DHS conduct an analysis of the impact of transfers among detained populations on their health and safety? Please provide any such analysis.**
- 20. Please provide the number of individuals transferred into DHS detention facilities located in California from any other local, state, or federal detention facility, including the location from which the individual was transferred and the facility to which the individual was transferred.**
- a. Please also include (1) whether each individual received a COVID-19 test and (2) the results of any test administered.**
 - b. Does DHS provide a COVID-19 test to any individual transferred from a local, state, or federal detention facility into a DHS detention facility? If so, when did this policy go into effect?**

On August 6, 2020, the LA Times released correspondence between ICE and its contract staff at the Mesa Verde ICE Processing Center in my home state of California indicating that ICE limited testing at the facility due to concerns about being required to respond in the event of a high number of positive COVID-19 cases. Similar reports have emerged regarding the Adelanto ICE Processing Center in California as well.

- 21. How does ICE prioritize administration of its testing nationally?**
- 22. Has ICE or any of its contractors received recommendations regarding the number and scope of testing that should be provided, nationwide or at any specific facility? Please describe any such recommendations received and ICE's response.**
- a. Has ICE or any of its contractors explicitly declined to provide expanded testing at any facility, including at Mesa Verde and Adelanto ICE Processing Center in my home state of California? If so, why?**

- b. Please provide a comprehensive list of the number of COVID-19 tests administered per facility in all California detention centers, and dates on which they were administered. Please also provide this information nationally.
23. Please provide a comprehensive list of the data DHS tracks regarding individuals in detention, including but not limited to whether DHS tracks the following data:
- a. average length of detention
 - b. average length of detention by nationality and by race
 - c. average dollar amount of administrative bonds
 - d. average dollar amount of administrative bonds by nationality and by race
 - e. data on COVID-19 testing and results by nationality and by race
 - f. number of medical complaints and/or grievances filed by individuals detained
 - g. number of medical complaints and/or grievances filed by nationality and by race
 - h. number of individuals detained who identify as LGBTQ
 - i. number of individuals detained by nationality and race
 - j. number of individuals transferred from detention to local hospitals due to health issues

USCIS Operations

On March 17, 2020, USCIS announced the suspension of in-person services at its field offices to help slow the spread of COVID-19. On June 4, 2020, USCIS announced that it would resume non-emergency, in-person services to the public at certain field offices that were set to reopen, including naturalization oath of allegiance ceremonies.

24. Please provide the number of applicants nationwide that are currently awaiting adjudication of their naturalization application, including a breakdown of where they are in the process (e.g., application filed, no interview scheduled yet, interview scheduled, interview performed, pending oath ceremony, and pending a Request for Evidence or further investigation).
25. For the 2018, 2019 and 2020 (to date) fiscal years, please provide the average processing time from filing to final adjudication and completion of oath ceremonies for naturalization applications, broken down by USCIS District and Field Office.
- a. For FY 2020 (to date), please break this down by month.
26. From March 1, 2020 through July 2020, please provide the number of naturalization applications approved, denied, and pending further evidence or investigation, broken down by USCIS District and Field Office and by month.
- a. Please provide the same information for March 1, 2019 through July 2019, and March 1, 2018 through July 2018.
27. Please provide to the Committee any plans that DHS or USCIS have prepared for addressing the backlog of naturalization applications, including the date by which you expect to resolve the full backlog.

- a. Please provide the number of personnel currently working on processing naturalization applications, broken down by USCIS District, Field Office, or USCIS headquarters.
 - b. Please describe any changes in personnel assignments at the District and Field Level during FY 2020, including the basis for any changes.
28. Please provide the number of naturalization oath of allegiance ceremonies and interviews that have been conducted nationwide between March 1, 2020 and the date of your response broken down by month.
- a. For the same time period, please provide which USCIS District and Field offices have been conducting naturalization ceremonies and interviews.
 - b. For the same time period, please provide the number of applicants who have completed their oath ceremonies.
 - c. How is USCIS addressing the needs of individuals who are unable to attend a scheduled oath ceremony or interview due to their vulnerability to infection during the COVID-19 pandemic, or other reasons?
 - d. What accessibility options is USCIS providing to individuals attending naturalization ceremonies?
29. Have USCIS offices adopted modified interview and oath procedures since March 2020 to facilitate recommended health and safety procedures during the pandemic, including social distancing? Please describe the modified techniques and provide any relevant documentation.
30. In light of USCIS' announcements regarding potential furloughs, how does USCIS plan to continue providing services, including conducting naturalization interviews and oath ceremonies?
- a. Has USCIS canceled naturalization oaths and interviews? If so, when and how were affected applicants notified? Please provide a sample notice.

On August 12, USA Today reported that USCIS had notified over 13,000 employees that they would be furloughed effective August 30, 2020 due to budget shortfalls. It is my understanding that USCIS is proceeding with these furloughs despite information provided to the Senate Appropriations Committee indicating that USCIS will have a carryover balance of \$200 million at the end of fiscal year 2020 and findings by members of the Committee that USCIS can pay all of its staff through the end of the fiscal year. Furloughing USCIS employees would not only have a significant impact to our legal immigration system, but also to our economy and the federal workforce, which continue to suffer due to the ongoing public health crisis.

31. What is the total number of staff at USCIS and the total number and percent of such staff members that received furlough notices, broken down by directorate, service center, and field office? Please include the percentage of staff by each office that has received furlough notices.

32. Please provide a breakdown of the main forms adjudicated by each service center and field office, including the total number of such main forms adjudicated in the last fiscal year.
33. What is the total number of actual adjudicators at USCIS, broken down by offices - FOD, SCOPS, RAIO? How many of those adjudicators (including by percentage of total adjudicators), broken down by FOD, SCOPS, and RAIO, have received furlough notices?
34. What is the total number of adjudications supervisors at USCIS, broken down by offices - FOD, SCOPS, RAIO? How many of those supervisors (including by percentage of total supervisors), broken down by FOD, SCOPS, and RAIO, have received furlough notices?
35. Did any employees working on the denaturalization effort launched by former Director Francis Cissna in 2018 receive a furlough notice? If so, how many, including by percentage of employees working on denaturalization?
36. Has DHS conducted an analysis to determine whether the announced furloughs are necessary in light of USCIS' current financial situation? Please provide documentation of all relevant analysis that you have conducted.
37. Has DHS determined how long it can continue to pay the USCIS workforce, including the use of any projected budget surplus? Please provide all relevant documentation with your response.
38. Please provide the furlough numbers and percent of the workforce by USCIS offices including: Asylum Office, Field and District Offices, Service Centers, USCIS HQ – broken down by its sections.

Due to the change-over in Administration, responses were not received to these questions for the record.

**Post-Hearing Questions for the Record
Submitted to The Honorable Chad Wolf
From Senator Kyrsten Sinema**

“Oversight of DHS Personnel Deployments to Recent Protests”

August 6, 2020

Question#:	1
Topic:	Communications with Locals
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: Federal law enforcement entities must develop strong partnerships with state, local, and tribal officials. These local officials are in the best position to understand their communities, the impact federal actions have on their communities, and the best way to achieve common goals. During your testimony on August 6th, you stated repeatedly that the situation in Portland was unique in terms of the disagreements between the Department of Homeland Security (DHS) and local officials regarding the actions and methods of DHS officers. You further stated that DHS did everything it could to resolve the situation. Federal agencies should always critically examine their initiatives and actions and consider ways to improve. There will certainly be instances in the future when DHS needs to successfully coordinate and communicate with local officials.

When it comes to the situation in Portland, what should the Department have done differently in communicating with state and local officials?

Response: The U.S. Department of Homeland Security (DHS) and its Components took all necessary and appropriate steps to engage and communicate with state and local partners to address the situation in the Portland Metropolitan area. The issue was not one of a lack of coordination and communication. Rather, it was caused by the elected officials' unwillingness to collaborate and partner with us. DHS was, and remains in constant communication with our partners since day one of the civil unrest in Portland and across the United States.

Question: In the wake of these communication challenges, what steps are you taking to update Department guidelines for engaging, communicating and working with state, local, and tribal officials and law enforcement?

Response: This particular situation was not an issue of lack of engagement and communications; it was an issue of unwillingness to collaborate and partner with us by the local elected officials.

Question#:	1
Topic:	Communications with Locals
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Committee:	HOMELAND SECURITY (SENATE)

The Department was there to work together to face the challenges on the ground; the locally elected officials chose not to come to an agreement to collaborate and partner with us.

Question: How has DHS handled any disagreements with local officials in other cities as it deploys DHS personnel to cities under Operation Legend?

Response: The Department will always seek to collaborate and partner with our state, local, tribal, and territorial officials and law enforcement partners. We continue to productively collaborate under the U. S. Department of Justice (DOJ) led Operation Legend and the many other homeland security missions we successfully accomplish on a daily basis. In collaborations, there can be disagreements. However, agreement can always be found in a partnership. I firmly believe that our state and local partners agree with Operation Legend's goal of protecting the American people from senseless acts of deadly violence. Operation Legend may achieve this objective by targeting those involved in gang activity and those who use guns to commit violent crimes.

Question#:	2
Topic:	Releasing Children
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: ICE's practice of housing migrant children in temporary hotel accommodations while they await deportation continues in Arizona according to reporting. I asked you specifically about DHS's communication with the city of Phoenix on this issue during the August 6th committee hearing, and you recognized that communication needed to improve. Unfortunately, my staff and I have received feedback from Phoenix officials that indicates proactive steps are not being taken to keep city officials informed of these activities.

What steps has DHS taken to improve communication with appropriate local officials in Arizona regarding the transport and detention of children in DHS custody, especially when the children are being held in facilities outside the formal ICE detention system, such as hotels, where adherence to DHS protocols and oversight is more limited?

What are DHS's plans for responding to local officials in communities who indicate they do not support this initiative and how will ICE change its procedures if cities express objections to the continuation of these actions?

Response: U.S. Immigration and Customs Enforcement (ICE) Headquarters leadership and managers from the ICE Phoenix Field Office have engaged in discussions with the Mayor of Phoenix. During these discussions, ICE provided answers to Mayor Gallego and her staff regarding the temporary housing of single minors. ICE allayed the Mayor's concerns and identified a dedicated point of contact within the Phoenix Field Office so that she and her staff can have immediate access to ICE for any future inquiries.

Question: Is DHS communicating with local law enforcement regarding the use of these hotels to ensure the safety of the migrant children and ICE employees and contractors?

Response: ICE communicates with local law enforcement any time ICE or its contractors become aware of any potential threat to the public safety or a threat to the safety of those that ICE is safeguarding. Additionally, ICE notifies local law enforcement if there is any indication of developing civil unrest. ICE has long utilized hotel accommodations to temporarily house immigrants while pending release or transfer to another facility. ICE also uses hotels to temporarily house family units pending transfer to an ICE Family Residential Center or minors being placed with the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR).

Question: What are DHS's plans for responding to local officials in communities who indicate they do not support this initiative and how will ICE change its procedures if cities express objections to the continuation of these actions?

Question#:	2
Topic:	Releasing Children
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Response: ICE is committed to continued dialogue with local officials. While ICE understands that some communities may object to its implementation of the Centers for Disease Control and Prevention's (CDC) Order under the Title 42 provision, it continues to carry out the government's mandated responsibility while partnering to the extent possible with state and local partners.

Question#:	3
Topic:	Facility Use
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: The initially identified hotel in Phoenix said they will no longer allow migrant children to be held at their properties. Is ICE continuing to hold children at non-ICE facilities? If so, where are they being held? If not, please provide details on where this population of migrant children is being held.

Response: Generally, single minors apprehended under Title 42 authority are turned over to ICE for temporary housing pending the next expulsion flight. ICE also uses hotels to temporarily house family units pending transfer to an ICE Family Residential Center or minors being placed with HHS ORR.

Please note that ICE takes very seriously its obligation to our detained population and is committed to keeping everyone safe. The health, welfare, and safety of ICE detainees is one of the agency's highest priorities.

Question#:	4
Topic:	Access to Counsel
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: Do children who are held in a hotel after being released from ORR custody awaiting a deportation flight have the ability to communicate with legal counsel via telephone or other methods? What protocols are in place to ensure this communication is available? Are legal representatives made aware of where the children are physically located throughout this process? If not, why not? Will ICE allow legal representation to have physical access to these children while they are at these hotels?

Response: Unaccompanied alien children (UAC) who are released from HHS ORR custody to ICE custody for return/removal under Title 8 are generally only held for a very brief amount of time to facilitate removal. Legal communication is facilitated, when requested, with attorneys who have a Form G-28 on file with ICE. UAC who are in ICE custody pending transit from HHS ORR to their scheduled removal flight may request to speak with their attorney. Additionally, if an attorney requests to speak with their client and a Form G-28 is on file with ICE, ICE will facilitate a call between the UAC and the attorney, including during any period of time the UAC is held in a hotel. For operational security considerations and due to the very brief duration of custody, requests for physical access by an attorney to a UAC is reviewed on a case-by-case basis.

Question#:	5
Topic:	Training
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: What training do contract employees who are supervising and transferring minors receive that specifically relates to caring for this unique population? What background checks and security screening are done for these contract employees?

Response: Transportation Specialists, employed by MVM, Inc. (MVM), are responsible for traveling with minors and families. Transportation Specialists are non-law enforcement staff members trained to work with minors and families and to ensure that all aspects of the transport and stay are compliant with applicable standards, policies, and agreements. An individual must have at least two years of documented experience in a field related to law, social work, detention, corrections, or a similar occupation to qualify as a Transportation Specialist.

MVM staff must meet the hiring requirements outlined in the contract and pass background and criminal record checks. MVM staff are required to undergo training that includes a significant amount of subject matter related to the care of unaccompanied minors, behavior management, safety, first aid, unexpected circumstances, and emergencies, and adhere to ICE guidelines regarding coronavirus disease 2019 (COVID-19). In response to the COVID-19 pandemic, MVM staff take all minors' temperatures, complete COVID-19 symptom screening every four hours, and provide necessary medical supplies and multiple forms of personal protective equipment, soap, and other sanitary products.

Question#:	6
Topic:	Health Precautions
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: What precautions is DHS taking to mitigate the risks of infection spread among agents, contract employees, hotel personnel, and other guests? Are CDC guidelines and public health best practices being complied with while holding these children in hotel accommodations? Is adequate PPE available for all DHS and contract staff, migrants being held and others as needed? Are individual children kept in separate rooms to allow for isolation and social distancing?

Given that minors being expelled under Title 42 or removed under Title 8 have been exposed to different populations in the period immediately preceding the time they are held in these hotels, are the groups of minors held separately to decrease infection spread originating from different locations and sources? If not, why not?

Response: ICE is unable to provide the requested information due to pending litigation.

Question#:	7
Topic:	COVID Testing
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: What testing protocols are in place for these migrant children? What happens if a child tests positive for COVID-19? Are they isolated while still being kept in the hotel or are they sent to ORR or traditional ICE detention facilities?

Response: ICE is unable to provide the requested information due to pending litigation. However, please note that ICE takes very seriously its obligation to our detained population and is committed to keeping everyone safe. The health, welfare, and safety of ICE detainees is one of the agency's highest priorities.

Question#:	8
Topic:	Transfer Protocols
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: If ICE knows that deportation flights cannot be arranged within a short time period and these hotels would be used for extended periods of time, what discretion do they have to transfer these children to traditional ICE facilities or ORR care?

Response: ICE is unable to provide the requested information due to pending litigation. However, please note that ICE takes very seriously its obligation to our detained population and is committed to keeping everyone safe. The health, welfare, and safety of ICE detainees is one of the agency's highest priorities.

Question#:	9
Topic:	Title 42 Guidance
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: Using Title 42 authority, CBP is quickly expelling almost every person who crosses the border. I understand the need to adapt policies and procedures to protect the public health and also support strong border security. However, the sheer volume of overlapping restrictions and policies seems to have effectively closed our southern border to those who have a legal right to seek asylum. The lack of information DHS officials are providing to migrants regarding what legal rights they may have is concerning. DHS has stated previously that individuals are still screened for potential claims under the Convention Against Torture (CAT) and Customs and Border Protection (CBP) Commissioner Morgan previously testified in front of this committee that CBP is screening all unaccompanied children who arrive to the United States for relief under the Trafficking Victims Protection Reauthorization Act (TVPRA). However, there is a lot of evidence, including the situation regarding children being held in Phoenix hotels, which indicates these protections are not being applied consistently or fairly.

Does policy guidance provided by DHS to CBP agents in the field address Title 42's interaction with the Trafficking Victims Protection Reauthorization Act (TVPRA), Convention Against Torture, and other potential asylum claims made by migrants?

Response: DHS is taking appropriate action to comply with all federal law, including the relevant Title 8 and Title 42 authorities. Title 42 U.S.C. § 265 provides that:

[When] by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and . . . this danger is so increased by the introduction of persons . . . from such country that a suspension of the right to introduce such persons . . . is required in the interest of the public health, [the CDC Director and Secretary of HHS], in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons . . . from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.

The CDC Order additionally does not apply to persons whom customs officers determine, with approval from a supervisor, should be excepted based on the totality of circumstances, including significant law enforcement, officer and public safety, humanitarian, or public health interests. In addition, persons will not be sent to countries where they are more likely than not to be tortured.

The TVPRA provides specific processes governing the custody and removal of UACs under Title 8. But the CDC Order suspends the introduction of aliens under section 362 of the PHS

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Act for public health reasons without regard to the age of the alien (or the persons accompanying him). Actions to enforce the CDC Order necessarily involve the prohibition on entering or return of an alien outside of Title 8's procedures. Therefore, suspension of introduction, and the derivative expulsion authority under section 362 of the PHS Act operates independently from Title 8 with respect to minors and other persons.

Question: What specific policy guidance is provided for the handling of unaccompanied children under Title 42?

Response: When minors are encountered without adult family members, CBP works closely with their home countries to transfer them to the custody of government officials so that these children can be reunited with their families quickly and safely, if possible. CBP also may except any alien from the CDC order, on a case-by-case basis. For example, an exception can occur when return to the home country is not possible or an officer or agent suspects trafficking or sees signs of illness. Minors who are encountered without a parent or legal guardian will be processed as unaccompanied alien children under Title 8 and will be turned over to HHS ORR. While in CBP facilities, minors processed under Title 8 receive amenities and services consistent with applicable law and policy.

Question#:	10
Topic:	Title 42 Documents
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: Please provide my office with any and all policy and implementation documents issued by DHS that outline the use of Title 42 authority to expel migrants and how Title 42 procedures interact with traditional asylum claims.

Response: The operational documents are law enforcement sensitive and cannot be released due to pending litigation. DHS cannot provide additional information at this time.

Question#:	11
Topic:	Consular Notification
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: At what point in the Title 42 process is consular notification provided to the appropriate consulate?

Response: Under Title 42, ICE Air Operations Division notifies the appropriate Consular Office with flight manifests prior to departure.

Question: If DHS is unable to verify an individual's citizenship during the compressed timeline of Title 42 processing, what steps are taken to transfer this individual to ICE or ORR custody?

Response: As stated in the CDC Order, CBP retains the discretion to except an alien from the Order and process that alien in accordance with Title 8 procedures. Minors excepted from the CDC order who are encountered without a parent or legal guardian will be processed as unaccompanied alien children under Title 8 and will be turned over to HHS ORR. Others would be transferred to ICE Enforcement and Removal Operations (ERO) as appropriate.

Question#:	12
Topic:	Wrong Country
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: I have seen reporting of individuals being returned to a country that turned out to not be their country of nationality and they were then returned to the U.S. What steps is DHS taking to ensure this does not happen given the high risk of increasing infection spread of COVID-19 that arises from transferring individuals multiple times?

Response: ICE ERO removal operations require complex coordination, management, and facilitation efforts to successfully remove/return aliens from the United States. ICE ERO also works with the U.S. Department of State and its international partners to successfully execute removal operations.

In order to remove a foreign national from the United States who has been given a final order of removal, ICE generally needs the foreign government's approval. If a travel document (TD) is required, it must be issued by the alien's embassy or consulate of nationality to facilitate the alien's departure from the United States.

In most cases, the TD request process begins after the issuance of a final order. For cases where a valid TD is not available, and the foreign government requires one for an individual's entry, ICE prepares and forwards a TD request to the appropriate embassy or consulate. This request contains supporting documentation required by the consulate regarding its national, including, but not limited to, that individual's identity documents, criminal conviction documents, and applicable portions of the record of immigration proceedings.

Once a TD or approval is received from the foreign government, the individual is manifested for removal and the transfer information is prepared. Transfer information includes biographical information and criminal history. The flight is then scheduled via commercial aircraft, chartered aircraft, or ground transportation.

Each country whose nationals are being returned via air is subsequently notified of the individuals who have been manifested for removal.

Since July 2019, ICE has partnered with the governments of El Salvador, Guatemala, and Honduras to implement the Electronic Notification Verification (ENV) Program, which effects the rapid and cost-effective return of eligible Northern Triangle nationals. This allows ICE ERO to remove eligible Guatemalan, Salvadoran, and Honduran nationals aboard ICE Air Operations charter flights without the previously required TDs.

Separate from the ENV Program, and although extremely rare, there have been cases where an individual has made an affirmative claim of citizenship to ICE and/or a foreign consulate officer

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that they were a citizen of a certain country and were subsequently removed to that country but upon or after arrival, claimed another citizenship. In these instances, the foreign government will inspect the arriving alien and may not admit that individual if the person is not their citizen or national, which would require ICE to return them to the U.S. However, it should be noted that in most instances, the receiving country conducts citizenship verification on each individual prior to their return. Once the country confirms citizenship and approval is obtained, ICE proceeds with the removal. In addition, during some occasions, a U.S. District Court Judge may order the U.S. Government to return an alien back to the U.S.

Question#:	13
Topic:	Wall Construction
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: During a March 4th hearing before this Committee and during a phone conversation you and I had in early 2020, we discussed my recommendation that DHS strategically review its border wall construction efforts in order to better meet DHS responsibilities to protect water, environmental and cultural resources. My constituents want strong border security, but they also want our water resources and cultural history protected.

Has DHS undertaken any wide-ranging efforts to examine its wall construction efforts to determine how to improve its responsibilities to protect water, environmental and cultural resources?

If not, why not?

If Yes, can DHS provide my office with its findings and implementation plan on how it will incorporate those improvements to their ongoing construction efforts?

Response: CBP is committed to protecting the nation's cultural and natural resources including the construction of new border wall system. The Secretary of Homeland Security may determine it is necessary to exercise the statutory waiver authority pursuant to Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (*IIRIRA*). Section 102(C) of IIRIRA authorizes the Secretary to waive environmental or other laws to expedite the construction of border barriers and roads. On occasion, DHS has exercised the IIRIRA waiver authority for certain pending or on-going border barrier projects.

For projects executed under an IIRIRA waiver, CBP seeks to responsibly conduct environmental planning within a managed timeframe to meet operational needs. Wherever feasible, CBP conducts environmental planning and project execution in a manner that is consistent with the spirit and intent of the environmental laws that have been waived, including the *National Environmental Policy Act*. As part of the environmental planning process, CBP reviews existing environmental data and conducts biological, cultural, and natural resource surveys of each project area.

CBP solicits information and feedback from interested stakeholders including Federal, state, and local agencies, tribal governments, non-governmental organizations, landowners, residents, and the public. The consultations often continue throughout design and construction. Among other things, the consultations help CBP identify elements that can be incorporated into the barrier design to minimize impacts to the environment, including wildlife, water resources, and cultural and historic resources while also accomplishing CBP's mission to secure the Southwest border. In addition, CBP has a standard set of construction best management practices, which are

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designed to minimize or avoid environmental impacts and are incorporated into every border barrier project.

Recently, based on recommendations from DOI, CBP worked with the U.S. Army Corps of Engineers and environmental stakeholders to incorporate approximately 50 small wildlife passages into approximately 63 miles of new border barrier that is being constructed within the U.S. Border Patrol (USBP) Tucson Sector as a part of a fiscal year 2019 project that is being carried out with the assistance of the Department of Defense (DoD) pursuant to 10 U.S.C. § 284. These wildlife passages are located along the border within the Organ Pipe Cactus National Monument and along the border east of Douglas, Arizona. In addition, CBP is working with stakeholders to identify additional strategic locations for small wildlife passages within an additional approximately 74 miles of new border barrier that is being constructed in the Tucson Sector as a part of a fiscal year 2020 project that is being carried with the assistance of the DoD pursuant to 10 U.S.C. § 284.

Based on the information obtained from field surveys, the review of data, and feedback obtained through consultation, CBP develops an Environmental Stewardship Plan (ESP) for each project. ESPs are developed in close coordination with DOI, the U.S. Department of Agriculture, and DoD, as appropriate. The ESPs assess the impacts of border wall system construction, including impacts to sensitive lands, habitats, and wildlife. The EPSs also identify additional best management practices and strategies to mitigate such impacts.

CBP's completed ESPs can be found here: <https://www.cbp.gov/document/environmental-assessments>.

Question#:	14
Topic:	Cost Benefit Analysis
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Kyrsten Sinema
Committee:	HOMELAND SECURITY (SENATE)

Question: What cost-benefit analysis does DHS do before beginning a wall construction project?

Response: CBP has developed a comprehensive methodology to determine whether and where to deploy barriers, which includes an assessment of USBP's operational requirements and location-specific factors that influence the feasibility (and, indirectly, cost) of barrier construction. This methodology considers quantitative data, qualitative data, intelligence, and subject matter expertise. Once the alignments are verified and project-specific attributes are documented, a life-cycle cost estimate and cost-estimating baseline document are developed. The cost analysis and estimate do not affect operational priority, but factor into the planning and execution process associated with the requirements.

Question: Can DHS provide my office with all cost-benefit analyses, or similar products, for all wall construction projects begun in Arizona from Jan. 3, 2019 till today?

Response: A report detailing the methodology and the resulting border wall priorities was originally compiled pursuant to the legislative language set forth in the Fiscal Year (FY) 2017 Department of Homeland Security Appropriations Act (P.L. 115-31). An update of this plan was required by legislative language set forth in the FY 2019 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-6) and the accompanying Senate Report 115-283, as well as the FY 2020 DHS Appropriations Act (P.L. 116-93) and the accompanying Senate Report 116-125. The updated report was provided to the Senate Appropriations Committee earlier this year.

**Post-Hearing Questions for the Record
Submitted to The Honorable Chad Wolf
From Senator Jacky Rosen**

“Oversight of DHS Personnel Deployments to Recent Protests”

August 6, 2020

Question#:	15
Topic:	New DACA Applications
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Jacky Rosen
Committee:	HOMELAND SECURITY (SENATE)

Question: Recently, the U.S. Supreme Court sided against the Administration in its attempt to end the DACA program, concluding that its termination of DACA was arbitrary and capricious, and declaring that the matter should be "remand[ed] to DHS so that it may consider the problem anew."

A month later in a July 28th memo, you stated that you were making changes to DACA and directing DHS personnel, "to take all appropriate actions to reject all pending and future initial requests for DACA, to reject all pending and future applications for advance parole absent exceptional circumstances, and to shorten DACA renewals." This memo does not take into account the U.S. Supreme Court's decision requiring for the U.S. Citizenship and Immigration Services (USCIS) to continue to accept and process DACA renewal applications, continue to accept initial first-time DACA applications, and process applications for advance parole.

In the midst of the COVID-19 pandemic, more than 200,000 DACA recipients have been working in areas that DHS identifies as part of the "essential critical infrastructure workforce." This includes more than 41,000 DACA recipients working in the health care industry, including physicians and physicians in training, intensive care nurses, paramedics, respiratory therapists, nursing assistants, and health technicians. DACA recipients have been on the front lines of this pandemic and contributed to the success of the nation and the economy.

Why has the Department, despite the U.S. Supreme Court's decision, decided not to follow the Court's order on continuing to accept initial first-time DACA applications, as well as applications for advance parole?

Response: As you note above, the Supreme Court held that a remand to DHS was appropriate "so that it may consider the problem anew." It did not specifically order DHS to begin accepting advance parole applications or initial DACA requests from illegal aliens who never had DACA before. In considering the policy anew, Acting Secretary Wolf determined that among the

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actions he would take to mitigate his enforcement policy concerns regarding the DACA policy while conducting a full and careful consideration of a full rescission of DACA, would be to continue not accepting new initial requests for DACA and to grant advance parole to current DACA beneficiaries only in exceptional circumstances.

In compliance with a December 4, 2020 court order in *Batalla Vidal, et al. v. Wolf, et al.*, 16-CV-4756 (NGG) (VMS) (E.D.N.Y.) and *State of New York, et al. v. Trump, et al.*, 17-CV-5228 (NGG) (VMS) (E.D.N.Y.), effective December 7, 2020, USCIS is accepting first-time requests for consideration of deferred action under DACA, as well as applications for DACA-based advance parole documents, based on the terms of the DACA policy in effect prior to September 5, 2017, and in accordance with the Court's December 4, 2020, order. DHS will comply with the order while it remains in effect, but DHS may seek relief from the order.

Question#:	16
Topic:	Next DACA Steps
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Jacky Rosen
Committee:	HOMELAND SECURITY (SENATE)

Question: Given the July 28th memo, what exactly is the Department reviewing as it weighs its next steps for the DACA program?

Response: The DACA policy as a whole is under a close and careful review, as instructed by Acting Secretary Wolf's July 28 memorandum. No further details are available at this time.

Question#:	17
Topic:	Exceptional Circumstances
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Jacky Rosen
Committee:	HOMELAND SECURITY (SENATE)

Question: What reasons would qualify as an "exceptional circumstance" for DACA recipients to be granted advance parole?

Response: U.S. Customs and Immigration Services (USCIS) will only grant advance parole for travel outside the United States to DACA recipients based on urgent humanitarian reasons or significant public benefit, as described in the guidance in the Acting Secretary's memorandum and the USCIS memorandum implementing the Acting Secretary's July 28 memo.

- The determination whether to grant advance parole to an alien is entirely within the discretion of USCIS and must be made on a case-by-case basis. USCIS will review all the factors presented in individual cases before determining whether to approve advance parole for a DACA recipient based on the new guidance. Some examples of circumstances that may warrant approval include, but are not limited to, situations such as:
- Travel to support the national security interests of the United States;
- Travel to support U.S. federal law enforcement interests;
- Travel to obtain life-sustaining medical treatment that is not otherwise available to the alien in the United States; or
- Travel needed to support the immediate safety, wellbeing or care of an immediate relative, particularly minor children of the alien.
- Even if a requestor establishes that his or her situation meets one of the examples above, USCIS may still deny the request for advance parole in discretion under the totality of the circumstances.

Question#:	18
Topic:	Application Status
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Jacky Rosen
Committee:	HOMELAND SECURITY (SENATE)

Question: On the day that the DACA memorandum was implemented, how many DACA renewals had been properly accepted for adjudication and how many were pending for final adjudication?

How many initial DACA applications had been filed after the U.S. Supreme Court decision in Regents and how many were pending at the agency? What is the status of those applications?

Response: Between June 18, 2020 and August 25, 2020, USCIS received approximately 52,600 DACA Renewal requests.

On August 25, 2020, there were approximately 50,800 DACA renewal requests pending final adjudication.

Between June 18, 2020 and August 25, 2020, USCIS received approximately 3,500 "true" DACA initial requests from individuals who never previously received an approval of their DACA request. All have been rejected as of September 14, 2020.

As of August 25, 2020, there were approximately 2,800 "converted" DACA initial requests pending. These "converted" requests were originally submitted as DACA renewals, but "converted" to initial DACA requests upon further review as the individual's previous DACA had expired or been terminated. This total includes any "converted" DACA initial requests received prior to June 18, 2020.

Between June 18, 2020 and August 25, 2020, USCIS received 1,080 "converted" DACA initial requests. Of this group, 16 have been approved, 1 denied, and 1,063 remain pending as of September 14, 2020.

Question#:	19
Topic:	Impact of Ending DACA
Hearing:	Oversight of DHS Personnel Deployments to Recent Protests
Primary:	The Honorable Jacky Rosen
Committee:	HOMELAND SECURITY (SENATE)

Question: What considerations is the Department taking into account to determine the potential effects of ending DACA and hurting hundreds of thousands of people, including families, communities, and our ability to contain the coronavirus pandemic?

Response: The DACA policy as a whole is under a close and careful review, as instructed by Acting Secretary Wolf's July 28 memorandum. No further details are available at this time.