

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

**CITIZENS FOR RESPONSIBILITY  
AND ETHICS IN WASHINGTON,**  
1101 K Street, N.W., Suite 201  
Washington, D.C. 20005

Plaintiff,

v.

**U.S. DEPARTMENT OF JUSTICE,**  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

**U.S. DEPARTMENT OF HOMELAND  
SECURITY,**  
245 Murray Lane, S.W.  
Washington, D.C. 20528

Defendants.

Case No. 1:20-cv-2553

**Complaint for Injunctive and Declaratory Relief**

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, for injunctive, declaratory, and other appropriate relief. Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) challenges the failure of the following agencies to respond to Plaintiff’s request for documents: the U.S. Department of Justice (“DOJ”), and its component agencies the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), the Drug Enforcement Agency (“DEA”), and the U.S. Marshals Service (“USMS”); and the U.S. Department of Homeland Security (“DHS”), and its component agencies U.S. Customs and Border Protection (“CBP”) and U.S. Immigration and Customs Enforcement (“ICE”). Plaintiff requested records related the

actual or planned deployment of federal law enforcement in response to protests for racial justice across the country, in addition to policies that governed federal authorities' treatment of these protesters.

2. On July 23, 2020, CREW submitted FOIA requests to DOJ, ATF, DEA, USMS, DHS, CBP and ICE. To date, these agencies and components have provided no determination as to CREW's FOIA requests.

3. Also on July 23, 2020, CREW sought expedition of its requests from DOJ's Office of Public Affairs and from DHS's Privacy Office. DOJ and DHS granted CREW's expedition request. CBP and ICE denied CREW's expedition request. ATF, DEA, and USMS have not replied to CREW's expedition request.

4. This case seeks declaratory relief that Defendants DOJ and DHS are in violation of the FOIA, 5 U.S.C. § 522(a)(3)(A), by refusing to provide CREW with all responsive, non-exempt documents and for refusing to grant CREW's expedited requests for records, and injunctive relief ordering Defendants to process and release to CREW as soon as practicable the requested records.

### **Jurisdiction and Venue**

5. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

6. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

### **Parties**

7. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens

to be informed about the activities of government officials and agencies and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of its research, CREW uses government records made available to it under the FOIA.

8. Defendant DOJ is an agency within the meaning of 5 U.S.C. § 552(f)(1). DOJ and its components ATF, DEA, and USMS have possession and control of the requested records and are responsible for fulfilling Plaintiff's FOIA requests.

9. Defendant DHS is an agency within the meaning of 5 U.S.C. § 552(f)(1). DHS and its components CBP and ICE have possession and control of the requested records and are responsible for fulfilling Plaintiff's FOIA requests.

### **Statutory and Regulatory Background**

10. The FOIA, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.

11. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination of which of the requested records it will release, which it will withhold and why, and the requester's right to appeal the determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

12. An agency's failure to make this determination within 20 days is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

13. In "unusual circumstances" an agency may extend the time to respond to a request by no more than 10 working days, provided that the agency gives the requester written notice

setting forth the unusual circumstances and the date on which the agency expects to make a determination. 5 U.S.C. § 552(a)(6)(B)(i)-(iii). The FOIA defines “unusual circumstances” as including the need to search for and collect responsive records from offices other than the office processing the request; the need to search for, collect, and examine a “voluminous amount of separate and distinct records”; and the need to consult with another agency. *Id.* § 552(a)(6)(B)(iii)(I)-(III).

14. The FOIA also requires agencies to promulgate regulations that provide for expedited processing of FOIA requests where the requester demonstrates a “compelling need” as well as “other cases determined by the agency.” 5 U.S.C. § 552(a)(6)(E)(i). The FOIA defines “compelling need” to include requests “made by a person primarily engaged in disseminating information” where there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” *Id.* § 552(a)(6)(E)(v)(II).

15. DOJ’s FOIA regulations permit expedition for, among other things, “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.” 28 C.F.R. § 16.5(e)(1)(iv). Requesters seeking expedition under this subsection must submit their expedition request to DOJ’s Director of Public Affairs. *Id.* § 16.5(e)(2).

16. DHS’s FOIA regulations similarly permit expedition for, among other things, “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 6 C.F.R. § 5.5(e)(1)(iv). Requesters seeking expedition under this subsection must submit their expedition request to DHS’s Senior Director of FOIA Operations, Privacy Office. *Id.* § 5.5(e)(2).

17. Agencies are required to make a determination on a request for expedition within 10 calendar days “after the date of the request.” 5 U.S.C. § 552(a)(6)(E)(ii)(I). DOJ and DHS regulations mirror this requirement. *See* 28 C.F.R. § 16.5(e)(4) (DOJ); 6 C.F.R. § 5.5(e)(4) (DHS).

18. An agency’s denial of a request for expedition or an agency’s failure to respond within 10 calendar days to a request for expedition is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(E)(iii).

19. Agency decisions to deny or affirm denial of a request for expedition are subject to judicial review “based on the record before the agency at the time of the determination.” 5 U.S.C. § 552(a)(6)(E)(iii).

### **Factual Background**

20. Since late May 2020, Portland, Oregon and other cities around the country have been the sites of anti-racism protests in response to the killing of George Floyd by police.<sup>1</sup>

21. These protests drew the ire of President Trump, who has portrayed the protests—especially in cities led by elected officials from the Democratic Party—as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The President has claimed there is growing lawlessness and violence in this country, and described the protesters as “professional anarchists, violent mobs, arsonists, looters, criminals, rioters, Antifa, and others.”<sup>3</sup>

---

<sup>1</sup> Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (July 10, 2020), <https://www.nytimes.com/article/george-floyd-protests-timeline.html>.

<sup>2</sup> Donald J. Trump (@realDonaldTrump), TWITTER (July 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> *Statement by the President* (June 1, 2020), <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-39/>.

22. President Trump repeatedly threatened to use federal forces against the residents of U.S. cities to end peaceful protest.

23. On June 26, 2020, President Trump announced via Tweet that he had issued an Executive Order on “Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence.”<sup>4</sup> The order directed federal law enforcement to target and fully prosecute the damage or destruction of federal, state, and local sites—including sites memorializing Confederate leaders and slave owners, among others.<sup>5</sup> The Executive Order also threatened to withhold federal funding from local authorities that looked the other way during the destruction of these sites.<sup>6</sup>

24. On July 1, 2020, in response to the President’s executive order, Acting Secretary of Homeland Security Chad Wolf announced the establishment of a DHS task force purportedly meant to “coordinate Departmental law enforcement agency assets in protecting our nation’s historic monuments, memorials, statues, and federal facilities.”<sup>7</sup> Acting Secretary Wolf stated that the task force would “conduct ongoing assessments of potential civil unrest or destruction

---

<sup>4</sup> Donald J. Trump (@realDonaldTrump), TWITTER (June 26, 2020 2:48 P.M.), <https://twitter.com/realDonaldTrump/status/1276633518433538049>; *Executive Order on Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence* (June 26, 2020), <https://www.whitehouse.gov/presidential-actions/executive-order-protecting-american-monuments-memorials-statues-combating-recent-criminal-violence/>.

<sup>5</sup> *Executive Order on Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence* (June 26, 2020), <https://www.whitehouse.gov/presidential-actions/executive-order-protecting-american-monuments-memorials-statues-combating-recent-criminal-violence/>.

<sup>6</sup> *Id.*

<sup>7</sup> Press Release, Dep’t of Homeland Sec., *DHS Announces New Task Force To Protect American Monuments, Memorials, and Statutes* (July 1, 2020), <https://www.dhs.gov/news/2020/07/01/dhs-announces-new-task-force-protect-american-monuments-memorials-and-statues>.

and allocate resources to protect people and property”—a decision that could yield “potential surge activity” to major cities.<sup>8</sup>

25. At the time, according to a federal Government Accountability Office report released in August 2020, Acting Secretary Wolf had not been—and still has not been—lawfully appointed to lead DHS.<sup>9</sup>

*Federal Agents Deploy to Portland*

26. Federal agents deployed to Portland, Oregon, on or around July 1, 2020. State and local authorities did not request or consent to this deployment.<sup>10</sup> Upon information and belief, the federal agents worked for agencies that comprise and report to Defendants, including ATF, DEA, USMS, CBP, and ICE.

27. The Trump Administration justified these agents’ deployment based on 40 U.S.C. § 1315, a federal statute that authorizes DHS to “protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government . . . and the persons on the property.”<sup>11</sup> Section 1315 allows DHS to designate employees to the Federal Protective Service

---

<sup>8</sup> *Id.*

<sup>9</sup> U.S. GOV’T ACCOUNTABILITY OFFICE, B-331650, Department of Homeland Security—Legality of Service of Acting Secretary of Homeland Security and Service of Senior Official Performing the Duties of Deputy Secretary of Homeland Security (2020), <https://www.gao.gov/products/B-331650>.

<sup>10</sup> Everton Bailey Jr., *Portland Bans Police from Working with Federal Law Enforcement, Targeting Journalists and Legal Observers During Protests*, OREGONIAN (July 22, 2020), <https://www.oregonlive.com/portland/2020/07/portland-bans-police-from-working-with-federal-law-enforcement-targeting-journalists-and-legal-observers-during-protests.html>.

<sup>11</sup> See, e.g., *Press Briefing by Press Secretary Kayleigh McEnany* (July 24, 2020), <https://www.whitehouse.gov/briefings-statements/press-briefing-press-secretary-kayleigh-mcenany-072420/>; *Myth vs. Fact: 50+ Nights of Violence, Chaos, and Anarchy in Portland, Oregon*, DEP’T OF HOMELAND SEC. (July 27, 2020), <https://www.dhs.gov/news/2020/07/27/myth-vs-fact-50-nights-violence-chaos-and-anarchy-portland-oregon>.

(“FPS”) for this purpose. Such designation authority resides in the *lawfully appointed* Secretary of Homeland Security.<sup>12</sup> Upon information and belief, Acting Secretary Wolf designated agents from CBP and ICE to FPS for deployment to Portland.<sup>13</sup>

28. In the weeks since the deployment, it has become increasingly clear that the deployed federal agents were engaged in far more than “protecting our nation’s historic monuments, memorials, statues, and federal facilities,” as Acting Secretary Wolf had promised in announcing the DHS task force.<sup>14</sup>

29. For example, on July 18, 2020, federal agents outside of Portland’s federal courthouse were filmed repeatedly striking Navy veteran Christopher David—who approached the police line unarmed and with no apparent malice—with batons and mace.<sup>15</sup>

30. In other incidents, roving federal officers outfitted in fatigues and carrying rifles, but wearing no visible agency identification, were filmed pulling protesters into unmarked minivans.<sup>16</sup> On August 19, 2020, Portland media reported that USMS had flown a small aircraft over downtown Portland in order to photograph protesters below.<sup>17</sup>

---

<sup>12</sup> See 40 U.S.C. § 1315(b)(1).

<sup>13</sup> See *Statement on CBP Response in Portland, Oregon*, U.S. CUSTOMS & BORDER PROTECTION (July 17, 2020), <https://www.cbp.gov/newsroom/speeches-and-statements/statement-cbp-response-portland-oregon>; Betsy Woodruff Swan, Natasha Bertrand & Daniel Lippman, *Trump Administration Weighs a Show of Force in More Cities*, POLITICO (July 21, 2020), <https://www.politico.com/news/2020/07/21/trump-federal-force-cities-377273>.

<sup>14</sup> Bailey, *supra* note 10.

<sup>15</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him in Response*, N.Y. TIMES (July 20, 2020), <https://nyti.ms/3fSHrtt>.

<sup>16</sup> Katie Shepherd & Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans Are Detaining Them*, WASH. POST (July 17, 2020), <https://wapo.st/2WMiw39>.

<sup>17</sup> Kyle Iboshi, *Feds Confirm Mysterious Plane Flying Circles over Portland Protesters Was U.S. Marshals Service*, KGW8 (Aug. 19, 2020), <https://bit.ly/2FlSluu>.



31. These federal policing tactics, which were opposed by Oregon state and local officials, have raised serious constitutional concerns. On July 16, 2020, Senator Jeff Merkley commented that “authoritarian governments, not democratic republics, send unmarked authorities after protesters.”<sup>18</sup>

32. On July 17, the U.S. Attorney for the District of Oregon formally requested an investigation into reports of DHS agents detaining Portland protesters without probable cause, and Oregon’s Congressional representatives announced that they would be requesting DHS and DOJ investigations into the “unrequested presence and violent actions of federal forces in Portland.”<sup>19</sup> On the same day, the State of Oregon sued DHS, CBP, USMS, and FPS in the District Court for the District of Oregon seeking a declaration that the federal agents’ actions violate the First, Fourth, and Fifth Amendment rights of the protesters, along with an injunction to enjoin federal authorities from “unlawfully detaining Oregonians.”<sup>20</sup> Several other lawsuits—

---

<sup>18</sup> Amir Vera, Konstantin Toropin & Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN (July 20, 2020), <https://cnn.it/2Ct6y7L>.

<sup>19</sup> Jacob Knutson, *U.S. Attorney Calls for Investigation into Federal Officers Arresting Protesters*, AXIOS (July 18, 2020), <https://www.axios.com/portland-federal-officers-protests-trump-5b37069b-3c92-4f57-81b3-10af795d2628.html>; Press Release, Senator Jeff Merkley, Merkley, Wyden, Blumenauer, Bonamici Call for Investigations into Federal Operatives in Portland (July 17, 2020), <https://www.merkley.senate.gov/news/press-releases/merkley-wyden-blumenauer-bonamici-call-for-investigations-into-federal-operatives-in-portland-2020>.

<sup>20</sup> Press Release, Oregon Dep’t of Justice, *Attorney General Rosenblum Files Lawsuit Against U. S. Homeland Security; Announces Criminal Investigation* (July 17, 2020), <https://bit.ly/3bLhZop>; Complaint at 1, 8-9, *Rosenblum v. John Does 1-10*, No. 3:20-cv-01161-MO (D. Or. July 17, 2020), ECF No. 1.

filed by Portland protesters, protest medics, and journalists—allege that federal agents engaged in unlawful and unconstitutional conduct.<sup>21</sup>

33. And on July 22, the Portland City Council passed a resolution banning local law enforcement from coordinating with federal officers, citing “an unprecedented and unconstitutional abuse of power by the federal government.”<sup>22</sup>

34. A week later, on July 29, Oregon Governor Kate Brown announced that, after negotiations with Vice President Mike Pence and others in the Trump Administration, the federal government had agreed to a phased withdrawal of agents from the federal courthouse in Portland. In her statement on the withdrawal, Governor Brown emphasized: “These federal officers have acted as an occupying force, refused accountability, and brought violence and strife to our community.”<sup>23</sup>

35. On August 17, Governor Brown’s office released emails in response to a public records request that demonstrated the flurry of activity that led to this withdrawal announcement.<sup>24</sup> The communications reveal that on July 14, 2020, Acting Secretary Wolf scheduled a phone call with Governor Brown to discuss the civil unrest in Portland.<sup>25</sup> The

---

<sup>21</sup> See, e.g., Complaint, *Don’t Shoot Portland v. Wolf*, No. 1:20-cv-02040-CRC (D.D.C. July 27, 2020), ECF No. 1; Complaint, *Wise v. City of Portland*, No. 3:20-cv-01193-IM (D. Or. July 22, 2020), ECF No. 1; Second Amended Complaint, *Index Newspapers LLC v. City of Portland*, No. 3:20-cv-01035-SI (D. Or. July 17, 2020), ECF No. 53.

<sup>22</sup> Bailey, *supra* note 10.

<sup>23</sup> Amanda Butt, *Federal Officers Will Begin Withdrawing from Portland, Gov. Brown Says*, KATU2 (July 29, 2020), <https://katu.com/news/local/federal-officers-will-begin-withdrawing-from-portland-gov-brown-says>.

<sup>24</sup> Steve Benham, *Emails Detail Agreement Governor, DHS Reached over Feds Withdrawal from Portland*, KATU2 (Aug. 17, 2020), <https://katu.com/news/local/emails-outline-negotiation-chad-wolf-kate-brown-timeline-conditions-of-federal-withdrawal-from-portland>.

<sup>25</sup> *Id.*

communications also reveal coordination between various federal officials and representatives of the Oregon state government to facilitate an agreement on the eventual federal withdrawal.<sup>26</sup> The parties ultimately appear to have agreed that federal agents would police inside the federal courthouse and inside the fence surrounding the courthouse, but not on the adjacent streets and parks or beyond.<sup>27</sup>

*Operation LeGend and Federal Agents in Other U.S. Cities*

36. Portland has not been the only target of the surge of federal law enforcement. On July 8, 2020, Attorney General William Barr announced the launch of Operation LeGend, a federal policing initiative that he claimed would target a sudden increase in violent crime in U.S. cities.<sup>28</sup> According to the announcement, Operation LeGend would begin in Kansas City, Missouri, given the increase in the city's homicide rate.<sup>29</sup>

37. However, President Trump repeatedly threatened to expand the federal deployment to additional cities. For example, on July 15, President Trump spoke about violent crime, asserting that certain cities “are out of control; they’re like warzones. And if the cities are going to straighten it out, if local politicians, or in this case — I don’t say this for political reasons — they’re all Democrats. They’re liberal, left-wing Democrats. And it’s almost like they think this is going to be this way forever, where in Chicago, 68 people were shot and 18 died last week. We’re not going to put up with that. We’re not going to put up with that.”<sup>30</sup>

---

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Press Release, Dep’t of Justice, *Attorney General William P. Barr Announces Launch of Operation Legend* (July 8, 2020), <https://bit.ly/2RgWdj4>.

<sup>29</sup> *Id.*

<sup>30</sup> *Remarks by President Trump in Briefing on Keeping American Communities Safe: The Takedown of Key MS-13 Criminal Leaders* (July 15, 2020), <https://bit.ly/3hhGmLx>.

38. On July 20, 2020 the President told reporters, “I’m going to do something—that, I can tell you,” because “we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these—Oakland is a mess.”<sup>31</sup>

39. As threatened, on July 22, 2020, President Trump, Attorney General Barr, and Acting Secretary Wolf jointly announced an expansion of Operation LeGend to Chicago, Illinois and Albuquerque, New Mexico.<sup>32</sup> Then, on July 29, Attorney General Barr announced that Operation LeGend had expanded to include the deployment of armed federal agents to Cleveland, Ohio; Detroit, Michigan; and Milwaukee, Wisconsin.<sup>33</sup> Since then, St. Louis, Missouri; Memphis, Tennessee; and Indianapolis, Indiana have been added to the Operation.<sup>34</sup>

40. In a statement on Operation LeGend, Attorney General Barr characterized the deployment of federal officers as “classic crime fighting,” rather than “tactical teams we use to defend against riots and mob violence.”<sup>35</sup> At the same press conference, the President asserted that “the job of policing a neighborhood falls on the shoulders of local elected leadership,” and

---

<sup>31</sup> Peter Baker, Zolan Kanno-Youngs & Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES (July 20, 2020), <https://nyti.ms/3hoygBj>.

<sup>32</sup> *Remarks by President Trump on Operation LeGend: Combatting Violent Crime in American Cities* (July 22, 2020), <https://bit.ly/3hnTXRU>.

<sup>33</sup> Press Release, Dep’t of Justice, *Operation Legend Expanded to Cleveland, Detroit, and Milwaukee* (July 29, 2020), <https://www.justice.gov/opa/pr/operation-legend-expanded-cleveland-detroit-and-milwaukee>.

<sup>34</sup> Press Release, Dep’t of Justice, *Operation Legend Expanded to Memphis and St. Louis* (Aug. 6, 2020), <https://www.justice.gov/opa/pr/operation-legend-expanded-memphis-and-st-louis>; Press Release, Dep’t of Justice, *Operation Legend Expanded to Indianapolis* (Aug. 14, 2020), <https://www.justice.gov/opa/pr/operation-legend-expanded-indianapolis>.

<sup>35</sup> *Remarks by President Trump on Operation LeGend: Combatting Violent Crime in American Cities* (July 22, 2020), <https://bit.ly/3hnTXRU>.

he accused local elected leaders of “abdicat[ing] their duty” and of “absolute insanity.”<sup>36</sup> He added that “we will use federal law enforcement to vigorously charge federal crimes.”<sup>37</sup>

*Future Deployment in Portland and in Other U.S. Cities*

41. Recently, Trump Administration officials have made it clear that federal agents may be deployed back to Portland. For example, on August 19, 2020, White House Chief of Staff Mark Meadows commented on the anti-racism protests in Portland: “Well, it’s anti-American . . . And this president—I traveled with him yesterday to Arizona as you know. Not only once, but a dozen times he says: ‘We’ve gotta do something about it. We send in the FBI.’”<sup>38</sup>

42. The President has struck a similar tone, Tweeting on August 10, 2020: “Portland, which is out of control, should finally, after almost 3 months, bring in the National Guard. The Mayor and Governor are putting people’s lives at risk. They will be held responsible. The Guard is ready to act immediately. The Courthouse is secured by Homeland!”<sup>39</sup>

43. As protests erupt in response to police violence against other Black citizens, the Trump Administration has responded by again sending in federal agents. In late August 2020, protests exploded in Kenosha, Wisconsin in response to the maiming of Jacob Blake, who was shot in the back by police as he was getting into his car.<sup>40</sup> President Trump responded with a

---

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Jason Lemon, *Trump’s Chief of Staff Says Federal Agents Will Have to Be Sent Back to Portland*, NEWSWEEK (Aug. 19, 2020), <https://www.newsweek.com/trumps-chief-staff-says-federal-agents-will-have-sent-back-portland-1526167>.

<sup>39</sup> Donald J. Trump (@realDonaldTrump), TWITTER (Aug. 10, 2020, 10:55 A.M.), <https://twitter.com/realDonaldTrump/status/1292837084152107010>.

<sup>40</sup> Nicole Chavez, Christina Maxouris & Eric Levenson, *Federal Investigators Launch a Civil Rights Probe into Shooting of Jacob Blake*, CNN (Aug. 26, 2020), <https://cnn.it/33kaIYO>.

series of Tweets, capitalizing on the same “LAW and ORDER” themes and announcing that federal agents would be deployed to the Kenosha community.<sup>41</sup> In the same Tweet thread, President Trump also noted his desire to reinstall federal troops in Portland: “Portland should do the same!”<sup>42</sup>

*CREW’s FOIA Request to DOJ*

44. On July 23, 2020, CREW sent a FOIA request by email to DOJ requesting “all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; and (3) Any policies to which law enforcement officers under the auspices of DOJ are bound governing the treatment of protesters in the above-mentioned cities.” **(Exhibit A).**

45. CREW sought a waiver of fees associated with processing its request. In support, CREW explained that the requested records are likely to contribute to public understanding of how the federal government justified—and may continue to justify—sending militarized federal agents into American cities, often against the wishes of the local governments in these jurisdictions.

---

<sup>41</sup> Donald J. Trump (@realDonaldTrump), TWITTER (Aug. 26, 2020, 1:19 P.M.), <https://twitter.com/realDonaldTrump/status/1298671449968959490>.

<sup>42</sup> *Id.*

46. CREW also sought expedition for its request from DOJ's Office of Public Affairs because the request's subject matter is of widespread and exceptional media interest and because the requested information involves possible questions of the government's integrity that affect public confidence. **(Exhibit B)**. As CREW explained, print, television, online, and other media have been filled with shocking images of violent and potentially unconstitutional federal agents' interactions with protesters. The records that Plaintiff has requested will shed light on the factors that DOJ considered in deciding to send these federal law enforcement authorities into American cities, at times against the wishes of local and state authorities. The American public has the right to understand this decision-making.

47. On July 31, 2020, DOJ's Office of Information Policy ("OIP") acknowledged receipt of CREW's FOIA request and informed CREW that its request for expedition had been granted. **(Exhibit C)**. However, DOJ also took the position that because the requested records "require a search in and/or consultation with another Office," they fall under "unusual circumstances." *See* 5 U.S.C. § 552 (a)(6)(B)(i)-(iii). DOJ explained that it had not completed any searches to determine whether the agency has records within the scope of the request.

48. Also on July 31, 2020, OIP emailed CREW, asking from which DOJ Offices Plaintiff requests records. **(Exhibit D)**. Plaintiff replied on the same day, explaining that CREW seeks records from the following DOJ Offices: Attorney General, Deputy Attorney General, Associate Attorney General, and Public Affairs.

49. To date, CREW has received no other communications from DOJ regarding the DOJ FOIA request.

*CREW's FOIA Request to ATF*

50. On July 23, 2020, CREW sent a FOIA request by email to ATF requesting “all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; and (3) Any policies to which law enforcement officers under the auspices of ATF are bound governing the treatment of protesters in the above-mentioned cities.” **(Exhibit E)**.

51. CREW sought a waiver of fees associated with the request based on the same rationale as the DOJ fee waiver request. CREW also sought expedition of its ATF FOIA request from DOJ's Office of Public Affairs in the same request and on the same grounds as the DOJ FOIA request. **(Exhibit B)**.

52. By email dated July 30, ATF acknowledged CREW's request and granted the fee waiver. **(Exhibit F)**.

53. To date, CREW has received no other communications from ATF regarding the ATF FOIA request.

*CREW's FOIA Request to DEA*

54. On July 23, 2020, CREW sent a FOIA request by email to DEA requesting “all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) The decision to deploy federal law enforcement agents, officers, or other personnel in response



to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; and (3) Any policies to which law enforcement officers under the auspices of DEA are bound governing the treatment of protesters in the above-mentioned cities.” **(Exhibit G).**

55. CREW sought a waiver of fees associated with the request based on the same rationale as the DOJ fee waiver request. CREW also sought expedition of its DEA FOIA request from DOJ’s Office of Public Affairs in the same request and on the same grounds as the DOJ FOIA request. **(Exhibit B).**

56. By letter dated July 28, 2020, DEA acknowledged Plaintiff’s FOIA request. **(Exhibit H).** DEA granted CREW’s fee waiver request and explained that it had directed the expedition request to DOJ’s Office of Public Affairs, but DEA did not indicate whether the request had been granted or denied.

57. In the same letter, DEA also explained that the records sought fall within “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B)(i)-(iii). Under this rationale, DEA explained that it was “extending the time limit to respond to your request beyond the ten additional days provided by the statute.” DEA noted that the request had been assigned to the “complex” track, but that it had not completed a search to determine whether the agency has any records in the scope of the FOIA request.

58. To date, CREW has received no other communications from DEA regarding the DEA FOIA request.

*CREW's FOIA Request to USMS*

59. On July 23, 2020, CREW sent a FOIA request by email to USMS requesting “all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; and (3) Any policies to which law enforcement officers under the auspices of USMS are bound governing the treatment of protesters in the above-mentioned cities.” (**Exhibit I**).

60. CREW sought a waiver of fees associated with the request based on the same rationale as the DOJ waiver request. CREW also sought expedition of its USMS FOIA request from DOJ's Office of Public Affairs in the same request and on the same grounds as the DOJ FOIA request. (**Exhibit B**).

61. To date, CREW has received no communications from USMS regarding the USMS FOIA request.

*CREW's FOIA Request to DHS*

62. On July 23, 2020, CREW sent a FOIA request by email to DHS requesting “all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in

response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; (3) Any communications with local elected leaders in Oregon, including but not limited to the Oregon Governor's office, Attorney General's office, or office of the Mayor of Portland, related to the deployment of federal law enforcement agents, officers, or other personnel in response to the ongoing protests; and (4) Any policies to which law enforcement officers under the auspices of the DHS are bound.” (**Exhibit J**).

63. CREW sought waiver of fees associated with processing its request. In support, CREW explained that the requested records are likely to contribute to public understanding of how the federal government justified—and may continue to justify—sending militarized federal agents into American cities, often against the wishes of the local governments in these jurisdictions.

64. CREW also sought expedition for its request from DHS's Privacy Office because the request's subject matter is of widespread and exceptional media interest and because the requested information involves possible questions of the government's integrity that affect public confidence. (**Exhibit K**). As CREW explained, print, television, online, and other media have been filled with shocking images of violent and potentially unconstitutional federal agents' interactions with protesters. The records that Plaintiff has requested will shed light on the factors that DHS considered in deciding to send these federal law enforcement authorities into American cities, at times against the wishes of local and state authorities. The American public has the right to understand this decision-making. As has since become clear, a key part of that decision-making is whether Acting Secretary Wolf ordered the deployment and whether he had lawful authority to do so.

65. On July 31, 2020, DHS sent a reply by email, acknowledging receipt of the FOIA request. **(Exhibit L)**. The agency “conditionally grant[ed]” the request for a fee waiver, depending upon DHS review of a sampling of responsive records.

66. DHS also granted CREW’s request for expedition and noted that it had “queried the appropriate component(s) of DHS for responsive records.” However, DHS also explained that there may be delay in processing the request, “[d]ue to the increasing number of FOIA requests received by this office.” DHS also explained that the because the request “seeks documents that will require a thorough and wide-ranging search,” the agency will “invoke a 10-day extension for [the] request pursuant to 6 C.F.R. Part 5 § 5.5(c).”

67. To date, CREW has received no other communications from DHS regarding the DHS FOIA request.

*CREW’s FOIA Request to CBP*

68. On July 23, 2020, CREW sent a FOIA request by email to CBP requesting “all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; and (3) Any policies to which law enforcement officers under the auspices of CBP are bound governing the treatment of protesters in the above-mentioned cities.” **(Exhibit M)**.

69. CREW sought a waiver of fees associated with the request based on the same rationale as the DHS fee waiver request. CREW also sought expedition of its CBP FOIA request from the DHS Privacy Office in the same request and on the same grounds as the DHS FOIA request. **(Exhibit K)**.

70. On July 29, 2020, CBP emailed Plaintiff with an acknowledgment of the FOIA request. **(Exhibit N)**. CBP did not acknowledge CREW's fee waiver request and explained that it would be charging for records as outlined on its website. CBP's email also failed to acknowledge CREW's request for expedition. Instead, the agency noted: "Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request."

71. On August 7, 2020, CBP emailed CREW, noting that "[t]he time frame of interest is very clear and reasonable," but asking, "[i]n order to greatly reduce processing time and to avoid an undue burden on the agency," that CREW provide: (1) specific names of individuals of interest; (2) if unable to provide names, email domains (i.e., "eop.gov") for each portion of the request; and (3) key words of specific interest. The agency noted that, as of the date of the communication, the request was "on hold." **(Exhibit O)**.

72. That same day, on August 7, 2020, CREW replied via email. **(Exhibit P)**. Plaintiff asserted that the level of specificity provided in the initial FOIA request was "within the parameters of a perfected request as it allows [the] office to conduct a name search for communications to or from the identified individuals, regarding the specified subject matter, sent during the specified time period." Despite this, Plaintiff acknowledged that it would be "happy to work with [CBP] to narrow the scope of [the FOIA] request."

73. In response to CBP's question about the "specific names of individuals of interest," CREW provided the following names.

a. From the White House and Executive Office of the President, Plaintiff provided the following names: Donald J. Trump, Michael R. Pence, Chief of Staff Mark Meadows, Pasquale Anthony Cipollone, Homeland Security Advisor Julia Nesheiwat, Chief of Staff to the Vice President Marc Short, National Security Advisor Robert O'Brien, United States Domestic Policy Council Acting Director Brooke Leslie Rollins.

b. From DHS, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Chad F. Wolf, Ken Cuccinelli, Chief of Staff John Gountanis, Executive Secretary Clark Borrow, Acting General Counsel Chad Mizelle, Military Advisor Rear Adm. Brennan C. McPherson, Acting Under Secretary Joseph B. Maher, Acting Under Secretary Scott Glabe, Deputy Under Secretary James W. McCament, Assistant Secretary Sarah Rehberg, Assistant Secretary Meghann Peterlin, TSA Administrator David P. Pekoske, Assistant Secretary Beth Spivey, Deputy Assistant Secretary Joseph Kasper, Deputy Assistant Secretary Aaron L. Calkins, Assistant Secretary John H. Hill, Deputy Assistant Secretary Brian Dorow, Deputy Assistant Secretary Cherie N. Short, Acting Executive Director Mike Miron, Acting Assistant Director Alexei Woltornist, Acting Deputy Assistant Secretary Sofia Boza-Holman, Deputy Assistant Secretary Melika Willoughby McKinnis, Director Christopher J. Tomney, Officer for Civil Rights & Civil Liberties Patricia Nation, Inspector General Joseph V. Cuffari.

c. From CBP, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Mark A. Morgan, Deputy Commissioner Robert E. Perez, Assistant Commissioner James Collins, Chief Counsel Scott K. Falk, Executive Director Tim Quinn, Executive Director Rebekah A. Salazar, Executive Assistant Commissioner Edward E. Young, Executive Assistant

Commissioner Todd C. Owen, Chief Rodney S. Scott, Executive Assistant Commissioner William A. Ferrara.

d. From FPS, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Director L. Eric Patterson.

e. From ICE, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Acting Director Matthew T. Albence, Acting Deputy Director Derek N. Benner, Chief of Staff Kathy Neubel Kovarik, Executive Associate Director Henry Lucero, Principal Legal Advisor Tony H. Pham, Acting Executive Associate Director Alys D. Erichs, Associate Director Waldemar Rodriguez.

f. From DOJ, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Attorney General William Barr, Deputy Attorney General Jeffrey A. Rosen, Solicitor General Noel Francisco, Principal Deputy Associate Attorney General Clair McCusker Murray, Assistant Attorney General Steven A. Engel, Assistant Attorney General Beth A. Williams, Director Kerri Kupec, U.S. Attorney Billy J. Williams, Assistant Attorney General for National Security John C. Demers, Inspector General Michael E. Horowitz, Assistant Attorney General Eric S. Dreiband, COPS Director Phil Keith, EOUSA Director Corey Ellis.

g. From ATF, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Acting Director Regina Lombardo, Associate Deputy Director Marvin Richardson.

h. From DEA, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Acting Administrator Timothy J. Shea, Principal Deputy Administrator Preston L. Grubbs.

i. From USMS, Plaintiff provided the following as a non-exhaustive list of individuals of interest: Director Donald W. Washington, Acting Deputy Director Derrick

Driscoll, Chief of Staff J. Kilgallon, Acting Chief D. Farrell, Assistant Director A. Smith, Associate Director J. Tyler, Associate Director R. Robinson, General Counsel Gerald M. Auerbach, Ethics Office Robert Marcovici, Office of Congressional and Public Affairs Chief W. Delaney.

74. In response to CBP's question about the "email domains for each portion of the request," CREW provided the following email domains of interest: \*.eop.gov, dhs.gov, oig.dhs.gov, cbp.dhs.gov, \*.usdoj.gov, \*.ice.gov, \*.dea.gov.

75. And in response to CBP's question about the "key words of specific interest," Plaintiff provided the following key words: "Portland," "Oregon," "Seattle," "Washington," "Chicago," "Illinois," "Albuquerque," "New Mexico," "Baltimore," "Maryland," "Kansas City," "Missouri," "Oakland," "California," "New York City," "New York," "Detroit," "Michigan," "Philadelphia," "Pennsylvania," "Lightfoot," "Wheeler," "Kate Brown," "Duran," "Inslee," "Cuomo," "Hogan," "Bernard Young," "Whitmer," "Duggan," "Parson," "Quinton Lucas," "Keller," "Grisham," "state government," "state police," "governor," "EOP," "White House," "executive order," "DCPD-202000483," "Executive Order 13933," "Protecting American Communities Task Force," "Justice," "tactical," "CS," "tear gas," "riot," "laser," "crowd control," "protest," "unrest," "less lethal," "Gil," "Kerlokowske," "Marshals," "USMS," "Marshals," "FPS," "journalists," "media," "detention," "Hatfield," "cite and release," "LeGend," "First Amendment," "BLM," "ANTIFA," "domestic terrorism," "fusion center," "rapid deployment teams," "PPB," "Kenton Park," "Edith Green," "fencing," "Lownsdale Square," "Chapman Square," "Terry Schrunk Plaza," "BORTAC," "BORSTAR," "SOG," "field office," "law enforcement partnerships."



76. On August 26, 2020, Plaintiff received an email from CBP, noting that CREW's request for expedited processing had been denied because it "[d]oes not meet requirements per DHS Regulations." (**Exhibit Q**).

77. In a separate email also dated August 26, 2020, CBP explained that CREW's fee waiver request "has been determined to be not applicable as the request is not billable." (**Exhibit R**).

78. To date, CREW has received no other communications from CBP regarding the CBP FOIA request.

*CREW's FOIA Request to ICE*

79. On July 23, 2020, CREW sent a FOIA request by email to ICE requesting "all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; and (3) Any policies to which law enforcement officers under the auspices of ICE are bound governing the treatment of protesters in the above-mentioned cities." (**Exhibit S**).

80. CREW sought a waiver of fees associated with the request based on the same rationale as the DHS fee waiver request. CREW also sought expedition of its ICE FOIA request from the DHS Privacy Office in the same request and on the same grounds as the DHS FOIA request. (**Exhibit K**).

81. On July 24, 2020, ICE acknowledged receipt of the FOIA request via email. **(Exhibit T)**. ICE did not acknowledge CREW's fee waiver request, instead explaining: "We shall charge you for records in accordance with the DHS Interim FOIA regulations, as they apply to media requesters."

82. In the same email, ICE explained: "Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period.... ICE will invoke a 10-day extension for your request."

83. On July 24, 2020, Plaintiff sent a clarification email to ICE, explaining that CREW had requested a fee waiver and had not agreed to pay any processing fees. **(Exhibit U)**.

84. On July 28, 2020, ICE sent an email to CREW, granting the fee request. **(Exhibit V)**. However, ICE denied CREW's request for expedition on the grounds that CREW "[had] not detailed with specificity why [it feels] there is an urgency to inform the public about the information [it had] requested." ICE also asserted: "[CREW] did not offer sufficient supporting evidence of public interest that is any greater than the public's general interest in the information you have requested. [CREW's] letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards."

85. To date, CREW has received no other communications from ICE regarding the ICE FOIA request.

**PLAINTIFF'S CLAIMS FOR RELIEF**

**CLAIM ONE**

**(DOJ's Wrongful Withholding of Agency Records)**

86. Plaintiff repeats and re-alleges the foregoing paragraphs.

87. Plaintiff properly asked for records within the custody and control of DOJ and its component agencies ATF, DEA, and USMS.

88. Defendant DOJ and its component agencies ATF, DEA, and USMS wrongfully withheld agency records requested by Plaintiff by failing to comply with the statutory time limit for making a determination on Plaintiff's request, and by withholding from disclosure records responsive to Plaintiff's request. 5 U.S.C. §§ 552(a)(6)(A)(i) and 552(a)(6)(B)(i).

89. Defendant DOJ's failure to make a determination within the statutory time period is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

90. Plaintiff therefore is entitled to injunctive and declaratory relief with respect to the immediate processing and disclosure of the records requested in CREW's FOIA requests of DOJ, ATF, DEA, and USMS.

**CLAIM TWO**

**(DOJ's Failure to Grant Expedition)**

91. Plaintiff repeats and re-alleges the foregoing paragraphs.

92. Plaintiff properly asked that DOJ expedite the processing of Plaintiff's FOIA requests to DOJ and its component agencies ATF, DEA, and USMS, based on CREW's showing of widespread and exceptional media interest in the requested information, which involves possible questions of the government's integrity that affect public confidence.

93. Defendant DOJ did not grant expedition as to Plaintiff's ATF, DEA, and USMS FOIA requests, despite the factual and legal showing CREW made demonstrating entitlement to expedition.

94. Plaintiff is not required to exhaust administrative remedies with respect to Defendant DOJ's refusal to grant CREW's requests for expedition. An agency's denial of a request for expedition or an agency's failure to respond within 10 calendar days to a request for expedition is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(E)(iii).

95. Plaintiff therefore is entitled to injunctive and declaratory relief with respect to the expedited processing and disclosure as soon as practicable of the request records.

### **CLAIM THREE**

#### **(DHS's Wrongful Withholding of Agency Records)**

96. Plaintiff repeats and re-alleges the foregoing paragraphs.

97. Plaintiff properly asked for records within the custody and control of DHS and its component agencies CBP and ICE.

98. Defendant DHS and its component agencies CBP and ICE wrongfully withheld agency records requested by Plaintiff by failing to comply with the statutory time limit for making a determination on Plaintiff's request, and by withholding from disclosure records responsive to Plaintiff's request. 5 U.S.C. §§ 552(a)(6)(A)(i) and 552(a)(6)(B)(i).

99. Defendant DHS's failure to make a determination within the statutory time period is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

100. Plaintiff therefore is entitled to injunctive and declaratory relief with respect to the immediate processing and disclosure of the records requested in CREW's FOIA requests to DHS, CBP, and ICE.

#### **CLAIM FOUR**

##### **(DHS's Failure to Grant Expedition)**

101. Plaintiff repeats and re-alleges the foregoing paragraphs.

102. Plaintiff properly asked that DHS expedite the processing of Plaintiff's FOIA requests to DHS, CBP, and ICE, based on CREW's showing of widespread and exceptional media interest in the requested information, which involves possible questions of the government's integrity that affect public confidence.

103. Defendant DHS did not grant expedition as to Plaintiff's CBP and ICE FOIA requests, despite the factual and legal showing CREW made demonstrating entitlement to expedition.

104. Plaintiff is not required to exhaust administrative remedies with respect to Defendant DHS's refusal to grant CREW's requests for expedition. An agency's denial of a request for expedition or an agency's failure to respond within 10 calendar days to a request for expedition is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(E)(iii).

105. Plaintiff therefore is entitled to injunctive and declaratory relief with respect to the expedited processing and disclosure as soon as practicable of the request records.

#### **REQUESTED RELIEF**

Wherefore, Plaintiff respectfully requests that this Court:

- (1) Order Defendants DOJ and DHS, and their components ATF, DEA, USMS, CBP, and ICE, to immediately and fully process Plaintiff's FOIA requests and disclose all non-exempt documents to Plaintiff;
- (2) Issue a declaration that Plaintiff is entitled to the expedited processing and disclosure of the requested records;
- (3) Provide for expeditious proceedings in this action;
- (4) Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;
- (5) Award Plaintiff its costs and reasonable attorneys' fees in this action; and
- (6) Grant such other relief as the Court may deem just and proper.

Dated: September 11, 2020

Respectfully submitted,

/s/ Ari Holtzblatt

Ari Holtzblatt

(D.C. Bar. No. 1009913)

Jessica A. Lutkenhaus

(D.C. Bar No. 1046749)

WILMER CUTLER PICKERING HALE AND DORR LLP

1875 Pennsylvania Avenue NW

Washington, D.C. 20006

Phone: (202) 663-6000

Facsimile: (202) 663-6363

ari.holtzblatt@wilmerhale.com

jessica.lutkenhaus@wilmerhale.com

Kelsey Quigley

(*pro hac vice* forthcoming)

WILMER CUTLER PICKERING HALE AND DORR LLP

950 Page Mill Road

Palo Alto, CA 94304

Phone: (650) 858-6000

Facsimile: (650) 858-6100

kelsey.quigley@wilmerhale.com

Nikhel S. Sus  
(D.C. Bar No. 1017937)  
CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON  
1101 K St. NW, Suite 201  
Washington, D.C. 20005  
Telephone: (202) 408-5565  
Fax: (202) 588-5020  
[nsus@citizensforethics.org](mailto:nsus@citizensforethics.org)

*Counsel for Plaintiff*

# **EXHIBIT A**





July 23, 2020

**SUBMITTED VIA PORTAL**

Douglas Hibbard  
Chief, Initial Request Staff  
Office of Information Policy  
U.S. Department of Justice  
Suite 11050  
1425 New York Avenue, N.W.  
Washington, D.C. 20530-0001

**Re: Expedited Freedom of Information Act Request**

Dear Mr. Hibbard:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this expedited request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and U.S. Department of Justice ("DOJ") regulations.

Specifically, CREW requests all documents and communications from June 2, 2020 to the present that explain or pertain to:

1. The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. Any policies to which law enforcement officers under the auspices of Department of Justice are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

1. President Trump;
2. White House employees, including anyone with an "\*.eop.gov" email domain;
3. Attorneys or representatives acting on behalf of President Trump;
4. Employees of the U.S. Department of Justice;
5. Employees of Department of Justice-linked agencies including at the U.S. Marshals Service, the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, or the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

6. Employees at Department of Homeland Security-linked agencies including those within the Federal Protective Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-/U.S. Dep't of the Air Force, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

For approximately the last 60 days, Portland, Oregon, and cities around the country have been the sites of major anti-racism protests in response to the killing of George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The administration’s narrative has coalesced around a single political point – that there is growing lawlessness and violence in this country, and that it is the fault of Democrats. On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and

---

<sup>1</sup> Evan Hill, Ainara Tiefenthäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup> We continue to see evolving government justifications for these deployments. Most recently, on July 22, President Trump, Attorney General Barr, and Acting DHS Secretary Wolf jointly announced ‘Operation LeGend.’<sup>4</sup> While Attorney General Barr characterized this expansion of federal operations as “classic crime fighting” distinct from “the tactical teams we use to defend against riots and mob violence,” President Trump’s running commentary on these matters undermines that assertion.<sup>5</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>6</sup> DHS activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters<sup>7</sup>, and that number may increase now through Operation LeGend. To this point, state and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>8</sup>

With this summer’s deployments of mixed units of militarized federal law enforcement have come a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David —who approached the police line unarmed and with no apparent malice— with batons and mace.<sup>9</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>10</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>11</sup> U.S. Customs and Border Patrol claimed responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal

---

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>4</sup> President Donald Trump, Address at the White House East Room: Operation LeGend: Combatting Violent Crime in American Cities (July 22, 2020), available at <https://bit.ly/3hnTXRU>.

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

<sup>6</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>7</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>8</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>9</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. Times, July 20, 2020, available at <https://nyti.ms/3fSHrtt>.

<sup>10</sup> *Id.*

<sup>11</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.

property.”<sup>12</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>13</sup>

The federal policing tactics in Portland – and worries that such tactics will be exported elsewhere in the country via Operation LeGend – are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that “authoritarian governments, not democratic republics, send unmarked authorities after protesters.”<sup>14</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone’s right to be free from unlawful search and seizure under the Fourth Amendment.<sup>15</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>16</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>17</sup> “Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens’ ability to determine whether they are being kidnapped by militia... or arrested.”<sup>18</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding how exactly the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DOJ considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to

---

<sup>12</sup> *Id.*

<sup>13</sup> Jonathan Levinson, Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., *available at* <https://bit.ly/3hscBs0>.

<sup>14</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, *available at* <https://cnn.it/2Ct6y7L>.

<sup>15</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), *available at* <https://bit.ly/30QE6VB>.

<sup>16</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>17</sup> *Id.* at 4-6.

<sup>18</sup> *Id.* at 5.

advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

#### **Expedition**

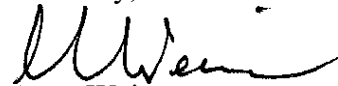
Please be advised that CREW is seeking expedition of this request and pursuant to DOJ FOIA regulations has separately submitted its request for expedition to the DOJ Office of Public Affairs. A copy of that request is enclosed.

#### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). If the records are not available in digital form please contact me to discuss an alternative method of production. Thank you for your assistance in this matter. Thank you for your assistance in this matter.

Sincerely,



Anne Weismann

Chief FOIA Counsel

Encl.

# **EXHIBIT B**



July 23, 2020

**BY EMAIL:**

Kerri Kupec  
Director, Office of Public Affairs  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Re: Request for Expedition of Freedom of Information Act Request

Dear Ms. Kupec:

Pursuant to Department of Justice ("DOJ") regulations, 28 C.F.R. § 16.5(e)(2), Citizens for Responsibility and Ethics in Washington ("CREW") requests that you authorize the expedition of a Freedom of Information Act ("FOIA") request CREW made today to the DOJ's Office of Information Policy, the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"), the Drug Enforcement Administration ("DEA"), and the U.S. Marshals Service. I have enclosed copies of these requests.

In all four requests CREW seeks copies of all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) the decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; (3) any communications with local elected leaders in Oregon, including but not limited to the Oregon Governor's office, Attorney General's office, or office of the Mayor of Portland, related to the deployment of federal law enforcement agents, officers, or other personnel in response to the ongoing protests; and (4) any policies to which law enforcement officers under the auspices of the Department of Justice are bound governing the treatment of protesters in the above-mentioned cities.

CREW seeks expedition because the subject matter of the request is of widespread and exceptional media interest and the requested information involves possible questions about the government's integrity, which clearly affect public confidence. For approximately the last 60 days, Portland, Oregon, and cities around the country has been the site of major anti-racism protests in response to the killing of



George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful, have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>4</sup> DHS has activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters.<sup>5</sup> State and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>6</sup>

These deployments of mixed units of militarized federal law enforcement have generated a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David —who approached the police line unarmed and with no apparent malice— with batons and mace.<sup>7</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>8</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>9</sup> U.S. Customs and Border Patrol claimed

<sup>1</sup> Evan Hill, Ainara Tiefenthäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>4</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’*, Chad Wolf Says, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>5</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>6</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests*, Federal Response, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>7</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. Times, July 20, 2020, available at <https://nyti.ms/3fSHrtt>.

<sup>8</sup> *Id.*

<sup>9</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.



responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.”<sup>10</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>11</sup>

The federal policing tactics in Portland are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that “authoritarian governments, not democratic republics, send unmarked authorities after protesters.”<sup>12</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone’s right to be free from unlawful search and seizure under the Fourth Amendment.<sup>13</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>14</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>15</sup> “Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens’ ability to determine whether they are being kidnapped by militia... or arrested.”<sup>16</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding exactly how the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DOJ considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

---

<sup>10</sup> *Id.*

<sup>11</sup> Jonathan Levinson, Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., *available at* <https://bit.ly/3hscBs0>.

<sup>12</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, *available at* <https://cnn.it/2Ct6y7L>.

<sup>13</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), *available at* <https://bit.ly/30QE6VB>.

<sup>14</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>15</sup> *Id.* at 4-6.

<sup>16</sup> *Id.* at 5.

Moreover, the urgency of obtaining the requested records is particularly acute because both the demonstrations and the federal response are ongoing and evolving daily. The actions of DOJ personnel undoubtedly affect the safety of demonstrators, further highlighting the public's need for a full understanding of DOJ's decision-making process.

CREW's primary purpose is to inform the public about the activities of government officials and those who influence public officials. Toward that end, CREW uses statutes like the FOIA to gather information the public needs to hold public officials and agencies accountable. The requests for which CREW seeks expedition will further those goals.

I certify the following is true and correct.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne L. Weismann', written in a cursive style.

Anne L. Weismann  
Chief FOIA Counsel

Encls.

# **EXHIBIT C**



**U.S. Department of Justice**  
Office of Information Policy  
*Sixth Floor*  
441 G Street, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

July 31, 2020

Anne Weismann  
CREW  
1101 K Street NW  
Suite 201  
Washington, DC 20005  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)

Re: FOIA-2020-01705  
DRH:VAV:GMG

Dear Anne Weismann:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this Office on July 23, 2020, in which you are seeking records pertaining to (1) deployment of federal law enforcement personnel to the ongoing protests over racial justice in Portland, Oregon; Chicago, Illinois; Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City, New York; Oakland, California; and Philadelphia, Pennsylvania; and (2) policies to which law enforcement officers under the auspices of the Department of Justice are bound governing the treatment of protesters in the named cities, dating from June 2, 2020.

You have requested expedited processing of your request pursuant to the Department's standard involving "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." See 28 C.F.R. § 16.5(e)(1)(iv) (2018). Pursuant to Department policy, we directed your request to the Director of Public Affairs, who makes the decision whether to grant or deny expedited processing under this standard. See id. § 16.5(e)(2). The Director has determined that your request for expedited processing should be granted. Accordingly, your request has been assigned to an analyst in this Office and our processing of it has been initiated.

Although your request has been granted expedited processing, we are required to advise you that the records you seek require a search in and/or consultation with another Office, and so your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2018). Accordingly, we have not yet completed a search to determine whether there are records within the scope of your request. The time needed to process your request will necessarily depend on the complexity of our records search and on the volume and complexity of any records located. Any decision with regard to the application of fees will be made only after we determine whether fees will be implicated for this request. Your request has been assigned to the expedited track and will be processed as soon as practicable.

-2-

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact the analyst handing your request, Georgianna Gilbeaux, by telephone at the above number or you may write to them at the above address. You may contact our FOIA Public Liaison, Valeree Villanueva, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001; telephone at 202-514-3642.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in blue ink, appearing to read "Valeree J. Villanueva".

Douglas R. Hibbard  
Chief, Initial Request Staff

# **EXHIBIT D**



Eden Tadesse &lt;etadesse@citizensforethics.org&gt;

---

**Re: Clarification Regarding Your FOIA Request FOIA-2020-01705**

---

**Anne Weismann** <aweismann@citizensforethics.org>  
To: "Gilbeaux, Georgianna (OIP)" <Georgianna.Gilbeaux@usdoj.gov>  
Cc: Eden Tadesse <etadesse@citizensforethics.org>

Fri, Jul 31, 2020 at 9:53 AM

Ms. Gilbeaux,

Thank you for your email. We would like you to seek records from all offices you listed with the exception of Legislative Affairs and the Office of Legal Policy.

Please let me know if you have any further questions.

Anne Weismann

On Fri, Jul 31, 2020 at 9:46 AM Gilbeaux, Georgianna (OIP) <[Georgianna.Gilbeaux@usdoj.gov](mailto:Georgianna.Gilbeaux@usdoj.gov)> wrote:

Good morning Anne Weismann,

I am writing on behalf of the Department of Justice's Office of Information Policy regarding your FOIA request FOIA-2020-01705, which was received in our office on July 23, 2020. Which you are seeking records pertaining to (1) deployment of federal law enforcement personnel to the ongoing protests over racial justice in Portland, Oregon; Chicago, Illinois; Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City, New York; Oakland, California; and Philadelphia, Pennsylvania; and (2) policies to which law enforcement officers under the auspices of the Department of Justice are bound governing the treatment of protesters in the named cities, dating from June 2, 2020.

Upon review your request, I am contacting you for clarification regarding which of our client Offices' you want to seek records from. Please note, this Office process FOIA requests on behalf of itself along with the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, Legal Policy, Legislative Affairs, and Public Affairs.

In an effort to be of assistance, I have attached a copy of your initial request, please review.

Your help with this matter is appreciated.

Should you have any questions or concerns, I am available by replying to this email.

Thank you,

Georgianna Gilbeaux  
Secretary II  
Office of Information Policy  
U.S. Department of Justice  
Washington, DC 20530-0001  
Phone: (202) 305-4015  
[georgianna.gilbeaux@usdoj.gov](mailto:georgianna.gilbeaux@usdoj.gov)

--

Anne L. Weismann  
Chief FOIA Counsel  
CREW/Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)  
202-408-5565



# **EXHIBIT E**



July 23, 2020

**VIA EMAIL:** Foiamail@atf.gov

Bureau of Alcohol, Tobacco, Firearms, and Explosives  
Information Privacy and Governance (IPG) Division, Room 4E.301  
99 New York Avenue, NE  
Washington, DC 20226

**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this expedited request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and U.S. Department of Justice ("DOJ") regulations.

Specifically, CREW requests all documents and communications from June 2, 2020 to the present that explain or pertain to:

1. The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. Any policies to which law enforcement officers under the auspices of the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

1. President Trump;
2. White House employees, including anyone with an "\*.eop.gov" email domain;
3. Attorneys or representatives acting on behalf of President Trump;
4. Employees of the ATF;
5. Employees of other Department of Justice-linked agencies including at the U.S. Marshals Service, the Federal Bureau of Investigation, and U.S. Drug Enforcement Administration;
6. Employees of Department of Homeland Security-linked agencies including those within the Federal Protective Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-*/U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

For approximately the last 60 days, Portland, Oregon, and cities around the country have been sites of major anti-racism protests in response to the killing of George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The administration’s narrative has coalesced around a single political point – that there is growing lawlessness and violence in this country, and that it is the fault of Democrats. On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup> We continue to see evolving government justifications for these deployments. Most recently, on July 22, President Trump, Attorney General Barr, and Acting DHS Secretary Wolf jointly announced

---

<sup>1</sup> Evan Hill, Ainara Tiefertäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

‘Operation LeGend.’<sup>4</sup> While Attorney General Barr characterized this expansion of federal operations as “classic crime fighting” distinct from “the tactical teams we use to defend against riots and mob violence,” President Trump’s running commentary on these matters undermines that assertion.<sup>5</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>6</sup> DHS activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters<sup>7</sup>, and that number may increase now through Operation LeGend. To this point, state and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>8</sup>

With this summer’s deployments of mixed units of militarized federal law enforcement have come a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David –who approached the police line unarmed and with no apparent malice– with batons and mace.<sup>9</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>10</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>11</sup> U.S. Customs and Border Patrol claimed responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.”<sup>12</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>13</sup>

---

<sup>4</sup> President Donald Trump, Address at the White House East Room: Operation LeGend: Combatting Violent Crime in American Cities (July 22, 2020), available at <https://bit.ly/3hnTXRU>.

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

<sup>6</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>7</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>8</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>9</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. Times, July 20, 2020, available at <https://nyti.ms/3fSHrrt>.

<sup>10</sup> *Id.*

<sup>11</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.

<sup>12</sup> *Id.*

<sup>13</sup> Jonathan Levinson, *Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets*, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., available at <https://bit.ly/3hscBs0>.

The federal policing tactics in Portland – and worries that such tactics will be exported elsewhere in the country via Operation LeGend – are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that "authoritarian governments, not democratic republics, send unmarked authorities after protesters."<sup>14</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone's right to be free from unlawful search and seizure under the Fourth Amendment.<sup>15</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>16</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>17</sup> "Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens' ability to determine whether they are being kidnapped by militia... or arrested."<sup>18</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding how exactly the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DOJ considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

---

<sup>14</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, available at <https://cnn.it/2Ct6y7L>.

<sup>15</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), available at <https://bit.ly/30QE6VB>.

<sup>16</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>17</sup> *Id.* at 4-6.

<sup>18</sup> *Id.* at 5.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Expedition**

Please be advised that CREW is seeking expedition of this request and pursuant to DOJ FOIA regulations has separately submitted its request for expedition to the ATF. A copy of that request is enclosed.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). If the records are not available in digital form please contact me to discuss an alternative method of production. Thank you for your assistance in this matter. Thank you for your assistance in this matter.

Sincerely,



Anne Weismann  
Chief FOIA Counsel

Encl.

# **EXHIBIT F**



**U.S. Department of Justice**

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

---

[www.atf.gov](http://www.atf.gov)

July 30, 2020

REFER TO: 2020-0993

Ms. Anne L. Weismann  
Chief FOIA Counsel  
Citizens for Responsibility and Ethics in Washington  
455 Massachusetts Avenue, NW, 6th Floor  
Washington, DC 20001-2208

Dear Ms. Weismann:

This is to acknowledge receipt of your Freedom of Information Act (FOIA)/Privacy Act request dated July 23, 2020, and received by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on July 30, 2020, in which you requested records concerning the decision to deploy federal law enforcement during the protests. Your request has been assigned number 2020-0993. Please refer to this number on any future correspondence.

You requested a fee waiver. On the basis of all of the information available to me, I have concluded that your request for a waiver of fees should be granted. The statutory standard for evaluating fee waiver requests provides that fees shall be waived or reduced "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). In determining whether you have satisfied this statutory standard, I considered the six factors set forth in the Department of Justice regulation that puts this statutory standard into effect. See 28 C.F.R. § 16.10(k). The first four of these factors concern the "public interest" test; the fifth and six factors concern whether your interest in the records is primarily commercial.

Since the records you seek concern the operations or activities of ATF, are of public interest, and you do not appear to have an overriding commercial interest in the records, we have determined that you have satisfied the factors of the public interest requirement. Therefore, you will not be charged for any portion of FOIA processing fees that would otherwise be applicable in the processing of this request.

If you have any questions or wish to discuss any aspect of your request, you may contact our FOIA Public Liaisons, Darryl Webb or Zina Kornegay, at (202) 648-7390.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Siple".

Adam C. Siple  
Chief

Information and Privacy Governance Division



# **EXHIBIT G**



July 23, 2020

**VIA EMAIL: [dea.foia@usdoj.gov](mailto:dea.foia@usdoj.gov)**

Freedom of Information & Privacy Act Unit (SARF)  
Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, VA 22152

**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this expedited request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and U.S. Department of Justice ("DOJ") regulations.

Specifically, CREW requests all documents and communications from June 2, 2020 to the present that explain or pertain to:

1. The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. Any policies to which law enforcement officers under the auspices of the U.S. Drug Enforcement Administration ("DEA") are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

1. President Trump;
2. White House employees, including anyone with an "\*.eop.gov" email domain;
3. Attorneys or representatives acting on behalf of President Trump;
4. Employees of the DEA;
5. Employees of the Department of Justice and linked agencies including at the Federal Bureau of Investigation, U.S. Marshals Service, and Bureau of Alcohol, Tobacco, Firearms, and Explosives;
6. Employees of the Department of Homeland Security and linked agencies including those within the Federal Protective Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-*/U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

For approximately the last 60 days, Portland, Oregon, and cities around the country have been the sites of major anti-racism protests in response to the killing of George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The administration’s narrative has coalesced around a single political point – that there is growing lawlessness and violence in this country, and that it is the fault of Democrats. On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup> We continue to see evolving government justifications for these deployments. Most recently, on July 22, President Trump, Attorney General Barr, and Acting DHS Secretary Wolf jointly announced

---

<sup>1</sup> Evan Hill, Ainara Tiefertäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

‘Operation LeGend.’<sup>4</sup> While Attorney General Barr characterized this expansion of federal operations as “classic crime fighting” distinct from “the tactical teams we use to defend against riots and mob violence,” President Trump’s running commentary on these matters undermines that assertion.<sup>5</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>6</sup> DHS activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters<sup>7</sup>, and that number may increase now through Operation LeGend. To this point, state and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>8</sup>

With this summer’s deployments of mixed units of militarized federal law enforcement have come a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David –who approached the police line unarmed and with no apparent malice– with batons and mace.<sup>9</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>10</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>11</sup> U.S. Customs and Border Patrol claimed responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.”<sup>12</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>13</sup>

---

<sup>4</sup> President Donald Trump, Address at the White House East Room: Operation LeGend: Combatting Violent Crime in American Cities (July 22, 2020), available at <https://bit.ly/3hnTXRU>.

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

<sup>6</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>7</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>8</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>9</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. Times, July 20, 2020, available at <https://nyti.ms/3fSHrrt>.

<sup>10</sup> *Id.*

<sup>11</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.

<sup>12</sup> *Id.*

<sup>13</sup> Jonathan Levinson, *Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets*, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., available at <https://bit.ly/3hscBs0>.

The federal policing tactics in Portland – and worries that such tactics will be exported elsewhere in the country via Operation LeGend – are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that "authoritarian governments, not democratic republics, send unmarked authorities after protesters."<sup>14</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone's right to be free from unlawful search and seizure under the Fourth Amendment.<sup>15</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>16</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>17</sup> "Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens' ability to determine whether they are being kidnapped by militia... or arrested."<sup>18</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding how exactly the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DOJ considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

---

<sup>14</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, available at <https://cnn.it/2Ct6y7L>.

<sup>15</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), available at <https://bit.ly/30QE6VB>.

<sup>16</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>17</sup> *Id.* at 4-6.

<sup>18</sup> *Id.* at 5.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Expedition**

Please be advised that CREW is seeking expedition of this request and pursuant to DOJ FOIA regulations has separately submitted its request for expedition to the DOJ Office of Public Affairs. A copy of that request is enclosed.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). If the records are not available in digital form please contact me to discuss an alternative method of production. Thank you for your assistance in this matter. Thank you for your assistance in this matter.

Sincerely,



Anne Weismann  
Chief FOIA Counsel

Encl.



**U.S. Department of Justice**  
Drug Enforcement Administration  
FOI/Records Management Section  
8701 Morrisette Drive  
Springfield, Virginia 22152

---

July 28, 2020

Case Number: 20-00569-F

Subject: All records regarding the decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; and any policies to which law enforcement officers under the auspices of the U.S. Drug Enforcement Administration ("DEA") are bound governing the treatment of protesters in the above-mentioned cities (June 2, 2020 - Present)

Anne Weismann  
Chief FOIA Counsel  
Citizens for Responsibility and Ethics in Washington  
455 Massachusetts Avenue  
Washington, D.C. 20001  
aweismann@citizensforethics.org

Dear Ms. Weismann:

This letter responds to your Freedom of Information Act/Privacy Act (FOIA/PA) request dated July 23, 2020, received by the Drug Enforcement Administration (DEA), Freedom of Information/Privacy Act Unit, seeking access to DEA records. Your request has been opened and assigned the above case number. Please include this case number when communicating with this office.

In your request letter, you request expedited treatment pursuant to the first, second, third, and/or fourth standards enumerated in the Department of Justice's regulations. Expedited treatment pursuant to the first standard will be granted where not doing so "could reasonably be expected to pose an imminent threat to the life or physical safety of an individual." 5 U.S.C. § 552(a)(6)(E)(v)(I). *See also* 28 C.F.R. § 16.5(e)(1)(i) (2019). Under the second standard, you must show that there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). *See also* 28 C.F.R. § 16.5(e)(1)(ii) (2019). Under the third standard, you must show that the request involves "[t]he loss of substantial due process rights." 28 C.F.R. § 16.5(e)(1)(iii) (2019). Under the fourth standard, you must show that the subject matter of your request is a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." *Id.* at § 16.5(e)(1)(iv). This office makes determinations regarding the first three standards, while the Department's Director of Public Affairs makes determinations regarding the fourth standard. *See id.* at § 16.5(e)(2).



Case Number: 20-00569-F

Page 2

You have requested expedited processing of your request pursuant to the Department's standard involving "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." 28 C.F.R. § 16.5(e)(1)(iv) (2019). Pursuant to Department policy, we directed your request to the Director of the Department's Office of Public Affairs, who makes the decision whether to grant or deny expedited processing under this standard. *See id.* at § 16.5(e)(2).

The records you seek require searches in another office or offices, and so your request falls within "unusual circumstances." *See* 5 U.S.C. § 552(a)(6)(B)(i)-(iii). Because of these unusual circumstances, we are extending the time limit to respond to your request beyond the ten additional days provided by the statute. We have not yet completed a search to determine whether there are records within the scope of your request. The time needed to process your request will necessarily depend on the complexity of our records search and on the volume and complexity of any records located. For your information, this office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in approximately one month, whereas complex requests necessarily take longer. At this time, your request has been assigned to the complex track. You may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located; or you may wish to await the completion of our records search to discuss either of these options. Please be advised that due to necessary operational changes as a result of the national emergency concerning the novel coronavirus disease (COVID-19) outbreak, there may be some delay in the processing of your request.

As you are aware, the FOIA provides for three categories of requesters. *See* 5 U.S.C. § 552(a)(4)(A)(ii). The FOIA defines a representative of the news media as a person or entity "that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." *Id.* at § 552(a)(4)(A)(iii); *see also Cause of Action v. FTC*, 799 F.3d 1108 (D.C. Cir. 2015). We have determined that you are making this request as a "representative of the news media," therefore; you will not be charged search fees.

We regret the necessity of this delay, but please be assured that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact our Customer Service Hotline Representative at 202-307-7596 or e-mail your correspondence to [DEA.FOIA@usdoj.gov](mailto:DEA.FOIA@usdoj.gov).

In addition, you may wish to visit our website at [www.dea.gov](http://www.dea.gov) to determine if the information you are requesting is already available to the public. You may contact our FOIA Public Liaison at 202-307-7596 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll



Case Number: 20-00569-F

Page 3

free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

*for*

Angela D. Hertel, Acting Chief  
Freedom of Information/Privacy Act Unit  
FOI/Records Management Section

# **EXHIBIT I**



July 23, 2020

**VIA EMAIL: [usms.foia@usdoj.gov](mailto:usms.foia@usdoj.gov)**

Charlotte M. Luckstone  
FOIA/PA Officer  
Office of General Counsel, CG-3, 15<sup>th</sup> Floor  
Washington, DC, 20350-0001

**Re: Expedited Freedom of Information Act Request**

Dear Ms. Luckstone:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this expedited request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Justice (“DOJ”) regulations.

Specifically, CREW requests all documents and communications from June 2, 2020 to the present that explain or pertain to:

1. The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. Any policies to which law enforcement officers under the auspices of the U.S. Marshals Service are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

1. President Trump;
2. White House employees, including anyone with an “\*.eop.gov” email domain;
3. Attorneys or representatives acting on behalf of President Trump;
4. Employees of the U.S. Marshals Service;
5. Employees of the Department of Justice and linked agencies including at the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, and Bureau of Alcohol, Tobacco, Firearms, and Explosives;
6. Employees of the Department of Homeland Security and linked agencies including those within the Federal Protective Services, and U.S. Customs and Border Protection.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-*/U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

For approximately the last 60 days, Portland, Oregon, and cities around the country have been the sites of major anti-racism protests in response to the killing of George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The administration’s narrative has coalesced around a single political point – that there is growing lawlessness and violence in this country, and that it is the fault of Democrats. On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup> We continue to see evolving government justifications for these deployments. Most recently, on July 22, President Trump, Attorney General Barr, and Acting DHS Secretary Wolf jointly announced

---

<sup>1</sup> Evan Hill, Ainara Tiefertäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

‘Operation LeGend.’<sup>4</sup> While Attorney General Barr characterized this expansion of federal operations as “classic crime fighting” distinct from “the tactical teams we use to defend against riots and mob violence,” President Trump’s running commentary on these matters undermines that assertion.<sup>5</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>6</sup> DHS activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters<sup>7</sup>, and that number may increase now through Operation LeGend. To this point, state and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>8</sup>

With this summer’s deployments of mixed units of militarized federal law enforcement have come a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David –who approached the police line unarmed and with no apparent malice– with batons and mace.<sup>9</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>10</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>11</sup> U.S. Customs and Border Patrol claimed responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.”<sup>12</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>13</sup>

---

<sup>4</sup> President Donald Trump, Address at the White House East Room: Operation LeGend: Combatting Violent Crime in American Cities (July 22, 2020), available at <https://bit.ly/3hnTXRU>.

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

<sup>6</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>7</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>8</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>9</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. Times, July 20, 2020, available at <https://nyti.ms/3fSHrrt>.

<sup>10</sup> *Id.*

<sup>11</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.

<sup>12</sup> *Id.*

<sup>13</sup> Jonathan Levinson, *Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets*, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., available at <https://bit.ly/3hscBs0>.

The federal policing tactics in Portland – and worries that such tactics will be exported elsewhere in the country via Operation LeGend – are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that "authoritarian governments, not democratic republics, send unmarked authorities after protesters."<sup>14</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone's right to be free from unlawful search and seizure under the Fourth Amendment.<sup>15</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>16</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>17</sup> "Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens' ability to determine whether they are being kidnapped by militia... or arrested."<sup>18</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding how exactly the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DOJ considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

---

<sup>14</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, available at <https://cnn.it/2Ct6y7L>.

<sup>15</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), available at <https://bit.ly/30QE6VB>.

<sup>16</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>17</sup> *Id.* at 4-6.

<sup>18</sup> *Id.* at 5.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Expedition**

Please be advised that CREW is seeking expedition of this request and pursuant to DOJ FOIA regulations has separately submitted its request for expedition to the DOJ Office of Public Affairs. A copy of that request is enclosed.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW’s request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). If the records are not available in digital form please contact me to discuss an alternative method of production. Thank you for your assistance in this matter. Thank you for your assistance in this matter.

Sincerely,



Anne Weismann  
Chief FOIA Counsel

Encl.

# **EXHIBIT J**





July 23, 2020

**VIA EMAIL: [foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)**

Chief Privacy Officer/Chief FOIA Officer  
The Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane SW  
STOP-0655  
Washington, DC, 20528-0655

**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this expedited request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests all documents and communications from June 2, 2020 to the present that explain or pertain to:

1. The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. Any communications with local elected leaders in Oregon, including but not limited to the Oregon Governor’s office, Attorney General’s office, or office of the Mayor of Portland, related to the deployment of federal law enforcement agents, officers, or other personnel in response to the ongoing protests.
4. Any policies to which law enforcement officers under the auspices of the Department of Homeland Security are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

1. President Trump;
2. White House employees, including anyone with an “\*.eop.gov” email domain;
3. Attorneys or representatives acting on behalf of President Trump;
4. Employees of DHS including those within the Federal Protective Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection;

5. Employees of the Department of Justice including at the U.S. Marshals Service, the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, or the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-/U.S. Dep't of the Air Force, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

For approximately the last 60 days, Portland, Oregon, and cities around the country have been the sites of major anti-racism protests in response to the killing of George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The administration’s narrative has coalesced around a single political point – that there is growing lawlessness and violence in this country, and that it is the fault of Democrats. On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and

---

<sup>1</sup> Evan Hill, Ainara Tiefertäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup> We continue to see evolving government justifications for these deployments. Most recently, on July 22, President Trump, Attorney General Barr, and Acting DHS Secretary Wolf jointly announced ‘Operation LeGend.’<sup>4</sup> While Attorney General Barr characterized this expansion of federal operations as “classic crime fighting” distinct from “the tactical teams we use to defend against riots and mob violence,” President Trump’s running commentary on these matters undermines that assertion.<sup>5</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>6</sup> DHS activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters<sup>7</sup>, and that number may increase now through Operation LeGend. To this point, state and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>8</sup>

With this summer’s deployments of mixed units of militarized federal law enforcement have come a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David —who approached the police line unarmed and with no apparent malice— with batons and mace.<sup>9</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>10</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>11</sup> U.S. Customs and Border Patrol claimed responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal

---

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>4</sup> President Donald Trump, Address at the White House East Room: Operation LeGend: Combatting Violent Crime in American Cities (July 22, 2020), available at <https://bit.ly/3hnTXRU>.

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

<sup>6</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>7</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>8</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>9</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3fSHrtt>.

<sup>10</sup> *Id.*

<sup>11</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.

property.”<sup>12</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>13</sup>

The federal policing tactics in Portland – and worries that such tactics will be exported elsewhere in the country via Operation LeGend – are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that “authoritarian governments, not democratic republics, send unmarked authorities after protesters.”<sup>14</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone’s right to be free from unlawful search and seizure under the Fourth Amendment.<sup>15</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>16</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>17</sup> “Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens’ ability to determine whether they are being kidnapped by militia... or arrested.”<sup>18</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding how exactly the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DHS considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to

---

<sup>12</sup> *Id.*

<sup>13</sup> Jonathan Levinson, Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., *available at* <https://bit.ly/3hscBs0>.

<sup>14</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, *available at* <https://cnn.it/2Ct6y7L>.

<sup>15</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), *available at* <https://bit.ly/30QE6VB>.

<sup>16</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>17</sup> *Id.* at 4-6.

<sup>18</sup> *Id.* at 5.

advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

#### **Expedition**

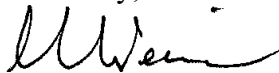
Please be advised that CREW is seeking expedition of this request and pursuant to DHS FOIA regulations has separately submitted its request for expedition to DHS's Privacy Office. A copy of that request is enclosed.

#### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). If the records are not available in digital form please contact me to discuss an alternative method of production. Thank you for your assistance in this matter. Thank you for your assistance in this matter.

Sincerely,



Anne Weismann  
Chief FOIA Counsel

Encl.

# **EXHIBIT K**



July 23, 2020

**BY EMAIL: [foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)**

Jimmy Wolfrey  
The Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane SW  
STOP-0655  
Washington, D.C. 20528-0655

Re: Request for Expedition of Freedom of Information Act Request

Dear Mr. Wolfrey:

Pursuant to Department of Homeland Security ("DHS") regulations, 6 C.F.R. § 5.5(e)(iii)(2), Citizens for Responsibility and Ethics in Washington ("CREW") requests that you authorize the expedition of three Freedom of Information requests CREW made today to DHS's Chief FOIA Officer, U.S. Customs and Border Protection ("CBP"), and U.S. Immigration and Customs Enforcement ("ICE"). I have enclosed copies of these requests.

In all three requests CREW seeks copies of all documents and communications from June 2, 2020 to the present that explain or pertain to: (1) the decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois; (2) any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania; (3) any communications with local elected leaders in Oregon, including but not limited to the Oregon Governor's office, Attorney General's office, or office of the Mayor of Portland, related to the deployment of federal law enforcement agents, officers, or other personnel in response to the ongoing protests; and (4) any policies to which law enforcement officers under the auspices of the Department of Homeland Security are bound governing the treatment of protesters in the above-mentioned cities.

CREW seeks expedition because the subject matter of the request is of widespread and exceptional media interest and the requested information involves possible questions about the government's integrity, which clearly affect public confidence. For approximately the last 60 days, Portland, Oregon, and cities around the country has been the site of major anti-racism protests in response to the killing of



George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful, have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>4</sup> DHS has activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters.<sup>5</sup> State and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>6</sup>

These deployments of mixed units of militarized federal law enforcement have generated a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David —who approached the police line unarmed and with no apparent malice— with batons and mace.<sup>7</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>8</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>9</sup> U.S. Customs and Border Patrol claimed

<sup>1</sup> Evan Hill, Ainara Tiefenthäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>4</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>5</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>6</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>7</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3fSHrtt>.

<sup>8</sup> *Id.*

<sup>9</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.



responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.”<sup>10</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>11</sup>

The federal policing tactics in Portland are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that “authoritarian governments, not democratic republics, send unmarked authorities after protesters.”<sup>12</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone’s right to be free from unlawful search and seizure under the Fourth Amendment.<sup>13</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>14</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>15</sup> “Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens’ ability to determine whether they are being kidnapped by militia... or arrested.”<sup>16</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding exactly how the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DHS considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

---

<sup>10</sup> *Id.*

<sup>11</sup> Jonathan Levinson, Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., *available at* <https://bit.ly/3hscBs0>.

<sup>12</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, *available at* <https://cnn.it/2Ct6y7L>.

<sup>13</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), *available at* <https://bit.ly/30QE6VB>.

<sup>14</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>15</sup> *Id.* at 4-6.


<sup>16</sup> *Id.* at 5.

Moreover, the urgency of obtaining the requested records is particularly acute because both the demonstrations and the federal response are ongoing and evolving daily. The actions of DHS personnel undoubtedly affect the safety of demonstrators, further highlighting the public's need for a full understanding of DHS's decision-making process.

CREW's primary purpose is to inform the public about the activities of government officials and those who influence public officials. Toward that end, CREW uses statutes like the FOIA to gather information the public needs to hold public officials and agencies accountable. The requests for which CREW seeks expedition will further those goals.

I certify the following is true and correct.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne L. Weismann', with a stylized, cursive script.

Anne L. Weismann  
Chief FOIA Counsel

Encls.

# **EXHIBIT L**



**Homeland  
Security**

*Privacy Office, Mail Stop 0655*

July 31, 2020

**SENT VIA E-MAIL TO: aweismann@citizensforethics.org**

Anne Weismann  
Chief Counsel  
CREW  
1101 K STREET, NW  
STE 201  
Washington, DC 20005

Re: **2020-HQFO-01499**

Dear Ms. Weismann:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated July 23, 2020, and your request for expedited handling and a waiver of all assessable FOIA fees. Our office received your request on July 23, 2020. Specifically, you requested:

1. the decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. any communications with local elected leaders in Oregon, including but not limited to the Oregon Governor's office, Attorney General's office, or office of the Mayor of Portland, related to the deployment of federal law enforcement agents, officers, or other personnel in response to the ongoing protests.
4. any policies to which law enforcement officers under the auspices of the Department of Homeland Security are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

- a. President Trump;
- b. White House employees, including anyone with an "\*.eop.gov" email domain;
- c. attorneys or representatives acting on behalf of President Trump;

- d. Employees of DHS including those within the Federal Protective Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection;
- e. Employees of the Department of Justice including at the U.S. Marshals Service, the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, or the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Your request for expedited handling is hereby granted.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. Part 5 § 5.5(a) of the DHS FOIA regulations, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances under 6 C.F.R. Part 5 § 5.5(c). As your request seeks documents that will require a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 § 5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

You have requested a fee waiver. The DHS FOIA regulations at 6 C.F.R. Part 5 § 5.11(k) set forth six factors DHS must evaluate to determine whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns "the operations or activities of the government," (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities, (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons, (4) Whether the contribution to public understanding of government operations or activities will be "significant," (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure, and (6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

Upon review of the subject matter of your request, and an evaluation of the six factors identified above, DHS has determined that it will conditionally grant your request for a fee waiver. The fee waiver determination will be based upon a sampling of the responsive documents received from the various DHS program offices as a result of the searches conducted in response to your FOIA request. DHS will, pursuant to DHS FOIA regulations applicable to non-commercial requesters, provide two hours of search time and process the first 100 pages at no charge to you. If upon review of these documents, DHS determines that the disclosure of the information contained in those documents does not meet the factors permitting DHS to waive the fees, then DHS will at that time either deny your request for a fee waiver entirely, or will allow for a percentage reduction in the amount of the fees corresponding to the amount of relevant material found that meets the factors allowing for a fee waiver. In either case, DHS will promptly notify you of its final decision regarding your request for a fee waiver and provide you with the responsive records as required by applicable law.

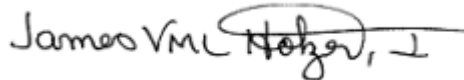
In the event that your fee waiver is denied, and you determine that you still want the records, provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged for any search time and duplication beyond the free two hours and 100 pages mentioned in the previous paragraph. You will be charged 10 cents per page for duplication and search time at the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. In the event that your fee waiver is denied, we will construe the submission of your request as an agreement to pay up to \$25.00. This office will contact you before accruing any additional fees.

We have queried the appropriate component(s) of DHS for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the analysts in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2020-HQFO-01499**. Please refer to this identifier in any future correspondence. The status of your FOIA request is now available online and can be accessed at: <https://www.dhs.gov/foia-status>, by using this FOIA request number.

If you have any questions, or would like to discuss this matter, please feel free to contact this office at 1-866-431-0486 or 202-343-1743.

Sincerely,

A handwritten signature in black ink that reads "James V. Holzer" with a stylized flourish at the end.

James Holzer  
Deputy Chief Privacy Officer (A)  
Deputy Chief FOIA Officer

# **EXHIBIT M**



July 23, 2020

**VIA FOIAONLINE**

FOIA Officer  
U.S. Customs and Border Protection  
90 K Street, NE FOIA Division  
Washington, DC 20229

**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this expedited request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests all documents and communications from June 2, 2020 to the present that explain or pertain to:

1. The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. Any policies to which law enforcement officers under the auspices of U.S. Customs and Border Protection are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

1. President Trump;
2. White House employees, including anyone with an “\*.eop.gov” email domain;
3. Attorneys or representatives acting on behalf of President Trump;
4. Employees of U.S. Customs and Border Protection;
5. Employees at other Department of Homeland Security-linked agencies including those within the Federal Protective Services, and U.S. Immigration and Customs Enforcement;
6. Employees of the Department of Justice including at the U.S. Marshals Service, the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, or the Bureau of Alcohol, Tobacco, Firearms, and Explosives.



Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-*/U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

For approximately the last 60 days, Portland, Oregon, and cities around the country have been the sites of major anti-racism protests in response to the killing of George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The administration’s narrative has coalesced around a single political point – that there is growing lawlessness and violence in this country, and that it is the fault of Democrats. On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup> We continue to see evolving government justifications for these deployments. Most recently, on July 22, President Trump, Attorney General Barr, and Acting DHS Secretary Wolf jointly announced

---

<sup>1</sup> Evan Hill, Ainara Tiefertäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

‘Operation LeGend.’<sup>4</sup> While Attorney General Barr characterized this expansion of federal operations as “classic crime fighting” distinct from “the tactical teams we use to defend against riots and mob violence,” President Trump’s running commentary on these matters undermines that assertion.<sup>5</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>6</sup> DHS activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters<sup>7</sup>, and that number may increase now through Operation LeGend. To this point, state and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>8</sup>

With this summer’s deployments of mixed units of militarized federal law enforcement have come a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David –who approached the police line unarmed and with no apparent malice– with batons and mace.<sup>9</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>10</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>11</sup> U.S. Customs and Border Patrol claimed responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.”<sup>12</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>13</sup>

---

<sup>4</sup> President Donald Trump, Address at the White House East Room: Operation LeGend: Combatting Violent Crime in American Cities (July 22, 2020), available at <https://bit.ly/3hnTXRU>.

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

<sup>6</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>7</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>8</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>9</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. Times, July 20, 2020, available at <https://nyti.ms/3fSHrtt>.

<sup>10</sup> *Id.*

<sup>11</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.

<sup>12</sup> *Id.*

<sup>13</sup> Jonathan Levinson, *Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets*, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., available at <https://bit.ly/3hscBs0>.

The federal policing tactics in Portland – and worries that such tactics will be exported elsewhere in the country via Operation LeGend – are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that "authoritarian governments, not democratic republics, send unmarked authorities after protesters."<sup>14</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone's right to be free from unlawful search and seizure under the Fourth Amendment.<sup>15</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>16</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>17</sup> "Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens' ability to determine whether they are being kidnapped by militia... or arrested."<sup>18</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding how exactly the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DHS considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

---

<sup>14</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, available at <https://cnn.it/2Ct6y7L>.

<sup>15</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), available at <https://bit.ly/30QE6VB>.

<sup>16</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>17</sup> *Id.* at 4-6.

<sup>18</sup> *Id.* at 5.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Expedition**

Please be advised that CREW is seeking expedition of this request and pursuant to DHS FOIA regulations has separately submitted its request for expedition to DHS's Privacy Office. A copy of that request is enclosed.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). If the records are not available in digital form please contact me to discuss an alternative method of production. Thank you for your assistance in this matter. Thank you for your assistance in this matter.

Sincerely,



Anne Weismann  
Chief FOIA Counsel

Encl.

# **EXHIBIT N**



Eden Tadesse &lt;etadesse@citizensforethics.org&gt;

---

**Fwd: Acknowledgement Letter**

---

**Anne Weismann** <aweismann@citizensforethics.org>  
To: Eden Tadesse <etadesse@citizensforethics.org>

Wed, Jul 29, 2020 at 9:06 AM

----- Forwarded message -----  
From: <[no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov)>  
Date: Wed, Jul 29, 2020 at 8:22 AM  
Subject: Acknowledgement Letter  
To: <[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)>

Mrs. Anne Weismann

1101 K Street NW  
Ste. 201  
Washington, DC, 20005

07/29/2020

CBP-2020-067908

Dear Mrs. Anne Weismann:

This notice acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) received on 07/23/2020. Please use the following unique FOIA tracking number CBP-2020-067908 to track the status of your request. If you have not already done so, you must create a FOIAonline account at <https://foiaonline.gov>. This is the only method available to check the status of your pending FOIA request.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS FOIA regulations outlined on the DHS website, <https://www.federalregister.gov/documents/2016/11/22/2016-28095/freedom-of-information-act-regulations>. By submitting your request, you have agreed to pay up to \$25.00 in applicable processing fees, if any fees associated with your request exceed this amount, CBP shall contact you; however, the first 100 pages are free.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. Part 5 § 5.5(a) of the DHS FOIA regulations, CBP processes FOIA requests according to their order of receipt. Although CBP's goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances pursuant to 6 C.F.R. Part 5 § 5.5(c).

For additional information please consult CBP FOIA website please click on [FOIA Act Resources](#) or visit <http://www.cbp.gov/site-policy-notice/foia>.

Sincerely,

U.S. Customs and Border Protection

--

Anne L. Weismann  
Chief FOIA Counsel  
CREW/Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)  
202-408-5565



**Acknowledgement Letter Letter.pdf**

3K

# **EXHIBIT O**





Eden Tadesse &lt;etadesse@citizensforethics.org&gt;

---

**Fwd: FOIA - RFI - Reference Case - CBP-2020-067908**

---

**Anne Weismann** <aweismann@citizensforethics.org>  
To: Eden Tadesse <etadesse@citizensforethics.org>

Fri, Aug 7, 2020 at 9:45 AM

**Privileged**

----- Forwarded message -----

From: **DAVIS, JENNIFER** <JENNIFER.R.DAVIS@cbp.dhs.gov>  
Date: Fri, Aug 7, 2020 at 9:36 AM  
Subject: FOIA - RFI - Reference Case - CBP-2020-067908  
To: [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org) <aweismann@citizensforethics.org>  
Cc: TELL, STEPHANIE S <STEPHANIE.S.TELL@cbp.dhs.gov>

Good morning,

CBP FOIA is in receipt of your FOIA request submitted July 23, 2020. Document searches are currently in process. In order to continue with the responsive documents search, I need some more information related to the communications portion of your request.

The time frame of interest is very clear and reasonable: June 2, 2020 through the present.

In order to greatly reduce processing time and to avoid an undue burden on the agency, please provide me with the following as soon as possible:

1. Specific names of individuals of interest
2. If unable to provide names, please provide the email domains (i.e. [eoop.gov](mailto:eoop.gov)) for each portion of your request (summarized below)
3. Key words of specific interest

*The foregoing requests include but are not limited to communications with:*

- 1. President Trump;*
- 2. White House employees, including anyone with an "eoop.gov" email domain;*
- 3. Attorneys or representatives acting on behalf of President Trump;*
- 4. Employees of U.S. Customs and Border Protection;*
- 5. Employees at other Department of Homeland Security-linked agencies including those within the Federal Protective Services, and U.S. Immigration and Customs Enforcement;*

*6. Employees of the Department of Justice including at the U.S. Marshals Service, the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, or the Bureau of Alcohol, Tobacco, Firearms, and Explosives.*

Your request is currently “on hold” which means the 20 day FOIA “clock” has been stopped. Please provide the above information as soon as possible so I can submit the search parameters to OIT. If you have any questions, please let me know.

Kind regards,

**Jennifer R Davis**

**Subject Matter Expert, FOIA Division**

**Privacy and Diversity Office**

**Office of the Commissioner**

**Email: [jennifer.r.davis@cbp.dhs.gov](mailto:jennifer.r.davis@cbp.dhs.gov)**

**Phone: 202-406-0213**



**U.S. Customs and  
Border Protection**

--

Anne L. Weismann  
Chief FOIA Counsel  
CREW/Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)  
202-408-5565



**CBP-2020-067908 Incoming Request.pdf**  
200K

# **EXHIBIT P**



August 7, 2020

VIA EMAIL: [jennifer.r.davis@cbp.dhs.gov](mailto:jennifer.r.davis@cbp.dhs.gov)

Jennifer R. Davis  
Subject Matter Expert, FOIA Division  
Privacy and Diversity Office  
Office of the Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Ave., NW, Rm. 3.3D  
Washington, D.C. 20229

**Re: FOIA Request CBP-2020-067908**

Dear Ms. Davis:

Thank you for your August 7, 2020 response regarding the above-referenced FOIA submitted on July 23, 2020. This letter notified CREW of CBP's position that our request requires additional information for the search for responsive records in order to be continued. I respectfully disagree with the characterization of CREW's request as insufficiently specific. CREW's July 23, 2020 request included a defined timeframe (as acknowledged) and subject matter for the requested records, as you summarized: *[CREW's four enumerated subject matter requests] include but are not limited to communications with: 1. President Trump; 2. White House employees, including anyone with an "eop.gov" email domain; 3. Attorneys or representatives acting on behalf of President Trump; 4. Employees of U.S. Customs and Border Protection; 5. Employees at other Department of Homeland Security-linked agencies including those within the Federal Protective Services, and U.S. Immigration and Customs Enforcement; 6. Employees of the Department of Justice including at the U.S. Marshals Service, the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, or the Bureau of Alcohol, Tobacco, Firearms, and Explosives.* This level of specificity is within the parameters of a perfected request as it allows your office to conduct a name search for communications to or from the identified individuals, regarding the specified subject matter, sent during the specified time period.

While CREW maintains that this request was proper as submitted, I am happy to work with your office to narrow the scope of my request. Your letter states that the CBP requires "1. Specific names of individuals of interest; 2. ... email domains (i.e. eop.gov)...; [and] 3. key words of specific interest" to conduct a search for records responsive to FOIA request, #CBP-2020-067908. Accordingly, please use the following names, email domains, and terms to conduct your search:

***1. Names of Individuals of Interest:***

- A. **White House & Exec. Office of the President** – Donald J. Trump, Michael R. Pence, Chief of Staff Mark Meadows, Pasquale Anthony Cipollone, Homeland Security Advisor Julia Nesheiwat, Chief of Staff to the Vice President Marc Short, National Security Advisor Robert O'Brien, United States Domestic Policy Council Acting Director Brooke Leslie Rollins;

- B. **Dep't of Homeland Sec.** – Including but not limited to: Chad F. Wolf, Ken Cuccinelli, Chief of Staff John Goutanis, Executive Secretary Clark Borrow, Acting General Counsel Chad Mizelle, Military Advisor Rear Adm. Brennan C. McPherson, Acting Under Secretary Joseph B. Maher, Acting Under Secretary Scott Glabe, Deputy Under Secretary James W. McCament, Assistant Secretary Sarah Rehberg, Assistant Secretary Meghann Peterlin, TSA Administrator David P. Pekoske, Assistant Secretary Beth Spivey, Deputy Assistant Secretary Joseph Kasper, Deputy Assistant Secretary Aaron L. Calkins, Assistant Secretary John H. Hill, Deputy Assistant Secretary Brian Dorow, Deputy Assistant Secretary Cherie N. Short, Acting Executive Director Mike Miron, Acting Assistant Director Alexei Woltornist, Acting Deputy Assistant Secretary Sofia-Boza-Holman, Deputy Assistant Secretary Melika Willoughby McKinnis, Director Christopher J. Tomney, Officer for Civil Rights & Civil Liberties Patricia Nation, Inspector General Joseph V. Cuffari;
- C. **U.S. Customs and Border Protection** – Including but not limited to: Mark A. Morgan, Deputy Commissioner Robert E. Perez, Assistant Commissioner James Collins, Chief Counsel Scott K. Falk, Executive Director Tim Quinn, Executive Director Rebekah A. Salazar, Executive Assistant Commissioner Edward E. Young, Executive Assistant Commissioner Todd C. Owen, Chief Rodney S. Scott, Executive Assistant Commissioner William A. Ferrara;
- D. **Federal Protective Services** – Including but not limited to: Director L. Eric Patterson;
- E. **U.S. Immigration and Customs Enforcement** – Including but not limited to: Acting Director Matthew T. Albence, Acting Deputy Director Derek N. Benner, Chief of Staff Kathy Neubel Kovarik, Executive Associate Director Henry Lucero, Principal Legal Advisor Tony H. Pham, Acting Executive Associate Director Alysa D. Erichs, Associate Director Waldemar Rodriguez;
- F. **Dep't of Justice** – Including but not limited to: Attorney General William Barr, Deputy Attorney General Jeffrey A. Rosen, Solicitor General Noel Francisco, Principal Deputy Associate Attorney General Clair McCusker Murray, Assistant Attorney General Steven A. Engel, Assistant Attorney General Beth A. Williams, Director Kerri Kupec, U.S. Attorney Billy J. Williams, John C. Demers, Assistant Attorney General for National Security, Inspector General Michael E. Horowitz, Assistant Attorney General Eric S. Dreiband, COPS Director Phil Keith, EOUSA Director Corey Ellis;
- G. **Bureau of Alcohol, Tobacco, Firearms, and Explosives** - Including but not limited to: Acting Director Regina Lombardo, Associate Deputy Director Marvin Richardson;


- H. **U.S. Drug Enforcement Administration** – Including but not limited to: Acting Administrator Timothy J. Shea, Principal Deputy Administrator Preston L. Grubbs;
- I. **U.S. Marshals Service** – Including but not limited to: Director Donald W. Washington, Acting Deputy Director Derrick Driscoll, Chief of Staff J. Kilgallon, Acting Chief D. Farrell, Assistant Director A. Smith, Associate Director J. Tyler, Associate Director R. Robinson, General Counsel Gerald M. Auerbach, Ethics Office Robert Marcovici, Office of Congressional and Public Affairs Chief W. Delaney.

**2. Email Domains:** \*.eop.gov, dhs.gov, oig.dhs.gov, cbp.dhs.gov, \*.usdoj.gov, \*.ice.gov, \*.dea.gov.

**3. Key Words of Interest:** “Portland,” “Oregon,” “Seattle,” “Washington,” “Chicago,” “Illinois,” “Albuquerque,” “New Mexico,” “Baltimore,” “Maryland,” “Kansas City,” “Missouri,” “Oakland,” “California,” “New York City,” “New York,” “Detroit,” “Michigan,” “Philadelphia,” “Pennsylvania,” “Lightfoot,” “Wheeler,” “Kate Brown,” “Duran,” “Inslee,” “Cuomo,” “Hogan,” “Bernard Young,” “Whitmer,” “Duggan,” “Parson,” “Quinton Lucas,” “Keller,” “Grisham,” “state government,” “state police,” “governor” “EOP,” “White House,” “executive order,” “DCPD-202000483,” “Executive Order 13933,” “Protecting American Communities Task Force,” “Justice,” “tactical,” “CS,” “tear gas,” “riot,” “laser,” “crowd control,” “protest,” “unrest,” “less lethal,” “Gil,” “Kerlokowske,” “Marshals,” “USMS,” “Marshals,” “FPS,” “journalists,” “media,” “detention,” “Hatfield,” “cite and release,” “LeGend,” “First Amendment,” “BLM,” “ANTIFA,” “domestic terrorism,” “fusion center,” “rapid deployment teams,” “PPB,” “Kenton Park,” “Edith Green,” “fencing,” “Lownsdale Square,” “Chapman Square,” Terry Schunk Plaza,” “BORTAC,” “BORSTAR,” “SOG,” “field office,” “law enforcement partnerships.”

Thank you for your attention to this matter. I am happy to discuss this request further if necessary, and to assist your search in any way I can. I look forward to hearing from you.

Sincerely,

  
Anne Weismann  
Chief FOIA Counsel

Encl.

# EXHIBIT Q

---

**From:** Nikhel Sus <[nsus@citizensforethics.org](mailto:nsus@citizensforethics.org)>  
**Sent:** Wednesday, August 26, 2020 2:42 PM  
**To:** Lutkenhaus, Jessica  
**Subject:** Fwd: FOIA Expedited Processing Disposition Reached for CBP-2020-067908

**EXTERNAL SENDER**

----- Forwarded message -----

From: **Adam Rappaport** <[arappaport@citizensforethics.org](mailto:arappaport@citizensforethics.org)>  
Date: Wed, Aug 26, 2020 at 1:51 PM  
Subject: Fwd: FOIA Expedited Processing Disposition Reached for CBP-2020-067908  
To: Nikhel Sus <[nsus@citizensforethics.org](mailto:nsus@citizensforethics.org)>, Eden Tadesse <[etadesse@citizensforethics.org](mailto:etadesse@citizensforethics.org)>

----- Forwarded message -----

From: <[admin@foiaonline.gov](mailto:admin@foiaonline.gov)>  
Date: Wed, Aug 26, 2020 at 1:50 PM  
Subject: FOIA Expedited Processing Disposition Reached for CBP-2020-067908  
To: <[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)>

Your request for Expedited Processing for the FOIA request CBP-2020-067908 has been denied. Additional details for this request are as follows:

- Request Created on: 07/23/2020
- Request Description: Please find attached to this email a Freedom of Information Act request from Citizens for Responsibility and Ethics in Washington (CREW). As detailed in the request, please send any related correspondence to Anne Weismann, Chief FOIA Counsel at CREW, at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org).
- Expedited Processing Original Justification: Please see attached expedition request letter PDF (also supplied directly to DHS Privacy Office) for the justification for this expedited processing request.
- Expedited Processing Disposition Reason: Does not meet requirements per DHS Regulations.

--

Adam J. Rappaport  
Chief Counsel and Assistant Director  
Citizens for Responsibility and Ethics in Washington  
1101 K Street, NW, Suite 201  
Washington, DC 20005  
(202) 408-5565  
[arappaport@citizensforethics.org](mailto:arappaport@citizensforethics.org)



--

**Nikhel Sus**

Senior Counsel | Citizens for Responsibility and Ethics in Washington (CREW)

202-408-5565

[nsus@citizensforethics.org](mailto:nsus@citizensforethics.org)

[www.citizensforethics.org](http://www.citizensforethics.org) | [Bio](#)

---

CREW | Citizens for Responsibility and Ethics in Washington

Main: (202) 408-5565 | Fax: (202) 588-5020 | [www.citizensforethics.org](http://www.citizensforethics.org)

---

# **EXHIBIT R**

---

**From:** Nikhel Sus <[nsus@citizensforethics.org](mailto:nsus@citizensforethics.org)>  
**Sent:** Wednesday, August 26, 2020 2:42 PM  
**To:** Lutkenhaus, Jessica  
**Subject:** Fwd: FOIA Fee Waiver Disposition Reached for CBP-2020-067908

**EXTERNAL SENDER**

----- Forwarded message -----

**From:** Adam Rappaport <[arappaport@citizensforethics.org](mailto:arappaport@citizensforethics.org)>  
**Date:** Wed, Aug 26, 2020 at 1:52 PM  
**Subject:** Fwd: FOIA Fee Waiver Disposition Reached for CBP-2020-067908  
**To:** Nikhel Sus <[nsus@citizensforethics.org](mailto:nsus@citizensforethics.org)>, Eden Tadesse <[etadesse@citizensforethics.org](mailto:etadesse@citizensforethics.org)>

----- Forwarded message -----

**From:** <[admin@foiaonline.gov](mailto:admin@foiaonline.gov)>  
**Date:** Wed, Aug 26, 2020 at 1:51 PM  
**Subject:** FOIA Fee Waiver Disposition Reached for CBP-2020-067908  
**To:** <[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)>

Your request for Fee Waiver for the FOIA request CBP-2020-067908 has been determined to be not applicable as the request is not billable. Additional details for this request are as follows:

- Request Created on: 07/23/2020
- Request Description: Please find attached to this email a Freedom of Information Act request from Citizens for Responsibility and Ethics in Washington (CREW). As detailed in the request, please send any related correspondence to Anne Weismann, Chief FOIA Counsel at CREW, at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org).
- Fee Waiver Original Justification: CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest. For more information, see request documentation.
- Fee Waiver Disposition Reason: N/A

--

Adam J. Rappaport  
Chief Counsel and Assistant Director

Citizens for Responsibility and Ethics in Washington  
1101 K Street, NW, Suite 201  
Washington, DC 20005  
(202) 408-5565  
[arappaport@citizensforethics.org](mailto:arappaport@citizensforethics.org)

--

**Nikhel Sus**

Senior Counsel | Citizens for Responsibility and Ethics in Washington (CREW)  
202-408-5565  
[nsus@citizensforethics.org](mailto:nsus@citizensforethics.org)  
[www.citizensforethics.org](http://www.citizensforethics.org) | [Bio](#)

---

CREW | Citizens for Responsibility and Ethics in Washington  
Main: (202) 408-5565 | Fax: (202) 588-5020 | [www.citizensforethics.org](http://www.citizensforethics.org)

---

# **EXHIBIT S**



July 23, 2020

**VIA EMAIL: [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)**

Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12<sup>th</sup> St. SW, Stop 5009  
Washington, DC 200536

**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this expedited request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests all documents and communications from June 2, 2020 to the present that explain or pertain to:

1. The decision to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Portland, Oregon and Chicago, Illinois;
2. Any decisions or plans to deploy federal law enforcement agents, officers, or other personnel in response to the ongoing protests over racial justice in Albuquerque, New Mexico; Baltimore, Maryland; Detroit, Michigan; Kansas City, Missouri; New York City; Oakland, California; and Philadelphia, Pennsylvania;
3. Any policies to which law enforcement officers under the auspices of U.S. Immigration and Customs Enforcement are bound governing the treatment of protesters in the above-mentioned cities.

The foregoing requests include but are not limited to communications with:

1. President Trump;
2. White House employees, including anyone with an “\*.eop.gov” email domain;
3. Attorneys or representatives acting on behalf of President Trump;
4. Employees of U.S. Immigration and Customs Enforcement;
5. Employees at other Department of Homeland Security-linked agencies including those within the Federal Protective Services, and U.S. Customs and Border Protection;
6. Employees of the Department of Justice including at the U.S. Marshals Service, the Federal Bureau of Investigation, U.S. Drug Enforcement Administration, or the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-*/U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

For approximately the last 60 days, Portland, Oregon, and cities around the country have been the sites of major anti-racism protests in response to the killing of George Floyd in police custody.<sup>1</sup> These protests, while mostly peaceful have at times tested the limits of local law enforcement, and have earned the ire of President Trump, who is portraying such protests, especially in Democratic Party-led cities, as attempts by the “Radical Left Democrats” to “destroy our Country [sic] as we know it.”<sup>2</sup> The administration’s narrative has coalesced around a single political point – that there is growing lawlessness and violence in this country, and that it is the fault of Democrats. On Monday, July 20, Trump told reporters that “I’m going to do something — that, I can tell you,” “Because we’re not going to let New York and Chicago and Philadelphia and Detroit and Baltimore and all of these — Oakland is a mess.”<sup>3</sup> We continue to see evolving government justifications for these deployments. Most recently, on July 22, President Trump, Attorney General Barr, and Acting DHS Secretary Wolf jointly announced

---

<sup>1</sup> Evan Hill, Ainara Tiefertäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein, *How George Floyd Was Killed In Police Custody*, N.Y. TIMES, May 31, 2020, available at <https://nyti.ms/30ATXaD>.

<sup>2</sup> Donald Trump (@realDonaldTrump), TWITTER (Jul. 19, 2020 12:56 P.M.), <https://twitter.com/realDonaldTrump/status/1284894845614600194>.

<sup>3</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

‘Operation LeGend.’<sup>4</sup> While Attorney General Barr characterized this expansion of federal operations as “classic crime fighting” distinct from “the tactical teams we use to defend against riots and mob violence,” President Trump’s running commentary on these matters undermines that assertion.<sup>5</sup>

As became apparent last week in Portland, senior administration officials have operationalized the President’s rhetoric by authorizing an increasingly aggressive and militarized response to the ongoing protests.<sup>6</sup> DHS activated approximately 2,000 officials from Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the Coast Guard on standby for rapid deployment to protect federal buildings from protesters<sup>7</sup>, and that number may increase now through Operation LeGend. To this point, state and local reactions to such deployments, over which localities have effectively zero control, have ranged from lukewarm to hostile. In Portland, Deputy Police Chief Chris Davis stated his “preference would be to not have [federal agents] outside their buildings unless it’s a life/safety kind of an issue... I would prefer to police the outside of [federal] buildings and all of the others downtown with local and state resources.”<sup>8</sup>

With this summer’s deployments of mixed units of militarized federal law enforcement have come a steady stream of allegations of excessive use of force and abuses of power. In one incident, federal agents outside Portland’s federal courthouse on Saturday, July 15 were filmed repeatedly striking Navy veteran Christopher David –who approached the police line unarmed and with no apparent malice– with batons and mace.<sup>9</sup> When asked about the video DHS Deputy Secretary Kenneth Cuccinelli stated that “maintaining an appropriate [federal] response is an ongoing obligation.”<sup>10</sup> In other even more alarming incidents, roving federal officers outfitted in fatigues, carrying rifles, but wearing no visible agency identification, were filmed pulling protesters including one Mark Pettibone, into unmarked minivans.<sup>11</sup> U.S. Customs and Border Patrol claimed responsibility in that instance, alleging that Pettibone “had information indicating the person in the video was suspected of assaults against federal agents or destruction of federal property.”<sup>12</sup> Despite this justification, they ultimately declined to charge him or even inform him of why he was detained, dropping him back on the street in front of the federal courthouse.<sup>13</sup>

---

<sup>4</sup> President Donald Trump, Address at the White House East Room: Operation LeGend: Combatting Violent Crime in American Cities (July 22, 2020), available at <https://bit.ly/3hnTXRU>.

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

<sup>6</sup> *Portland Protests: US Federal Agents ‘Will Not Retreat’, Chad Wolf Says*, BBC NEWS, July 21, 2020, available at <https://www.bbc.com/news/world-us-canada-53489995>.

<sup>7</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, *Trump Threatens to Send Federal Law Enforcement Forces to More Cities*, N.Y. TIMES, July 20, 2020, available at <https://nyti.ms/3hoygBj>.

<sup>8</sup> *They’re Not Under Our Control: Deputy Police Chief Testifies About Portland Protests, Federal Response*, KGW8 (NBC), July 20, 2020, 5:28 P.M., available at <https://bit.ly/32PMIUt>.

<sup>9</sup> John Ismay, *A Navy Veteran Had A Question for the Feds in Portland. They Beat Him In Response*, N.Y. Times, July 20, 2020, available at <https://nyti.ms/3fSHrtt>.

<sup>10</sup> *Id.*

<sup>11</sup> Katie Shepherd, Mark Berman, *‘It Was Like Being Preyed Upon’: Portland Protesters Say Federal Officers in Unmarked Vans are Detaining Them*, WASH. POST, July 17, 2020, available at <https://wapo.st/2WMiw39>.

<sup>12</sup> *Id.*

<sup>13</sup> Jonathan Levinson, *Federal Law Enforcement Use Unmarked Vehicles to Grab Protesters Off Portland Streets*, OR. PUB. RADIO, July 16, 2020, 2:45 P.M., available at <https://bit.ly/3hscBs0>.



The federal policing tactics in Portland – and worries that such tactics will be exported elsewhere in the country via Operation LeGend – are raising serious constitutional concerns and worry for the state of the Republic, prompting comment from Senator Jeff Merkley (D-OR) on July 16 that "authoritarian governments, not democratic republics, send unmarked authorities after protesters."<sup>14</sup> On July 17, the U.S. Attorney for the District of Oregon formally requested a DHS investigation into the matter. By the weekend, numerous constitutional experts joined the chorus calling for these tactics to be halted. One such expert, Andrew Crespo, a professor of criminal procedure at Harvard Law, stated that at least in the Pettibone incident, there were clear violations of Pettibone's right to be free from unlawful search and seizure under the Fourth Amendment.<sup>15</sup> At least one state concurs and has already taken legal action to halt the federal government responses to these protests. On July 17, the State of Oregon sued DHS, CBP, the US Marshals and the Federal Protective Services in the District Court for the District of Oregon.<sup>16</sup> Oregon is asserting that federal snatch-and-grab tactics are violating protesters First, Fourth, and Fifth Amendment rights, and are seeking a permanent injunction against such behavior.<sup>17</sup> "Ordinarily, a person exercising his right to walk through the streets of Portland who is confronted by anonymous men in military-type fatigues and ordered into an unmarked van can reasonably assume that he is being kidnapped and is the victim of a crime. [Federal officers] are injuring the occupants of Portland by taking away citizens' ability to determine whether they are being kidnapped by militia... or arrested."<sup>18</sup>

Shocking images of violent and potentially unconstitutional federal police interactions with protesters are reaching television screens across America nearly every night. The public has an overwhelming interest in understanding how exactly the federal government is justifying sending paramilitary units into American cities, often against the wishes of the local governments in these jurisdictions. The records CREW requests will shed light on the factors DHS considered in making these decisions, including what outside interests may have been brought to bear in the process. The American public has the right to understand the particulars of the decision-making in these paramilitary operations and the parameters of the federal deployments to Portland, Chicago, and should President Trump be believed, other cities around the country as well.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to share the information responsive to this request with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

---

<sup>14</sup> Amir Vera, Konstantin Toropin, and Josh Campbell, *US Attorney Requests DHS Investigation After Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland*, CNN, July 20, 2020, available at <https://cnn.it/2Ct6y7L>.

<sup>15</sup> Andrew Crespo (@AndrewMCrespo), TWITTER (July 21, 2020), available at <https://bit.ly/30QE6VB>.

<sup>16</sup> Complaint at 1, *Rosenblum v. John Does 1-10*, ECF No. 3:20-cv-01161-HZ (D. Or. 2020)

<sup>17</sup> *Id.* at 4-6.

<sup>18</sup> *Id.* at 5.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Expedition**

Please be advised that CREW is seeking expedition of this request and pursuant to DHS FOIA regulations has separately submitted its request for expedition to DHS's Privacy Office. A copy of that request is enclosed.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). If the records are not available in digital form please contact me to discuss an alternative method of production. Thank you for your assistance in this matter. Thank you for your assistance in this matter.

Sincerely,



Anne Weismann  
Chief FOIA Counsel

Encl.

# **EXHIBIT T**



Eden Tadesse &lt;etadesse@citizensforethics.org&gt;

---

**Fwd: ICE FOIA Request 2020-ICFO-68115**

---

**Anne Weismann** <aweismann@citizensforethics.org>

Fri, Jul 24, 2020 at 11:26 AM

To: Eden Tadesse &lt;etadesse@citizensforethics.org&gt;, Brian Zupruk &lt;bzupruk@citizensforethics.org&gt;

Sent from my iPhone

Begin forwarded message:

**From:** [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)  
**Date:** July 24, 2020 at 11:23:24 AM EDT  
**To:** [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)  
**Subject:** ICE FOIA Request 2020-ICFO-68115

July 24, 2020

Anne Weismann  
CREW  
1101 K STREET, NW  
STE 201  
Washington, DC 20005

**RE: ICE FOIA Case Number 2020-ICFO-68115**

Dear Ms. Weismann:

This acknowledges receipt of your July 23, 2020, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for various records relating to the decision to deploy federal law enforcement agents, officers, or other personnel in the response to the ongoing protests over racial justice (see request for details). Your request was received in this office on July 24, 2020.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6) (B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations, as they apply to media requesters. As a media requester, you will be charged 10 cents per page for duplication; the first 100 pages are free. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2020-ICFO-68115**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the

2020-ICFO-68115 tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office. You may send an e-mail to [ice-foia@ice.dhs.gov](mailto:ice-foia@ice.dhs.gov), call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, [8601 Adelphi Road](#)-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Regards,

ICE FOIA Office  
Immigration and Customs Enforcement  
Freedom of Information Act Office  
[500 12th Street, S.W.](#), Stop 5009  
Washington, D.C. 20536-5009  
Telephone: 1-866-633-1182  
Visit our FOIA website at [www.ice.gov/foia](http://www.ice.gov/foia)

# **EXHIBIT U**



Eden Tadesse <etadesse@citizensforethics.org>

---

## Fwd: ICE FOIA Request 2020-ICFO-68115

---

Anne Weismann <aweismann@citizensforethics.org>

Fri, Jul 24, 2020 at 11:29 AM

To: ice-foia@dhs.gov

Cc: Eden Tadesse <etadesse@citizensforethics.org>

I am in receipt of your letter of July 24 improperly construing our request as an agreement to pay up to \$25 in processing fees. We have sought a fee waiver as set forth in our request and therefore do not agree to pay any amount in fees.

Anne Weismann  
Sent from my iPhone  
[Quoted text hidden]

# **EXHIBIT V**





Eden Tadesse &lt;etadesse@citizensforethics.org&gt;

---

**Fwd: ICE FOIA Request 2020-ICFO-68115 - Amended Acknowledgement**

---

Anne Weismann <aweismann@citizensforethics.org>  
To: Eden Tadesse <etadesse@citizensforethics.org>  
Cc: Adam Rappaport <arappaport@citizensforethics.org>

Tue, Jul 28, 2020 at 9:09 AM

Privileged

----- Forwarded message -----

From: &lt;ice-foia@dhs.gov&gt;

Date: Tue, Jul 28, 2020 at 9:02 AM

Subject: ICE FOIA Request 2020-ICFO-68115 - Amended Acknowledgement

To: &lt;aweismann@citizensforethics.org&gt;

July 28, 2020

Anne Weismann  
CREW  
1101 K STREET, NW  
STE 201  
Washington, DC 20005

**RE: ICE FOIA Case Number 2020-ICFO-68115**

Dear Ms. Weismann:

This is an amended acknowledgement email of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated July 23, 2020, your request for a waiver of all assessable FOIA fees, and your request for expedited treatment. Your request was received in this office on July 24, 2020. Specifically, you requested various records relating to the decision to deploy federal law enforcement agents, officers, or other personnel in the response to the ongoing protests over racial justice (see request for details).

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

ICE evaluates fee waiver requests under the legal standard set forth above and the fee waiver policy guidance issued by the Department of Justice on April 2, 1987, as incorporated into the Department of Homeland Security's Freedom of Information Act regulations. These regulations set forth six factors to examine in determining whether the applicable legal standard for fee waiver has been met. I have considered the following factors in my evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government";
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant";
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

Upon review of your request and a careful consideration of the factors listed above, I have determined to grant your request for a fee waiver.

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves "circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," 6 C.F.R. § 5.5(e)(1)(i), or "an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information," 6 C.F.R. § 5.5(e)(1)(ii). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(e)(3).

Your request for expedited processing is denied because you do not qualify for either category under 6 C.F.R. § 5.5(e)(1). You have not established that lack of expedited treatment in this case will pose an imminent threat to the life or physical safety of an individual. While you may be primarily engaged in the dissemination of information, you have not detailed with specificity why you feel there is an urgency to inform the public about the information you have requested. Qualifying urgency would need to exceed the public's right to know about government activity generally. You also did not offer sufficient supporting evidence of public interest that is any greater than the public's general interest in the information you have requested. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

If you deem the decision to deny expedited treatment of your request an adverse determination, you have the right to appeal. Should you wish to do so, you must send your appeal and a copy of the original response letter, within 90 days of the date of the letter following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. You may submit your appeal electronically at [GILDFOIAAppeals@ice.dhs.gov](mailto:GILDFOIAAppeals@ice.dhs.gov) or via regular mail to:

U.S. Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
U.S. Department of Homeland Security  
500 12th Street, S.W., Mail Stop 5900  
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2020-ICFO-68115**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2020-ICFO-68115 tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office. You may send an e-mail to [ice-foia@ice.dhs.gov](mailto:ice-foia@ice.dhs.gov), call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, **8601 Adelphi Road**-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Regards,

ICE FOIA Office  
Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, S.W., Stop 5009  
Washington, D.C. 20536-5009  
Telephone: 1-866-633-1182  
Visit our FOIA website at [www.ice.gov/foia](http://www.ice.gov/foia)

--

Anne L. Weismann  
Chief FOIA Counsel  
CREW/Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)  
202-408-5565

## CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

<b>I. (a) PLAINTIFFS</b> Citizens for Responsibility and Ethics in Washington  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> U.S. Department of Justice, U.S. Department of Homeland Security  COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Ari Holtzblatt Wilmer Cutler Pickering Hale and Dorr LLP 1875 Pennsylvania Avenue NW, Washington, DC 20006 (202) 663-6000	ATTORNEYS (IF KNOWN)

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY) <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="radio"/> 1 U.S. Government Plaintiff         </div> <div style="width: 48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)         </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant         </div> <div style="width: 48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)         </div> </div>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b> <table style="width: 100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
---	--	--	--

<input type="radio"/> <b>E. General Civil (Other)</b>	OR	<input type="radio"/> <b>F. Pro Se General Civil</b>
---	----	--

<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609  <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)
---	---	--	--

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input checked="" type="radio"/> <b>I. FOIA/Privacy Act</b>  <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi-district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge  
 ☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 Violation of 5 U.S.C. § 552 for wrongful withholding of agency records and failure to grant expedition

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 9/11/2020	SIGNATURE OF ATTORNEY OF RECORD: /s/ Ari Holtzblatt
-----------------	---

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

---

---

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Citizens for Responsibility & Ethics in Washington 

*Plaintiff*

v.

U.S. Department of Homeland Security, et. al.

*Defendant*

Civil Action No. 1:20-cv-2553

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Ari Holtzblatt  
Wilmer Cutler Pickering Hale and Dorr LLP  
1875 Pennsylvania Avenue NW  
Washington, D.C. 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. 1:20-cv-2553

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

---

---

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Citizens for Responsibility & Ethics in Washington 

*Plaintiff*

v.

U.S. Department of Homeland Security, et. al.

*Defendant*

)  
)  
)  
)  
)  
)  
)

Civil Action No. 1:20-cv-2553

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

U.S. Department of Homeland Security  
245 Murray Lane, S.W.  
Washington, D.C. 20528

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Ari Holtzblatt  
Wilmer Cutler Pickering Hale and Dorr LLP  
1875 Pennsylvania Avenue NW  
Washington, D.C. 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

---

---

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Citizens for Responsibility & Ethics in Washington 

*Plaintiff*

v.

U.S. Department of Homeland Security, et. al.

*Defendant*

)  
)  
)  
)  
)  
)  
)

Civil Action No. 1:20-cv-2553

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

Michael R. Sherwin  
Acting United States Attorney for the District of Columbia  
555 4th Street, N.W.  
Washington, D.C. 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Ari Holtzblatt  
Wilmer Cutler Pickering Hale and Dorr LLP  
1875 Pennsylvania Avenue NW  
Washington, D.C. 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

---

---

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Citizens for Responsibility & Ethics in Washington 

*Plaintiff*

v.

U.S. Department of Homeland Security, et. al.

*Defendant*

)  
)  
)  
)  
)  
)  
)

Civil Action No. 1:20-cv-2553

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

William Barr  
U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Ari Holtzblatt  
Wilmer Cutler Pickering Hale and Dorr LLP  
1875 Pennsylvania Avenue NW  
Washington, D.C. 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: