

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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<https://oversight.house.gov>

November 2, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Barr:

We write to request information on the unprecedented efforts by the Department of Justice (DOJ) to withhold federal funds from Seattle, New York City, and Portland, Oregon, cities that you have spuriously designated as “anarchist jurisdictions.”¹ This bizarre treatment of great American cities appears to be political retaliation by President Trump against municipal authorities that have refused to abet a brutal federal response to peaceful protests for racial equity in law enforcement. We demand that you cease implementation of this plainly vindictive, erroneous, and almost certainly unconstitutional memorandum and policy.

On September 2, 2020, President Trump issued a memorandum ordering you and the Director of the Office and Management and Budget (OMB) to review federal funding given to “jurisdictions that permit anarchy, violence, and destruction in America’s cities.” The memorandum specifically charged you to identify if a jurisdiction “forbids the police force from intervening to restore order;” has “withdrawn law enforcement protection from a geographical area or structure;” “disempowers or defunds police departments;” or “unreasonably refuses to accept offers of law enforcement assistance from the Federal Government.”²

On September 21, 2020, DOJ announced that it had designated New York, Seattle, and Portland because they allegedly “permitted violence and destruction of property to persist and have refused to undertake measures to counteract criminal activities.”³

¹ *DOJ Labels New York, Portland, and Seattle “Anarchist Jurisdictions,”* The Guardian (Sept. 21, 2020) (online at www.theguardian.com/us-news/2020/sep/21/doj-new-york-portland-seattle-trump-bill-barr).

² The White House, *Memorandum on Reviewing Funding to State and Local Government Recipients That Are Permitting Anarchy, Violence, and Destruction in American Cities* (Sept. 2, 2020) (online at www.whitehouse.gov/presidential-actions/memorandum-reviewing-funding-state-local-government-recipients-permitting-anarchy-violence-destruction-american-cities/).

³ Department of Justice, *Department of Justice Identifies New York City, Portland and Seattle as Jurisdictions Permitting Violence and Destruction of Property* (Sept. 21, 2020) (online at www.justice.gov/opa/pr/departments-justice-identifies-new-york-city-portland-and-seattle-jurisdictions-permitting).

The governors of New York, Washington, and Oregon have all publicly rejected federal interference in the state and local law enforcement response to this summer's civil rights protests.⁴ In the case of Portland, President Trump ordered the deployment of federal agents over the forceful objections of state and local leaders.⁵

New York Governor Andrew Cuomo and Washington Governor Jay Inslee also rejected President Trump's prescription that states "dominate" demonstrators who had taken to the streets after the murder of George Floyd.⁶ Both governors condemned the President's words, with Governor Cuomo suggesting that the President "wants to make this about looting because he doesn't want to talk about the killing of Mr. Floyd" and Governor Inslee characterizing President Trump's comments as "the rantings of an insecure man trying to look strong after building his entire political career on racism."⁷

When DOJ announced these designations, these cities' mayors accused the Administration of starving their cities of funds needed to deal with the coronavirus pandemic as part of a reprisal "political stunt" to punish Democratic cities in furtherance of the "law-and-order" messaging of the President's reelection campaign.⁸

Neither the President's memorandum nor your Department's press release explained how these three cities, of thousands in America, were certified "anarchist" while others escaped similar description.⁹ It also remains unclear what federal funding streams have been placed in jeopardy because of these designations or how OMB will go about determining what, if any, funds to withhold from targeted jurisdictions.¹⁰ Recent reports indicate that the Administration is "considering slashing millions of dollars for coronavirus relief, HIV treatment, screenings for newborns and other programs."¹¹

⁴ *Justice Department Labels New York, Portland, and Seattle as "Anarchy" Jurisdictions*, CNN (Sept. 21, 2020) (online at www.cnn.com/2020/09/21/politics/doj-anarchy-jurisdictions/index.html).

⁵ *The Unmarked Federal Agents Arresting People in Portland, Explained*, Vox (July 20, 2020) (online at www.vox.com/2020/7/20/21328387/portland-protests-unmarked-arrest-trump-wold).

⁶ *Governors Push Back on Trump's Threat to Deploy Federal Troops to Quell Unrest*, National Public Radio (June 2, 2020) (online at www.npr.org/2020/06/02/867565338/governors-push-back-on-trumps-threat-to-deploy-federal-troops-to- quell-unrest).

⁷ *Id.*

⁸ *DOJ Names New York City, Portland, Seattle "Anarchist Jurisdictions That Could Lose Federal Funding* (Sept. 21, 2020) (online at www.usatoday.com/story/news/politics/2020/09/21/doj-calls-new-york-portland-seattle-anarchist-may-withhold-funds/5851329002/).

⁹ *Trump's Authoritarian "Anarchist Jurisdictions" Memo, Explained*, Vox (Sept. 3, 2020) (online at www.vox.com/2020/9/3/21419767/trump-anarchist-jurisdictions-authoritarian-illegal-unconstitutional-supreme-court).

¹⁰ *Id.*

¹¹ *White House Looks at Cutting Covid Funds, Newborn Screenings in 'Anarchist' Cities*, Politico (Oct. 21, 2020) (online at www.politico.com/news/2020/10/20/white-house-cuts-city-funds-coronavirus-430498).

The American public urgently requires answers to these questions. Our system of government places the power of the purse in the hands of Congress, which has not authorized these changes in service of the vilification of American cities.

For these reasons, we request that you produce the following documents to the Subcommittees by November 16, 2020.

1. All documents and communications relating to the decisions to designate New York, Portland, and Seattle as “anarchist jurisdictions”;
2. All documents and communications regarding plans to designate other jurisdictions pursuant to the President’s memorandum; and
3. All documents and communications regarding the plans to halt funding programs pursuant to the President’s memorandum, including any documents relating to the implementation of those plans.

We also request that you answer the following questions by November 16, 2020:

1. What legal authority is the Administration relying on to declare anarchist jurisdictions?
2. What legal authority is the Administration relying on to deny funds based on a refusal for federal intervention or any other criterion considered?
3. What jurisdictions did DOJ consider designating anarchist jurisdictions, including:
 - a. Who outside of DOJ was consulted in identifying jurisdictions;
 - b. What office in DOJ was responsible for identifying jurisdictions;
 - c. What criteria were used to identify jurisdictions for consideration and how that criteria were weighed; and
 - d. What criteria was used to designate jurisdictions as anarchist, how that criteria were weighed, and how each criterion was defined, including:
 - i. How DOJ defined “forbids,” “police force,” and “widespread or sustained violence or destruction”;
 - ii. How DOJ defined “officially prevented from accessing”;
 - iii. How DOJ defined “disempowers or defunds police departments”;

- iv. How DOJ defined “unreasonably refuses to accept offers of law enforcement assistance from the Federal Government”; and
 - v. What other “related factors” the Attorney General deemed appropriate?
4. What role does DOJ has in determining which funding streams should be halted because of these designations, including what office in DOJ is responsible for this task?
 5. What are the conditions under which federal funding will be suspended and subsequently restored to these jurisdictions?
 6. How will DOJ continue to evaluate jurisdictions pursuant to the President’s memorandum?

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.

Thank you for your attention to this matter.

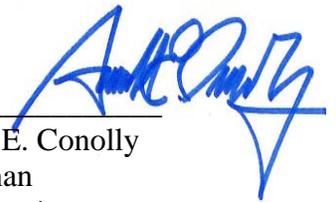
Sincerely,



Carolyn B. Maloney
Chairwoman



Jamie Rakin
Chairman
Subcommittee on Civil Rights
and Civil Liberties



Gerald E. Conolly
Chairman
Subcommittee on
Government Operations

Enclosure

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

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

The Honorable Jody B. Hice, Ranking Member
Subcommittee on Government Operations

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.