

Information Requested in Senator Wyden’s June 9, 2021 Letter to DHS

- 1. Which federal agencies or units under DHS were deployed in 2020 and in 2021 or authorized to conduct law enforcement activity in response to protests in Oregon? Please include the number of personnel from each. Please include any Border Patrol Tactical Units (BORTAC), Immigration and Customs Enforcement (ICE) units, Homeland Security Investigations Special Response Teams (HSI SRT), and any other federal units deployed to Oregon to address protest operations. Please include each entity’s mission of operation as it relates to protest response.**

Operation Diligent Valor was the Department’s law enforcement and protective security response for Federal Protective Service (FPS)-protected federal property, facilities, and personnel in Oregon in 2020 and 2021. Under Operation Diligent Valor, the Department deployed 1,315 DHS personnel between June 4, 2020 and March 21, 2021 from FPS, U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE) and, to a more limited degree, the Office of Intelligence and Analysis (I&A) at various times. The law enforcement personnel deployed to Portland included those from special response teams (SRTs), special operation groups, and rapid protection forces, among other officers. These personnel deployed to Portland to protect federal property, facilities, and personnel consistent with the Secretary’s statutory law enforcement authority codified at 40 U.S.C. § 1315. Currently underway is a Department-wide review to assess the training of these law enforcement personnel and to ensure that DHS law enforcement training programs and policies, including those related to cross-designation, crowd-control, use of force, anti-discrimination, and First Amendment-related protections, are sufficiently comprehensive and in keeping with law and best practices.

FPS deployed 487 personnel during 2020 and 2021 in support of Operation Diligent Valor

[REDACTED]
[REDACTED] Their mission was to protect federal property and the people on that property in accordance with 40 U.S.C. § 1315.

CBP deployed 443 personnel from the Office of Field Operations (OFO), the U.S. Border Patrol (USBP), and Air and Marine Operations (AMO) to the Portland area during calendar year (CY) 2020. [REDACTED]

[REDACTED]

CBP has not deployed any personnel to Oregon for civil unrest since January 2021. The 2020 CBP deployments were as follows:

- [REDACTED] OFO SRT supported FPS to protect federal buildings and personnel.
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] personnel were deployed to conduct aerial videography, provide airborne situational awareness, and offer communications expertise. AMO also deployed two agents from Washington, DC, including the Executive Assistant Commissioner for AMO, to provide command oversight and offer technical assistance. None of these [REDACTED] personnel engaged with protestors.

ICE deployed a total of 367 personnel during 2020 and 2021 in support of Operation Diligent Valor. ICE has not deployed any personnel to Oregon since March 2021. The ICE deployments were as follows:

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] ERO SRT provided physical security of U.S. government buildings as directed by the emergency needs and request of FPS. When operationally required, ERO SRTs assisted FPS with the site security of U.S. government facilities, with the priority focus of SRTs being protection of ICE facilities and personnel.
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] HSI SRT provided physical security of U.S. government buildings as directed by the emergency needs of FPS. When operationally required, HSI SRTs assisted FPS with the site security of U.S. government facilities, with the priority focus of SRTs being protection of ICE facilities and personnel.
- [REDACTED]
[REDACTED]
[REDACTED]
These personnel conducted and supported law enforcement activities in the Portland metro area. [REDACTED]
[REDACTED]

In addition to FPS, ICE, and CBP, I&A deployed 18 personnel in support of Operation Diligent Valor. [REDACTED]

[REDACTED]
[REDACTED] I&A has not deployed personnel to Oregon in 2021. [REDACTED]

CBP AMO personnel were identifiable by badges with names and personnel numbers, with certain exceptions. Most flight crews deployed to fly missions wore AMO-issued flight suits with sewn on badges, official agency patches, and name tags. These sewn-on badges do not have badge numbers. Supervisory and communications personnel wore AMO-issued admin duty uniforms (black polo and issued 5.11 pants). These uniforms have a sewn-on gold badge, but do not have name tags or badge numbers. The two AMO agents from Washington, DC did not wear uniforms as they were on the scene for the sole purpose of observing operations.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] During

operations in Portland, all CBP personnel were also equipped with protective equipment, including helmets, ballistic body armor, and, in some cases, protective eyewear. CBP personnel certified in Mobile Field Force, Special Response Team, BORTAC and BORSTAR are issued and authorized to wear/carry additional protective equipment according to their mission set, such as gas masks, laser protective eyewear, helmets and crowd control shields. CBP AMO flight crew personnel carried [REDACTED]. AMO communications and supervisory personnel carried [REDACTED], and handheld radios.

ICE SRT did not require the visual display of names and badge numbers on SRT uniforms for these deployments due to known officer safety and doxing concerns. When operationally dictated, ICE SRT members provided name and badge numbers to requesting members of the public or for investigation purposes. All ERO SRT and HSI SRT personnel wore either agency issued solid green or multi-cam uniforms with agency-specific insignia on the shoulders and "Police" and/or "ERO" or "HSI" (as applicable) visibly displayed on the front and back of the personnel's body armor.

[REDACTED]
[REDACTED]. In addition, ICE personnel are authorized to wear or carry gloves, elbow and knee pads, portable radio, goggles or protective eyewear, helmet, body armor, load bearing vest and web gear, [REDACTED], gas mask, flashlights, first aid kits, cellular telephone, and boots. ICE HSI SRT personnel were also authorized to carry flame retardant safety hoods due to known incidents of the use of incendiary devices directed at law enforcement personnel or facilities.

The Department-wide review currently underway will assess whether DHS policies relevant to identifying insignia on DHS law enforcement uniforms are consistent with law and best practices, and will ensure the Department complies with Section 1064 of the FY 2021 NDAA.

3. What type of cross-deputization occurred while federal agents and officers were deployed to Oregon? Please include whether any agents or officers were deputized by Portland or Oregon agencies or authorities.

The Director of FPS exercised delegated authority to cross-designate DHS operational component personnel with the consent of the impacted operational Component Head pursuant to 40 U.S.C. § 1315(b)(1). No DHS personnel were deputized by Portland or Oregon agencies or authorities. In light of the Department-wide review currently underway, the Secretary has prohibited the cross-designation of any law enforcement personnel in support of FPS unless he expressly authorizes it.

4. Who was in charge of the DHS federal response on the ground in Portland, Oregon, in 2020? What was the chain of command at the relevant agencies and/or departments? Were there federal law enforcement officers in Oregon under the purview of DHS who did not report to leadership on the ground in Oregon or Region X staff in Seattle? If so, to whom did they report?

FPS led Operation Diligent Valor. DHS operational component personnel cross-designated pursuant to 40 U.S.C. § 1315 were not detailed to FPS; rather they were deployed in support of FPS for the protection of federal property, facilities, and personnel. Deployed DHS personnel reported to their home DHS component chain-of-command and were accountable to their respective DHS component's policy and guidance, with federal field operations coordinated through the participating DHS components. The Department-wide review currently underway will assess whether DHS law enforcement training curricula and policies, including those related to cross-designation, crowd-control, use of force, anti-discrimination, and First Amendment-related protections, are sufficiently comprehensive and in keeping with law and best practices.

FPS's chain-of-command consisted of the following positions, listed from junior-most to senior-most level:

- Squad Commander; Tactical Commander (1801 Inspectors) / Special Agent in Charge (1811 Agents)
- Deputy Incident Commander; Incident Commander
- Assistant Director Field Operations, West
- Deputy Director, Operations
- Principal Deputy Director
- Director

CBP personnel, while deployed to Portland, reported to the FPS Incident Commander for overall operational direction and decisions. Once deployed outside of the federal building, Team Leaders/Supervisors would make tactical decisions based on the situation which aligned to the Incident Commander's intent. CBP's chain-of-command consisted of the following positions, listed from junior-most to senior-most level:

- Border Patrol Agent/CBP Officer
- Supervisory Border Patrol Agent/Supervisory CBP Officer
- Special Operations Supervisor/Special Operations Chief

- FPS Deputy Incident Commander
- FPS Incident Commander

For administrative and operational support, CBP's chain-of-command consisted of the following positions:

- Office of Field Operations
 - Director, Special Operations Division
 - Deputy Executive Director, Operations
 - Executive Director, Operations
 - Deputy Executive Assistant Commissioner, OFO
 - Executive Assistant Commissioner, OFO
- U.S. Border Patrol
 - SOG BORTAC Patrol Agent in Charge
 - SOG Deputy Chief Patrol Agent
 - SOG Chief Patrol Agent
 - USBP Deputy Chief, Law Enforcement Operations
 - USBP Chief, Law Enforcement Operations
 - USBP Deputy Chief
 - USBP Chief

All Aviation Support Requests from FPS were approved through the AMO chain of command. The chain of command for AMO personnel assigned to the unrest response was:

- Bellingham AMO Air Group Supervisor
- Bellingham Air and Marine Branch Deputy Director (Air Operations)
- Bellingham Director, Air and Marine Operations
- Executive Director, AMO Northern Border Region
- Executive Director, Air and Marine Operations
- Situation Room: per guidance from CBP Commissioner and Deputy Commissioner.

ICE ERO SRT chain-of-command consisted of the following positions, listed from lowest to highest level:

- Assistant Team Leader
- Team Leader
- Commander, Unit Chief – National Fugitive Operations Program
- Deputy Assistant Director – Fugitive Operations Division
- Assistant Director – Enforcement Division
- Deputy Executive Associate Director
- Executive Associate Director

The Executive Associate Director reports to the ICE Deputy Director, who reports to the ICE Director.

ICE HSI SRT chain-of-command consisted of the following positions, listed from junior-most to senior-most level:

- Group Supervisor

- Assistant Special Agent in Charge
- Deputy Special Agent in Charge
- Special Agent in Charge
- Assistant Director, Domestic Operations; Deputy Executive Associate Director
- Executive Associate Director

The Executive Associate Director reports to the ICE Deputy Director, who reports to the ICE Director.

I&A personnel coordinated intelligence support through the FPS Incident Commander. I&A personnel reported through the I&A chain of command to the Acting Under Secretary for I&A and did not report through any other DHS component or state or local supervisors.

5. In which Oregon cities were DHS entities conducting protest operations?

DHS entities conducted operations in support of Operation Diligent Valor in Portland, OR. I&A provided intelligence support from locations in Portland and Salem, OR. CBP and ICE deployed personnel from Portland to Bend, OR to respond to and resolve a situation where protestors had surrounded ICE ERO buses.

6. How did DHS entities involved with the Portland protest operations communicate with each other and with Oregon-based law enforcement?

FPS held regular planning meetings with local law enforcement agencies, whenever possible, and the entities assigned liaisons to partner Emergency Operation Centers. In addition, FPS, the United States Marshals Service, and the Federal Bureau of Investigation had representation in the unified command post. Portland Police Bureau (PPB) radios were provided to FPS commanders to allow them to communicate directly with PPB when needed and maintain awareness of PPB tactical actions.

However, during the spring/summer months of 2020, the Portland City Council passed a resolution prohibiting the PPB from coordinating with federal law enforcement, including FPS. Eventually, the Portland City Council passed an ordinance restoring limited coordination and communication between locally based federal law enforcement and local police.

7. What guidance did DHS personnel receive on standing operating procedures for engagement with protestors, members of the press, and other civilians? Please include federal guidance and DHS subcomponent policies on the use of chemical irritants—including for HCE smoke, CS, or QC—and other munitions, use of force and use of lethal force. Did every DHS agency and unit follow the same engagement protocols for use of chemical irritants, other munitions, and force?

DHS law enforcement personnel deployed to Portland in support of Operation Diligent Valor received both legal and operational guidance, as outlined below. The Department-wide review currently underway will assess whether this guidance is sufficiently comprehensive and in keeping with law and best practices.

DHS personnel received foundational cross-designation orientation training that addressed FPS's legal authority and jurisdiction under 40 U.S.C. § 1315. DHS personnel also received legal training on applicable First Amendment protections. The orientation training, conducted by members of the DHS Office of the General Counsel (OGC), includes specific training on FPS's law enforcement and federal facility protection mission as prescribed in § 1315(a), the police powers provided in § 1315(b), and the criminal regulations promulgated pursuant to § 1315(c) and listed in 41 C.F.R. Part 102-74, Subpart C, Conduct on Federal Property. FPS enforces these regulations at federal facilities owned or operated by the General Services Administration like the Hatfield U.S. Courthouse in Portland.

In addition to orientation training, DHS OGC also provided periodic legal updates and training to DHS officers deployed to Portland, to include arrest authority under 40 U.S.C. § 1315, charging provisions under Title 18 of the U.S. Code, the use of investigative detentions known as *Terry* stops, the use of force with a focus on chemical agents, and interactions with members of the press and legal observers consistent with applicable court orders. The periodic legal updates and training comport with well-established Constitutional principles for First, Fourth, and Fifth Amendment rights regarding freedoms of speech and peaceful assembly, searches and seizures, and due process; Supreme Court and other controlling case law precedents like *Graham v. Connor*, 490 U.S. 386 (1989) and *Tennessee v. Garner*, 471 U.S. 1 (1985); and the Department's overarching use of force and First Amendment policy guidance. When providing these trainings, DHS OGC actively coordinated with the local United States Attorney's Office for the District of Oregon. DHS also promptly informed its law enforcement personnel of the need to comply with the various injunctions that were entered against the Department.

Deployed DHS personnel also received operational updates and information. FPS and the supporting DHS operational components conducted civil disturbance/public order operational rehearsals and provided tactical refresher training during nightly roll-call sessions as the operational tempo allowed. In addition, deployed personnel were briefed by the Incident Commander or their Tactical Commander on the Operations Plan, Concept of Operations, and communication plan. These briefings were completed as often as necessitated by the changing circumstances, sometimes more than once per shift.

Each DHS component officer that supported operations in Portland was governed by the officer's own component-specific policies and procedures regarding use of force because each DHS component has unique tactics, techniques, and equipment, as well as missions and functions. More broadly, all DHS officers were accountable to the overarching DHS Policy Statement 044-05, Department Policy on the Use of Force (Sept. 7, 2018), the United States Constitution, and seminal United States Supreme Court cases concerning the use of force. FPS has its own Use of Force directive that governs all uses of force by FPS law enforcement personnel. As noted above, the Department-wide review currently underway will assess whether this training is consistent with law and best practices.

All uses of force by CBP law enforcement personnel are governed by the CBP Use of Force Policy, Guidelines, and Procedures Handbook, which includes the application of chemical munitions, irritants, specialty impact munitions, and compressed air launchers. This policy,

along with the other sources cited, clearly states that officers and agents may use objectively reasonable force only when it is necessary to carry out their law enforcement duties. CBP OFO law enforcement personnel are mandated to receive CBP Use of Force Policy training at least twice a year; USBP and AMO law enforcement personnel receive such training quarterly. CBP law enforcement personnel deployed to civil unrest situations are provided legal instruction, which augments CBP’s recurring use of force training and reiterates Constitutional Law, including First and Fourth Amendment considerations.

All use of force by ICE law enforcement personnel, including the use of chemical irritants and other munitions, is governed by the ICE Firearms and Use of Force Policy 19009.1 and ICE Firearms and Use of Force Handbook. This Law Enforcement Sensitive ICE handbook, along with the other sources cited including the Department Policy on the Use of Force (which provides consistent overarching use of force guidance for all DHS Officers and Agents including ICE), states that officers and agents may use objectively reasonable force only when it is necessary to carry out their law enforcement duties.

8. DHS has thus far failed to provide my office with sufficient details about the equipment DHS personnel have utilized in connection with their deployments in Portland, Oregon, but the Department has confirmed the use of OC, HCE smoke, and CS gas. For each piece of equipment, including the aforementioned crowd control tools, please provide the manufacturer and source.

Please see the below table.

DHS Equipment Used in Portland During Operation Diligent Valor	Manufacturer	Source
Controlled Noise Light Distraction Device	Combined Tactical Systems (CTS) and/or Defense Technology	Aardvark Tactical
Pepperball Launching System	United Tactical Systems	United Tactical Systems
FN303 - Launcher	FN Herstal, USA	FN Herstal, USA
40mm canisters Smoke, CS, and Oleoresin Capsicum (OC)	Defense Technology	Aardvark Tactical
40mm Warning/Signaling with OC payload and without	Defense Technology	Aardvark Tactical
40mm Direct Impact Rounds, with CS and OC payload and without payload	Defense Technology	Aardvark Tactical
40mm .60 Caliber Stinger Rounds	Defense Technology	Aardvark Tactical

Hand thrown SAF Smoke canister	Defense Technology	Aardvark Tactical
Hand thrown Green Smoke canister	Defense Technology	Aardvark Tactical
Hand thrown Hexachloroethane (HC) Smoke canister	Defense Technology	Aardvark Tactical
Hand thrown CS canister	Defense Technology	Aardvark Tactical
Hand thrown OC canister	Defense Technology	Aardvark Tactical
Hand thrown Stinger ball, with CS payload and without payload	Defense Technology	Aardvark Tactical
OC Spray	Zarc International, SABRE and/or First Defense Products	Zarc International and/or Atlantic Diving Supply, Inc.
Tact-SF Pepperball Launcher	Pepperball	Pepperball
Fogger	Nixalite of America, Inc.	Nixalite of America, Inc.
CS Shoulder-Fired Spede Heat Smoke	Varies based on availability	Varies based on availability
CS Hand-thrown Triple Chaser	Varies based on availability	Varies based on availability
White and Green Smoke	Varies based on availability	Varies based on availability
OC Blast Hand-thrown	Varies based on availability	Varies based on availability
32 Caliber Rubber Sting ball Hand-thrown	Varies based on availability	Varies based on availability
5% Pelargonic Acid Vanillylamide (PAVA)/OC deployed via a Pepperball system	Varies based on availability	Varies based on availability
Flash bang	Varies based on availability	Varies based on availability
Night Optical Devices	Varies based on availability	Varies based on availability

Shield	Varies based on availability	Varies based on availability
36in Wood Baton	Varies based on availability	Varies based on availability
Hand-tossed Flameless CS	Varies based on availability	Varies based on availability
Laser Eye Protection	Varies based on availability	Varies based on availability
Taser	Varies based on availability	Varies based on availability

9. DHS shared that “any determination of the reasonable use of force, including the deployment of chemical irritants, must be made consistent with Department-wide and Component-specific policies and applicable.” Please provide the Department-wide and Component-specific policies in effect at DHS when DHS personnel were deployed to Portland, Oregon.

As stated in response to Question #7 above, each DHS law enforcement officer or agent who supported operations in Portland was governed by their own component-specific policies and procedures regarding use of force because each DHS component has unique tactics, techniques, and equipment, as well as missions and functions. More broadly, all DHS officers were accountable to the overarching DHS Policy Statement 044-05, Department Policy on the Use of Force (Sept. 7, 2018), the United States Constitution, and seminal United States Supreme Court cases concerning the use of force. The Department-wide review currently underway will assess whether these policies are sufficiently comprehensive and in keeping with law and best practices.

10. DHS shared that it relies on Material Data Sheets for all of its less-lethal force munitions. Please provide me with a copy of all Material Data Sheets for all munitions used with respect to deployments in Portland, Oregon.

DHS is in the process of responding to this request.

11. What were the protocols that undercover officers embedded with protestors were required to follow and when/how did they decide to make arrests? Which agencies employed these undercover officers and how many were doing this work in Oregon? Please describe their mission and relevant training. Is this a common practice across the country?

DHS officers and agents did not operate as undercover officers during deployments to Portland. Rather, DHS personnel from ICE HSI, CBP, and FPS operated as a surveillance team and observed crowd size and behavior, as well as identified criminal suspects to relay all information to the operational teams consisting of ICE HSI, CBP and FPS personnel. Members of the surveillance team did not infiltrate any particular group or organization and

did not make arrests or detentions as part that assignment. All arrests and detentions were made by uniformed personnel only.

12. What training and guidance did federal officers, and agents receive on how to interact and respond to protestors? Did this training include nonviolent means of de-escalation? Please provide copies of rules of engagement with protesters, including policies and emails. In particular, please identify policies that authorized violence against peaceful protestors.

DHS officers deployed to Portland received periodic legal refresher training from DHS OGC on arrest authority under 40 U.S.C. § 1315 and title 18 of the U.S. Code, use of investigative detention known as *Terry* stops, use of force, with a focus on use of chemical agents, and interaction with members of the press and legal observers. DHS personnel also received foundational cross-designation orientation training that addressed FPS's legal authority and jurisdiction under 40 U.S.C. § 1315 and implications of policing criminal acts incident to First Amendment activities while supporting FPS in the protection of federal property, facilities, and personnel. The Department-wide review currently underway will assess whether DHS law enforcement training is sufficiently comprehensive and in keeping with law and best practices.

The Department does not maintain "rules of engagement," which is a military term. Rather, as identified in response to Questions #7 and #9 above, all DHS law enforcement officers and agents are accountable to the overarching DHS Policy Statement 044-05, Department Policy on the Use of Force (Sept. 7, 2018) and their component-specific policies and/or procedures. At no point is use of force authorized against peaceful, law-abiding protestors.

FPS's training and tactics focus on de-escalation. FPS de-escalation training includes tactics and techniques to be undertaken by FPS law enforcement officers to avoid physical confrontation, minimizing the need to use force during an incident when the totality of the circumstances and time permit, unless force is required to immediately protect someone or to stop dangerous behavior.

The de-escalation tactics and techniques may include, but are not limited to, decreasing exposure to the threat by using distance or physical barriers; containing the threat; maximizing the use of cover and concealment to reduce officer exposure; placing the officer in a safer position; communicating from a safe position to gain subjects' compliance through use of verbal commands, persuasion, advisements, or warnings leveraging communication techniques that include active listening to calm agitated individuals and promote rational decision making.

ICE officers receive basic and post-basic advanced use of force training, which encompasses de-escalation training. With the ultimate goal of promoting both officer and public safety, such training is intended to prevent or mitigate potentially violent encounters.

The ICE Office of Firearms and Tactical Programs (OFTP) trains, certifies and re-certifies all ICE Firearms Instructors (FI) and Defensive Tactics Instructors (DTI). Upon certification by OFTP, FIs and DTIs are equipped to instruct field officers in the appropriate use of force. The ICE Firearms and Use of Force Policy mandates (at a minimum) quarterly training for all ICE

officers in both firearms and defensive tactics. FIs and DTIs conduct scenario-based training that allows an officer to determine and apply the appropriate level of force based upon all factors present, and requires appropriate de-escalation based upon a changed circumstance. ICE officers are trained to recognize these situations and to use only the appropriate amount of force necessary to gain compliance or stop the threat.

All CBP use of force training is administered by certified use of force instructors. CBP certified use of force instructors receive training on de-escalation tactics and techniques, and the teaching of said techniques in stand-alone blocks of instruction during their instructor certification courses. De-escalation techniques and tactics are also instructed with device-specific blocks of instruction. De-escalation techniques and tactics include performing threat assessments, identifying behaviors of people experiencing various stages of crisis, and the use of safe tactics to attempt to bring all law enforcement encounters to the safest possible law enforcement conclusion for all parties involved.

CBP, ICE, and FPS law enforcement personnel deployed to civil unrest situations are provided legal instruction, which augments the recurring use of force training and serves as a Constitutional Law refresher. This legal briefing, like the CBP, ICE, and FPS use of force policies, are based on the United States Constitution as well as seminal United States Supreme Court cases. The guidance/analysis in this briefing and the CBP use of force policy make clear that non-violent, non-aggressive people gathering are invoking their First Amendment rights. CBP uniformed personnel who are asked to provide assistance are also provided additional Civil Unrest Response training on the First Amendment rights of protestors, legal authorities, and the Fourth Amendment, including the legally permissible use of force. As noted, the Department-wide review currently underway will assess whether this training is sufficiently comprehensive and in keeping with law and best practices.

The Federal Law Enforcement Training Centers (FLETC) provides basic training to new law enforcement students from more than 100 federal participating organizations through its three flagship programs: Uniformed Police Training Program (UPTP), Criminal Investigator Training Program, and Land Management Police Training Program. The following DHS components receive FLETC-provided use of force training within their basic training: USSS, ICE HSI, Federal Air Marshal Service, U.S. Coast Guard Investigative Services, and FPS.

FLETC's use of force curriculum is grounded in United States Supreme Court rulings. Drawing on these rulings, FLETC and the participating organizations teach students the "objectively reasonable" standard applied to the totality of circumstances known to the officer at the moment they consider using force. These court decisions and others require officers to continuously reassess conditions throughout an encounter. FLETC's use of force instruction is rooted in the U.S. Constitution and relevant court decisions, and applies to all law enforcement officers and agents.

FLETC leverages scenario-based training to weave concepts of de-escalation and crowd control into its use of force training. A cornerstone of FLETC training is the use of practical exercises and reality-based scenarios to reinforce and assess what students learn in the classroom. Through these methodologies, FLETC imparts use of force and de-escalation decision-making

skills within contextualized situations that law enforcement officers and agents will likely encounter. De-escalation is infused throughout all basic training programs and is also grounded in United States Supreme Court case law. Students face a variety of scenarios and must use effective communication, tactics, and decision-making skills to manage and control situations.

Students attending the UPTP, including several DHS components (e.g., USSS Uniformed Division and FPS), also receive five hours of training related to crowd control; two hours in lecture-based training, and three hours in a laboratory. UPTP crowd control training is designed to familiarize students with the organization, development, and proper execution of crowd management/control, riot dispersal, and arrest techniques, which provide the students with the basic skills to safely and successfully conduct similar operations in their jurisdictions. Students are made familiar with the characteristics of crowds, demonstrations, mobs, and riots, and are trained to identify psychological influences and other factors that can transform a crowd into a mob or a riot. At the conclusion of training, the student is also able to demonstrate proper dismount drills and crowd control formations while armed with a riot baton. The Department is currently assessing whether this training is sufficiently comprehensive and in keeping with best practices.

13. Some reports have indicated that federal agents in Portland have detained individuals who were not near federal property. To the extent your agencies are relying on legal authorities regarding the protection of federal property, what do you believe are the legal limits on the actions of federal agents operating at a significant distance from federal property?

DHS officers cross-designated by the FPS Director under 40 U.S.C. § 1315(b)(1) and deployed in support of Operation Diligent Valor in Portland exercised the police powers enumerated under § 1315(b)(2) consistent with the express statutory authority set forth in Section 1315. Under 40 U.S.C. § 1315(a), DHS is expressly charged with “protect[ing] the buildings, grounds, and property that are owned . . . by the Federal Government . . . and the persons on the property.” Under Section 1315(b)(1), DHS may designate officers for “duty in areas outside the property to the extent necessary to protect the property and persons on the property.” Section 1315(b)(2) provides that DHS officers may “enforce Federal laws and regulations for the protection of persons and property” and investigate crimes both on and off federal property.

Practically speaking, DHS personnel deployed to support FPS in protecting federal property in Portland, like the Hatfield U.S. Courthouse, dispersed crowds approximately one to three blocks away from the federal property to secure the perimeter, contain/mitigate fires, treat officer injuries, and otherwise reconstitute facility security.

As set forth above, 40 U.S.C. § 1315 does grant cross-designated law enforcement personnel certain authorities at a distance from federal property. For instance, a cross-designated officer or agent may make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent, or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. Similarly, such an officer or agent may conduct

investigations off federal property of offenses that may have been committed against federal property or persons on the property.