

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074

<http://oversight.house.gov>

June 5, 2020

The Honorable Chad F. Wolf
Acting Secretary of Homeland Security
245 Murray Lane, S.W.
Washington, D.C. 20528

Dear Acting Secretary Wolf:

We write with grave concern about the use of Department of Homeland Security (DHS) resources—including drones and armed uniformed officers—to surveil and intimidate peaceful protesters who were exercising their First Amendment rights to protest the murder of George Floyd by the Minneapolis Police Department.

On May 29, 2020, the Project on Government Oversight reported that a “Predator Drone CPB104 circling over Minneapolis at 20K feet” had taken off from Grand Forks Air Force Base and was flying above the protests.¹ Customs and Border Protection (CBP) later confirmed the existence of the Unmanned Aircraft System (UAS) mission in Minneapolis.²

This aircraft, commonly known as a “Predator B,” captures full-motion video and synthetic-aperture radar imagery for surveillance.³ While this drone has been used domestically for humanitarian, emergency, and recovery operations, it is primarily used to counter illicit cross-border activities along the northern and southern borders.⁴

¹ *Customs and Border Protection Flew a Predator Surveillance Drone Over Minneapolis Protests Today*, Gizmodo (May 29, 2020) (online at gizmodo.com/customs-and-border-protection-flew-a-predator-surveilla-1843758034?rev=1590777653179).

² Customs and Border Protection, *CBP Statement on the AMO Unmanned Aircraft System in Minneapolis* (May 29, 2020) (online at www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-amo-unmanned-aircraft-system-minneapolis).

³ *Civilian UAVs: No Pilot, No Problem*, Popular Mechanics (Oct. 1, 2009) (online at <https://www.popularmechanics.com/flight/drones/a4026/4213464/>); *Predator B Data Sheet*, General Atomics Aeronautical (accessed on May 29, 2020) (online at www.ga-asi.com/predator-b).

⁴ Customs and Border Protection, *Unmanned Aircraft System MQ-9 Predator B Fact Sheet* (accessed May 29, 2020) (online at www.cbp.gov/sites/default/files/assets/documents/2019-Feb/air-marine-fact-sheet-uas-predator-b-2015.pdf).

The drone that was flown on May 29, 2020, was reportedly also flown far outside the bounds of CBP's jurisdiction. Federal law authorizes CBP to conduct its missions within a "reasonable distance," not to exceed more than 100 air miles inland, from an external boundary of the United States.⁵

On Monday, DHS confirmed that both CBP and Immigration and Customs Enforcement officers would be deployed nationwide to help monitor the growing protests.⁶ This news is particularly alarming given that, for almost a year, the Committee has been investigating racist, sexist, and xenophobic comments made by CBP employees in secret Facebook groups. CBP has been obstructing the Committee's investigation, and CBP employees who made inappropriate and threatening comments may still be on the job and deployed to silence protesters exercising their Constitutional rights.⁷

This Administration has undermined the First Amendment freedoms of Americans of all races who are rightfully protesting George Floyd's killing. The deployment of drones and officers to surveil protests is a gross abuse of authority and is particularly chilling when used against Americans who are protesting law enforcement brutality.

For these reasons, we request that you produce the following documents and information:

1. A complete list of jurisdictions where DHS conducted or assisted in conducting surveillance of any protests since Monday, May 25, 2020, including:
 - a. who in each jurisdiction requested DHS's assistance and for what purpose;
 - b. whether DHS conducted such surveillance pursuant to mutual aid or similar agreements, and if so, the full terms of those agreements;
 - c. whether DHS received any reimbursement from any state or local jurisdiction to conduct that surveillance, and if so, the amounts;
 - d. whether DHS recorded any data relating to the protests, and if so, how DHS intends to use those recordings, with whom it will share the data, and what data retention and sharing policies apply;

⁵ *ACLU Factsheet on Customs and Border Protection's 100-Mile Zone*, American Civil Liberties Union (accessed June 1, 2020) (online at www.aclu.org/other/aclu-factsheet-customs-and-border-protections-100-mile-zone?redirect=immigrants-rights/aclu-fact-sheet-customs-and-border-protections-100-mile-zone); 8 U.S.C. § 1357.

⁶ *Immigration Agencies to Assist Law Enforcement Amid Unrest*, Roll Call (June 1, 2020) (online at www.rollcall.com/2020/06/01/immigration-agencies-to-assist-law-enforcement-amid-unrest/).

⁷ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Mark Morgan, Chief Operating Officer and Senior Official Performing the Duties of the Commissioner, Customs and Border Protection (Feb. 18, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-02-18.CBM%20to%20Morgan-USCBP%20re%20Documents%20and%20TIs.pdf>).

- e. whether DHS or any of the local police departments or recipients of the drone video feeds used facial recognition technology, and if so:
 - i. what facial recognition technology was used, including a description of the software and hardware used in each jurisdiction;
 - ii. at whose request it was used;
 - iii. for what purpose;
 - iv. whether the algorithm for the facial recognition technology has been evaluated for accuracy by the National Institute of Standards and Technology or any other entity, including a description of any assessment method and results;
 - v. the source and characteristics of any data used or accessed in connection with the use of facial recognition technology;
 - f. the cost, in each jurisdiction, of DHS's surveillance activity;
2. If CBP has conducted any surveillance or law enforcement activity more than 100 air miles from any external U.S. border, the jurisdictions in which it took place and the legal justification for it;
 3. A complete list of jurisdictions where DHS has deployed or plans to deploy officers to assist in policing protests since May 25, 2020, including:
 - a. who in each jurisdiction requested DHS's assistance and for what purpose;
 - b. whether DHS deployed officers pursuant to mutual aid or similar agreements, and if so, the full terms of those agreements;
 - c. whether DHS received any reimbursement from any state or local jurisdiction to deploy those officers, and if so, the amounts;
 - d. how many personnel from ICE and CBP were deployed to each jurisdiction;
 - e. the cost, in each jurisdiction, of DHS's police activity; and
 4. All communications and documentation regarding the above requests.

Please provide the requested information by June 11, 2020, as well as a briefing to Committee staff by June 15, 2020.

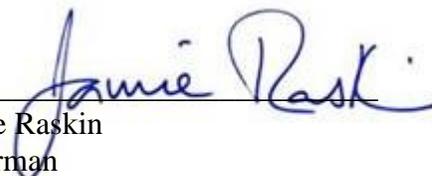
The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact our staff at (202) 225-5051.

Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



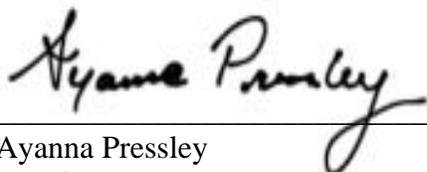
Jamie Raskin
Chairman
Subcommittee on Civil Rights and
Civil Liberties



Stephen F. Lynch
Chairman
Subcommittee on National Security



Alexandria Ocasio-Cortez
Member
Subcommittee on Civil Rights and
Civil Liberties



Ayanna Pressley
Member
Subcommittee on Civil Rights and
Civil Liberties

Enclosure

cc: The Honorable Jim Jordan, Ranking Member
Committee on Oversight and Reform

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

The Honorable Glenn Grothman, Ranking Member
Subcommittee on National Security

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.