



July 17, 2020

Via Online Portal

FOIA Officer
U.S. Customs and Border Protection
90 K Street, NE
FOIA Division
Washington, DC 20229
Phone: 202-325-0150

Re: Freedom of Information Act Request re Federal Agency Personnel in Portland, Ore.

Dear FOIA Officer,

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) submits this request under the Freedom of Information Act (“FOIA”) for records related to the mobilization of federal agency personnel in response to ongoing protests in Portland, Oregon.

In recent months, and prompted by the May 25, 2020 killing of George Floyd, communities across the country have gathered to demand accountability and change from their elected officials and from law enforcement. Peaceful protests have occurred in each of the 50 states and in the District of Columbia, where a substantial number of concerned citizens have exercised their First Amendment right to demonstrate. The protests continue to this day in Portland.

In response to the continued protests in Portland, in the last two weeks the federal government deployed law enforcement personnel from a number of federal agencies, including (among others) the United States Customs and Border Patrol (“CBP”). The decision to deploy federal law enforcement personnel, and the manner in which federal law enforcement personnel were deployed, escalated concerns about whether protestors could safely voice their demand for social justice and institutional reform. Rhetoric from federal officials, including referring to protestors as “violent anarchists” and a “violent mob,”¹ exacerbated concern around whether the influx of federal law enforcement officers would impede First Amendment rights. Indeed, President Trump has stated that “we have many people right now in jail, and we very much quelled it. And if it starts again, we’ll quell it again very easily.”²

¹Jeet Heer, *Trump Unleashes His Secret Police in Portland*, The Nation, (Jul. 17, 2020), <https://www.thenation.com/article/politics/trump-secret-police-portland/>.

²N’dea Yancey-Bragg, Kristine Phillips, ‘Chilling’: Federal officers are pulling Portland protesters into unmarked vehicles, reports say, USA TODAY, (Jul. 17, 2020), <https://www.usatoday.com/story/news/nation/2020/07/17/report-federal-officers-detain-portland-protesters-unmarked-vans/5457471002/>.



Tensions continue to escalate with reports of federal agency personnel detaining and/or arresting protesters (or presumed protestors) without explanation. Some individuals who were detained were not on or near federal property and/or did not commit any crime within the purview or authority of CBP. It is also reported that federal officers fired non-lethal rounds and deployed tear gas into crowd of protestors who had gathered near the federal courthouse on July 16.³

Governor Kate Brown, and Portland Mayor Ted Wheeler and other local leaders have stated that they did not ask for federal law enforcement help concerning protests and demonstrations and have requested that federal personnel leave. On July 16, Governor Brown pointedly stated that federal officers were patrolling the streets of Portland in a “blatant abuse of power by the federal government.”⁴

In light of this background, LDF respectfully requests that CBP expedite the processing of this request. In addition to engaging in litigation and advocacy, LDF engages in public education around issues of social justice and equality. Those efforts have included efforts to disseminate information about the protests and government response to protests prompted by the killing of Mr. Floyd.

I. Requests for Information

LDF acting on its own behalf, hereby requests that, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*, the United States Customs and Border Patrol (“CBP”) provide information relating to federal law enforcement personnel being delegated authority to respond to protests and demonstrations in the Portland, Ore., and the legal authority for such delegation.

LDF requests disclosure of the following records:

1. Records authorizing CBP personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to protests and demonstrations occurring in Portland, Ore. between July 1, 2020, and the date of this request.
2. Records relating to authorization for CBP personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to, protests and demonstrations occurring in Portland, Ore. between July 1, 2020, and the date of this request.
3. Any Interagency Agreement, Memorandum of Understanding, and/or other similar document, covering or related to the deployment of personnel, equipment, and/or resources from CBP or its components to support law enforcement efforts undertaken in connection with protests and demonstrations occurring in Portland, Ore. between July 1, 2020, and the date of this request.

³ Yancey-Bragg, *supra* note 2.

⁴ Governor Kate Brown (@OregonGovBrown), Twitter, (Jul. 16, 2020, 4:55 PM) <https://twitter.com/OregonGovBrown/status/1283913150014926848>



4. Any records relating to the deputation of personnel from CBP or its component agencies to perform the functions of a Deputy U.S. Marshal in connection with law enforcement efforts undertaken in response to protests and demonstrations occurring in Portland, Ore. between July 1, 2020 and the date of this request.
5. Any records relating to the locations to which personnel from CBP or its component agencies were deployed for the purpose of responding to protests and demonstrations occurring in Portland, Ore. between July 1, 2020 and the date of this request, including the name of the federal properties to which they were deployed and how far outside that property they were authorized to patrol and the legal support for such authorization.
6. Any records relating to the use of lethal and/or nonlethal force, including but not limited to tear gas, by CBP or its components agencies in Portland, Ore. Between July 1, 2020, and the date of this request, and the authority for the use of such lethal/non-lethal force.

II. Fee Waiver Request

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), LDF requests the waiver of all fees associated with this request. LDF is a non-profit entity committed to protecting the legal rights of Black communities. The unprecedented deployment of law enforcement agency personal in Portland, Ore., without proper delegation or legal authority raises concerns as to whether the federal government exceeded its authority and violated the rights of protestors. Disclosure of the information requested above is likely to contribute significantly to public understanding of CBP activities, because LDF will use such information to inform its public education and advocacy efforts, in line with previous efforts our organization has made in other contexts.⁵

If all or any part of this request is denied, please provide us with a written statement of the grounds for the denial; citing the law or regulation under which you believe you may deny access. If this is the case, we also request that you inform us of the available remedies for review of the denial. It is essential that this request be responded to within 20 days, as required by § 552(a)(6).

⁵ For more information about the advocacy efforts of LDF, please visit www.naacpldf.org.



If possible, we request that the information we request be provided in electronic format. The contact information is below. We appreciate your attention to this matter.

Sincerely,

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