

Congress of the United States

Washington, DC 20515

September 25, 2020

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Acting Secretary Wolf:

We write to request information about troubling recent news reports that the Department of Homeland Security (DHS) has conducted surveillance of protesters in Portland, Oregon.

A recent article in *The Nation* alleges that an interagency task force involving DHS and the Department of Justice (DOJ) conducted surveillance of protesters' phones in Portland. This article alleged both that the government conducted real-time surveillance of protesters' communications and government personnel later extracted data from protester's phones that had been seized.

Congress has enacted strict legal protections which require government agencies to obtain the approval of an independent judge before searching Americans' devices and surveilling their communications — absent an emergency. That is to prevent the government from suppressing legitimate free speech protected by the First Amendment and violating Americans' right to privacy, which is protected by the Fourth Amendment.

These recent reports, which allege that DHS has deployed high-tech surveillance technologies against protesters in Portland, raise serious concerns, which Congress has a responsibility to investigate. To that end, please provide us with answers to the following questions by October 9, 2020:

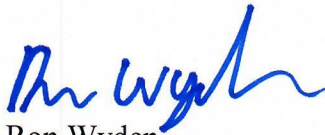
1. During a July 23, 2020, briefing for Senate intelligence committee staff, Brian Murphy, then the Acting Under Secretary for Intelligence and Analysis (I&A) stated that DHS I&A had neither collected nor exploited or analyzed information obtained from the devices or accounts of protesters or detainees. On July 31, 2020, Senator Wyden and six other Senators on the Senate Select Committee on Intelligence wrote to Mr. Murphy to confirm the statement he had made to committee staff. DHS has yet to respond to that letter. Please confirm whether or not Mr. Murphy's statement during the July 23, 2020, briefing was accurate at the time, and if it is still accurate.
2. Has DHS, whether directly, or with the assistance of any other government agency, obtained or analyzed data extracted from phones of protesters in Portland? If yes, for each phone, did the government obtain prior authorization from a judge before extracting data?
3. Has DHS, whether directly, or with the assistance of any other government agency, obtained or analyzed data collected through the surveillance of protesters' phones, including tracking their locations or intercepting communications content or metadata? If

yes, for each phone that was surveilled, did the government obtain prior authorization from a judge before conducting this surveillance?

4. Has DHS used commercial data sources, including open source intelligence products, to investigate, identify, or track protesters or conduct network analysis? If yes, please identify each commercial data source used by DHS, describe the information DHS obtained, how DHS used it, whether it was subsequently shared with any other government agency, and whether DHS sought and obtained authorization from a court before querying the data source.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
United States Senator



Jeffrey A. Merkley
United States Senator



Earl Blumenauer
Member of Congress



Suzanne Bonamici
Member of Congress