

United States Senate

WASHINGTON, DC 20510

April 26, 2022

The Honorable Merrick Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland,

We are writing to demand answers regarding your recent decision to place three deputy United States Marshals (DUSMs) on limited duty and inform them they are under investigation for a use-of-force incident that occurred over 20 months ago while they defended the federal courthouse in Portland. We do not condone any unjustified violence against innocent parties, if that's what occurred; however, the Department had 20 months to make both these decisions but only made them after Senator Cotton refused to allow expedited consideration of Department of Justice (DOJ) nominees because DOJ had not provided these DUSMs payments for defense counsel when they were named defendants in a civil suit related to the Portland riots. According to information that we've been given, these DUSMs have never been reprimanded for their actions in Portland; to the contrary, they received the Director's Award, received outstanding or excellent evaluations in 2020, and had been subsequently deployed on numerous dangerous missions as part of the USMS Special Operations Group, including to other cities where there was anticipated civil unrest. Accordingly, the timing of this decision is inherently suspect, appears politically-motivated, and smacks of retaliation.

In addition, before they were confirmed, Associate Attorney General, Vanita Gupta, and Assistant Attorney General for the Civil Rights Division, Kristen Clarke, made concerning comments about the riots at the Portland courthouse that could create a conflict with their involvement in any decision relating to these DUSMs. For example, on July 21, 2020, Ms. Gupta tweeted that federal intervention in Portland was "tyranny" and on July 19, 2020, tweeted that federal use-of-force on a protestor was "authoritarianism." On July 23, 2020, Ms. Clarke re-tweeted then-Senator Kamala Harris, calling federal intervention in Portland a "disturbing violation of Americans' civil rights." Their public comments illustrate that they cannot objectively oversee any disciplinary matter relating to the Portland courthouse and that they should be recused from any matter that arises from it, if they have yet to recuse.

To better understand the Department's decision-making process with respect to placing these DUSMs on limited duty and placing them under investigation—20 months after-the-fact—please respond to the following no later than May 1, 2022:

1. Please provide all communications and any internal documents regarding the decision to place these DUSMs on limited duty and under investigation, including the following:
 - a. The date any investigation was opened; and
 - b. The date the decision was made to place the DUSMs on limited duty.
2. Please provide all communications and any internal documents regarding the decision of whether or not to pay for civil representation for all four DUSMs who had not been provided payment for counsel as of today – including all communications and any recommendation to the Civil Division from the USMS Office of General Counsel.
3. Have Ms. Gupta and Ms. Clarke been recused from matters relating to the Portland courthouse riots? If so, when? If not, why not?

Thank you for your prompt attention to this matter.

Sincerely,



Tom Cotton
United States Senator



Chuck Grassley
United States Senator



Lindsey O. Graham
United States Senator



Michael S. Lee
United States Senator



Ted Cruz
United States Senator



John Kennedy
United States Senator



Thom Tillis
United States Senator