

**Officers
Chair**

Judith L. Lichtman
National Partnership for
Women & Families

Vice Chairs

Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund
Hilary Shelton
NAACP

Secretary/Treasurer

Lee A. Saunders
American Federation of State,
County & Municipal Employees

Board of Directors

Kevin Allis
National Congress of American Indians
Kimberly Churches
AAUW

Kristen Clarke
Lawyers' Committee for
Civil Rights Under Law

Alphonso B. David
Human Rights Campaign
Rory Gamble

International Union, UAW
Lily Eskelsen Garcia

National Education Association
Fatima Goss Graves

National Women's Law Center
Mary Kay Henry

Service Employees International Union
Sherrilyn Ifill

NAACP Legal Defense and
Educational Fund, Inc.

David H. Inoue
Japanese American Citizens League

Derrick Johnson
NAACP

Virginia Kase
League of Women Voters of the
United States

Michael B. Keegan
People for the American Way

Samer E. Khalaf
American-Arab
Anti-Discrimination Committee

Marc Morial
National Urban League

Janet Murgula
UnidosUS

Debra L. Ness
National Partnership for
Women & Families

Rabbi Jonah Pesner
Religious Action Center
Of Reform Judaism

Lisa Rice
National Fair Housing Alliance

Anthony Romero
American Civil Liberties Union

Maria Town
American Association of
People with Disabilities

Richard L. Trumka
AFL-CIO

Toni Van Pelt
National Organization for Women

Randi Weingarten
American Federation of Teachers

John C. Yang
Asian Americans Advancing Justice |
AAJC

President & CEO
Vanita Gupta

June 30, 2020



The Honorable Carolyn B. Maloney

Chairwoman

Committee on Oversight and Reform

U.S. House of Representatives

The Honorable James Comer

Ranking Member

Committee on Oversight and Reform

U.S. House of Representatives

Dear Chairwoman Maloney and Ranking Member Comer:

On behalf of The Leadership Conference on Civil and Human Rights, we write to express our grave concern with the federal government's response to recent demonstrations protesting police brutality. The militarized response by federal law enforcement agencies was unwarranted and has a chilling effect on peoples' First Amendment rights to free assembly and free speech. We commend the Committee for initiating an investigation into the Department of Homeland Security's (DHS) drone surveillance and examining First Amendment violations and potential foreign interference during the protests at the subcommittee level. However, we urge you to broaden the full Committee's investigation to examine the totality of federal response, including the aggressive actions ordered by executive agencies and the use of U.S. military forces against constitutionally protected democratic dissent.

On May 25, 2020, George Floyd was senselessly killed by a Minneapolis police officer as three fellow officers stood idly by, ignoring Mr. Floyd's desperate pleas for help and those of the witnesses who begged them to stop. Since then, hundreds of thousands of people across the nation have channeled their grief, pain, and outrage into organized, largely peaceful protests against the long history of institutionalized, systemic racism and police brutality that have disproportionately harmed communities of color. The Leadership Conference stands with protestors, civil rights organizations, and civil liberties groups in calling on state, local, and federal legislators to change how our communities are policed and how our law enforcement officers are held accountable.¹

Unfortunately, the Trump administration's response to the protests in our Nation's capital and calls for police violence against demonstrators have raised serious questions about its willingness to fulfil its obligation to respect the constitutional rights of all people, let alone

¹ Letter from The Leadership Conference on Civil and Human Rights, et al., to Congressional Leaders. (June 1, 2020). <https://civilrights.org/resource/civil-rights-coalition-letter-on-federal-policing-priorities/>

protect all people. Therefore, we call on Congress to conduct a comprehensive investigation into the tactics that federal law enforcement agencies – including, but not limited to, components of the Department of Justice, DHS, and the Department of Defense (DOD) - have engaged in to ensure the safety of peaceful protestors and the preservation of their First Amendment rights.²

On June 1, President Trump threatened to mobilize “all available federal resources – civilian and military” against Americans peacefully exercising their First Amendment rights.³ National guardsmen from various states descended upon the District of Columbia (D.C.),⁴ and active duty servicemembers, including some from the U.S. Army’s 82nd Airborne Division, were transported to the D.C. region as a show of force.⁵ While it is currently unclear whether the proper DOD officials were consulted about these actions, more than 600 former diplomatic and military officials noted that “[t]here is no role for the U.S. military in dealing with American citizens exercising their constitutional right to free speech, however uncomfortable that speech may be for some.”⁶ Congress must demand answers about the President’s potential politicization of the U.S. military and examine what, if any, legislative reforms are necessary to ensure that our armed forces can never be weaponized against communities across the country.

Congress should also investigate the manner in which more than a dozen federal agency components were deployed to “maximize” law enforcement presence in the Nation’s capital.⁷ Most of the officers positioned throughout Washington, D.C. did not wear badges and were unidentifiable at their posts. Documents now show that officials from various DHS components and the Federal Bureau of Prisons (BOP) were deputized as temporary U.S. Marshals in order to act as federal law enforcement officers at

² Reports indicate that at least 14 components from at least four federal agencies were deployed amid the protests, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, Drug Enforcement Administration, Federal Bureau of Investigation, U.S. Marshals Service, and Federal Bureau of Prisons from DOJ; Customs and Border Protection, Federal Protective Service, Immigration and Customs Enforcement, U.S. Secret Service, and Transportation Security Administration officials from DHS; the National Guard, Pentagon Force Protection Agency, and U.S. Army from DOD; and the U.S. Park Police from the Department of the Interior. See, Bump, P. and Zapotosky, M. (June 4, 2020). D.C. has been an occupied territory this week. Here’s who’s been doing the occupying. *The Washington Post*. <https://www.washingtonpost.com/politics/2020/06/04/dc-been-an-occupied-territory-this-week-heres-whos-been-doing-occupying/>

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

⁴ Letter from Attorney General William Barr, U.S. Department of Justice, to Mayor Muriel Bowser, The District of Columbia. (June 9, 2020). <https://twitter.com/KerriKupiecDOJ/status/1270487263324049410?s=20>

⁵ Fort Bragg soldiers deployed to Washington as Trump considers using US military to quell protestors. (June 2, 2020). *ABC11*. <https://abc11.com/fort-bragg-soldiers-deployed-to-washington/6226757/>

⁶ Silliman, D., McCarthy, D., and Countryman, T. (June 5, 2020). The Strength of America’s Apolitical Military. *Just Security*. <https://www.justsecurity.org/70608/the-strength-of-americas-apolitical-military/>

⁷ Lucas, R. (June 1, 2020). Attorney General Steps Up Federal law Enforcement Response to Protests. NPR. <https://www.npr.org/2020/06/01/867059312/attorney-general-steps-up-federal-law-enforcement-response-to-protests;>

Bump, P. and Zapotosky, M. (June 4, 2020). D.C. has been an occupied territory this week. Here’s who’s been doing the occupying. *The Washington Post*. <https://www.washingtonpost.com/politics/2020/06/04/dc-been-an-occupied-territory-this-week-heres-whos-been-doing-occupying/>

the direction of DOJ.⁸ For example, more than 100 U.S. Customs and Border Protection (CBP) agents were present alongside Secret Service and Park Police officers when Attorney General William Barr ordered tear gas be used to disperse peaceful protestors to allow the President's photo op at St. John's Church across the street from the White House.⁹ Because transparency and accountability are two key tenets of free democracy, it is critical that Congress make clear that federal law enforcement officers – whether acting under the guise of their respective agencies or that of DOJ – cannot operate outside the rule of law.

Additionally, Congress should examine the activities DOJ directed law enforcement officials acting under its authority to carry out. Law enforcement agencies that handle mass demonstrations should operate according to national best practices that respect and protect the safety and constitutional rights of protestors.¹⁰ The dangerous, militarized tactics deployed by the law enforcement officials responding to the protests in Washington, D.C. ran counter to these principles. Furthermore, while federal law enforcement personnel may be called upon to operate outside their jurisdictions or areas of expertise in certain, narrow circumstances – such as large-scale natural disaster responses¹¹ or the enforcement of civil rights¹² – those are exceptional circumstances. Congress should evaluate DOJ's recent deployments, including those where a Federal Bureau of Investigation (FBI) hostage rescue team was dispatched to the protests in D.C., and BOP riot teams were deployed in Miami, to determine if the federal government abused its power in an effort to punish free speech.¹³ We are glad the Subcommittee on Civil Rights and Civil Liberties has begun to evaluate potential First Amendment violations occurring during protests across the country, but we urge the full Committee to also examine the directives given by Attorney General Barr and others to use tear gas and pepper spray to forcibly remove peaceful protestors outside the White House¹⁴ – actions that constitute the use of federal resources for purely political purposes.

⁸ Ackerman, S., and Banco, E. (Jun 9, 2020). Justice Department Deputized Border Patrol as U.S. Marshals for Protest Response. *The Daily Beast*. <https://www.thedailybeast.com/justice-department-deputized-border-patrol-as-us-marshals-for-protest-response>

⁹ Ibid.

¹⁰ See, U.S. Department of Justice, Office of Community Oriented Policing Services Critical Response Initiative. (2015). *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*. <https://www.policefoundation.org/wp-content/uploads/2018/08/After-Action-Assessment-of-the-Police-Response-to-the-August-2014-Demonstrations-in-Ferguson-Missouri.pdf>

¹¹ U.S. Department of Justice. (Mar. 5, 2012). State and Local Deputation of Federal Law Enforcement Officers During Stafford Act Deployments. <https://www.justice.gov/file/18311/download>

¹² See, Dwight D. Eisenhower Presidential Library, Museum & Boyhood Home. Civil Rights: The Little Rock School Integration Crisis. <https://www.eisenhowerlibrary.gov/research/online-documents/civil-rights-little-rock-school-integration-crisis>

¹³ Lucas, R. (June 1, 2020). Attorney General Steps Up Federal Law Enforcement Response to Protests. NPR. <https://www.npr.org/2020/06/01/867059312/attorney-general-steps-up-federal-law-enforcement-response-to-protests>

¹⁴ Ackerman, S., and Banco, E. (Jun 9, 2020). Justice Department Deputized Border Patrol as U.S. Marshals for Protest Response. *The Daily Beast*. <https://www.thedailybeast.com/justice-department-deputized-border-patrol-as-us-marshals-for-protest-response>

As was reflected in the Committee's June 5 letter to DHS, allowing federal agencies to act beyond their usual jurisdictions presents legal questions about their legal authority.¹⁵ There is ample reason to believe that federal agencies may have overstepped their bounds in their protest response, and it is critical that Congress fully investigate whether they were in compliance with all constitutional and statutory requirements.

Because it is our position that military-grade equipment designed for combat zones does not belong in the hands of domestic law enforcement agencies, we are particularly concerned by the widespread use of militarized technology – including drones,¹⁶ spy planes,¹⁷ and military helicopters¹⁸ – to surveil protestors. We have repeatedly urged Congress to restrict the use of surveillance technology, and we urge the Committee to conduct robust oversight of federal uses of facial recognition technology and its implications for constitutional rights, both as it pertains to the police brutality protests and more broadly.

We are also concerned about more surreptitious surveillance tactics that may have been used to target certain individuals based on their race, immigration status, or political beliefs. For example, according to a May 31 memo, Drug Enforcement Administration agents were authorized to conduct “covert surveillance” and share their findings with state and local law enforcement agencies.¹⁹ Immigration-related components of DHS purportedly racially profiled individuals at protests and transferred Deferred Action for Childhood Arrivals (DACA) recipients to Immigration and Customs Enforcement (ICE) custody upon arrest²⁰ despite statements that “[t]he agency does not conduct immigration enforcement at sensitive locations, including public demonstrations.”²¹ And FBI agents reportedly interrogated

¹⁵ Letter from Chairwoman Carolyn B. Maloney, et al., U.S. House of Representatives, Committee Oversight and Reform, to Chad Wolf, Acting Secretary of Homeland Security, U.S. Department of Homeland Security. (June 5, 2020). https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-06-05.CBM%20et.%20al%20to%20Wolf-%20DHS%20re%20Peaceful%20Protestors_0.pdf

¹⁶ U.S. Department of Homeland Security, Customs and Border Protection. *CBP Statement on the AMO Unmanned Aircraft System in Minneapolis*. (May 29, 2020). <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-amo-unmanned-aircraft-system-minneapolis>

¹⁷ Muntean, P., and Wallace, G. (June 12, 2020). US government spy planes monitored George Floyd protests. *CNN*. <https://www.cnn.com/2020/06/11/politics/spy-planes-george-floyd-protests/index.html>

¹⁸ Diller, N. (June 3, 2020). D.C. National Guard Opens Investigation Into Low-Flying Helicopter During Protests. *WAMU* 88.5. <https://www.npr.org/local/305/2020/06/03/868695208/d-c-national-guard-opens-investigation-into-low-flying-helicopter-during-protests>

¹⁹ U.S. Department of Justice, Drug Enforcement Administration. *Memorandum for the Deputy Attorney General* (May 31, 2020). <https://www.documentcloud.org/documents/6935297-LEOPOLD-DEA-Memo-George-Floyd-Protests.html>

²⁰ Echavarri, F. (June 11, 2020). He Went to a Black Lives Matter Protest in Phoenix-and Ended Up in ICE Custody. *Mother Jones*. <https://www.motherjones.com/anti-racism-police-protest/2020/06/undocumented-daca-george-floyd-protest-phoenix-ice/>

²¹ Aguilera, J. (June 6, 2020). ICE Agents Detain a Police Brutality Protester, Reportedly a U.S. Citizen and Military Vet, in New York City. *TIME*. <https://time.com/5849517/protester-new-york-city-protests-immigration-ice/>



individuals cited for curfew violations about their political beliefs²² and sent Joint Terrorism Task Force officers to question protest organizers about their affiliations.²³

Taken together, the Trump administration's actions in response to recent protests represent the exact kind of discriminatory and violent policing practices individuals are demonstrating against and a grave threat to our democratic participation. As Congress continues to work toward passing comprehensive policing and public safety reforms, this Committee plays a pivotal role in shining a light on persistent issues and illuminating problematic actions that undercut our collective ability to hold government officials accountable and create transformative change. If we are to move forward as a society, our government must protect and defend individuals' constitutional rights, not curtail them based on politics. We thank the Committee for its work to hold government actors accountable and urge it to expand its existing investigation to encompass all aspects of the federal government's protest response. If you have any questions or concerns, please contact Sakira Cook, Director, Justice Program, at cook@civilrights.org.

Sincerely,

LaShawn Warren
Executive Vice President for Government Affairs

cc:

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties, Committee on Oversight and Reform
U.S. House of Representatives

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties, Committee on Oversight and Reform
U.S. House of Representatives

The Honorable Stephen Lynch, Chairman
Subcommittee on National Security, Committee on Oversight and Reform
U.S. House of Representatives

²² Devereaux, R. (June 4, 2020). Brooklyn Man was Arrested for Curfew Violation. The FBI Interrogated Him About His Political Beliefs. *The Intercept*. <https://theintercept.com/2020/06/04/fbi-nypd-political-spying-antifa-protests/>

²³ Brooks, C. (June 12, 2020). After Barr Ordered FBI to "Identify Criminal Organizers," Activists Were Intimidated at Home and at Work. *The Intercept*. <https://theintercept.com/2020/06/12/fbi-jttf-protests-activists-cookeville-tennessee/>

June 30, 2020
Page 6 of 6



The Honorable Jody Hice, Ranking Member
Subcommittee on National Security, Committee on Oversight and Reform
U.S. House of Representatives