

Statement submitted for the record by Nkenge Harmon Johnson, Esq.

U.S. Senate Constitution Subcommittee Hearing

August 4, 2020

Good afternoon, Chairman Cruz, Ranking Member Hirono, and Members of the subcommittee. Thank you for inviting me to testify at today's hearing.

I am Nkenge Harmon Johnson; an Oregonian, and an American. My mother, father and their parents were born in this country, as were my great grandparents, going back generations. They were kidnapped Africans, then enslaved people forced to work for no compensation to build much of the wealth and infrastructure upon which this nation still relies.

Later, my family members were steel workers, U.S. Post Office letter carriers, law enforcement officers, military veterans, health care workers, homemakers, artists, and teachers. Some were business owners, homeowners, and community volunteers. Regardless of our professional or social status, we all share something in common beyond our family ties: None of us has yet enjoyed the full rights due to American citizens under the United States Constitution.

Our labor has been stolen to enrich others just as Indigenous people had their lands stolen. Our votes have been suppressed to marginalize our voice in this political process. We were segregated, redlined, excluded, attacked, and jailed by an illicit mix

of corporate power twisted up with legal authority sanctioned by our own government. Even today too often our freedoms are curtailed, our livelihoods damaged, and our ability to move freely is limited because America has yet to deliver on its promise of justice for all regardless of skin color, culture, creed, or class. Nevertheless, African Americans have persevered despite it all because we are indeed Americans.

Thus, I appear before the subcommittee today to discuss what happened when non-violent protestors dared to stand up for the movement for Black lives in Portland. We gathered together to insist that the time is now for America to be as good as its promise to all of us. That must be a bold and unexpected statement. It rattled some officials in DC.

In Oregon, for more than 65 days, and counting, demonstrators have petitioned our government to do better. I mention protests in my state because while Portland receives the national news headlines, people across the Beaver State are protesting and standing up for the rights of Black Americans to be free.

White House officials decided that rather than focusing on the roots of the systemic bias Oregonians were protesting, and working to eradicate the injustices that we rally against, they would send heavily armed officials in camouflage uniforms to threaten our state's largest city. Next, violent, dangerous federal police who had no business and no legal authority to be here, confronted protestors in Portland's streets.

Non-violent protestors were met with batons, burning hot munitions, rubber bullets, and chemical gasses that federal employees fired indiscriminately into the nightly crowds. Worse, federal officials took oaths to defend this country, its citizens, and the Constitution but they demonstrated to Oregon, and the world, that when there is a political- or social movement they do not approve, some politicians may deploy armed goons to shut it down. It is fascist behavior the likes of which this country has fought in foreign wars.

Fortunately, those misguided federal officials and their police also showed us something else: When confronted by organized, resolute protestors who greet their violent force with bubbles, light shows, BBQ cookouts, and unity, the federal forces will flounder. They will fail. Federal police went too far for days perhaps thinking that they could drive the people of Oregon back into our homes out of fear. Instead the opposite occurred. Thousands more Oregonians gathered in Portland to speak, to demand, to holler, and to sing-- that Black lives matter.

Let me be understood on behalf of this community, Black lives matter in Portland. Black lives matter in Oregon. And before we are done, Black lives will matter across this country. Justice cannot wait or it is not just, senators.

What then does it look like when furious federal police take over six city blocks of one of this country's most beautiful cities?

It looks like Donovan, a 26 year old, who a deputy United States marshal shot in the head with an impact munition. Onlookers saw Donovan drop to the pavement and thought he was dead. Blood poured from him scalp and face as he lay there. Thankfully, Donovan survived. He remains hospitalized and has a long recovery ahead.

What did the victim do to prompt the deputy Marshal to shoot? Donovan stood across the street from the federal courthouse, in plain view, holding a boom box over his head. Picture John Cusack in the movie Say Anything. No weapon. No threat. No proximity to any federal concern. Yet the deputy Marshal acted unforgivingly, violated Donovan's right to free speech, and risked the young man's life by shooting him in the head.

Are you familiar with another Portland protestor who was shot in the face by federal police?

Kristen, age 41, said she heard a boom, and then she felt it. She continued, "I was inspired to use not only my voice, but also my body, to defend our First Amendment right to protest and send a clear message that Black lives are worth fighting for." She also told a reporter that before she was shot in the face, there was no direction from law enforcement officials to disperse. "No announcement whatsoever. The feds were completely silent as far as I could tell," Kristen said.

Perhaps subcommittee members witnessed in the news a federal police officer as he beat and pepper-sprayed Christopher, a Navy veteran in his early 50s. Did you see the

video of him walking up to federal officers? He wore shorts, a Navy sweatshirt, and basic backpack. His hands were empty and his approach was calm. Why, then, did federal police break several bones in Christopher's and damage his arm such that he needed surgery and future rehabilitation?

Christopher said that he just wanted to talk federal officers about their shared oath to defend the Constitution and the people of this nation. Just talk. But when the still unnamed federal officer suddenly lashed out, Christopher did not flinch. He did not tumble. So the federal police hit him with a baton again, and again. Then, the feds- as they are unaffectionately called in Portland- sprayed stinging, burning gas into Christopher's face and eyes at point blank distance. It was dangerous and ugly. The feds did not arrest him. The American veteran had committed no crime but a federal police officer assaulted him as he tried to speak. At that point, Christopher walked away offering a different kind of salute.

Do you know about Portlander Mac, a man in his 30s? He posted to social media about being far from the federal courthouse, using his mobile phone, when suddenly he was hit in the forehead with a paint projectile. He suffered a large, painful bruise and a concussion. Mac was 50 feet away from federal building when he was shot. Fortunately, he was wearing a bicycle helmet that may have given him some protection.

There are other examples of federal officials ignoring the safety of protestors in my community. In fact, some believe that federal police intended not to disperse crowds- although there was no disturbance that needed to be cleared- but to cause pain and

physical harm. Heather, a local mom, said: *Right before they started gassing us tonight, I was talking to another mom about how many bananas to add to make the perfect banana bread.* Then federal police were shooting hard, pepper gas filled devices at her head. Heather did not see anything at the protest that provoked the violent response from federal police.

It seems to most Portlanders that the feds were already wound up and intended to create violence each night. Perhaps it was officers' mandate to support the political drama directed from thousands of miles away from Oregon. Instead of being peacekeepers, or simply protecting the federal building as they claimed, federal police followed the lead of Portland Police and attacked non-violent protestors. Please remember, all of this happens because police do not want to be held accountable for the wanton killing of African Americans. Well, senators, we have had enough. Justice cannot wait.

A 37 year old, by the name of Trip, has swelling and cuts on his face and eye. Trip wore a mask and eye covering to protect himself from the chemical gas that federal- and Portland police used each night against protestors. Federal police shot him with pepper gas and paint balls. Trip was hit in the eye and body. What did Trip do to cause that violent overreaction from United States federal forces? He held a camera. Although he said he was leaving quickly after federal officers ordered the crowd to disperse, Trip and other observers did not do so quickly enough to satisfy the shooter. Trip is a professional filmmaker who has covered conflict zones in other parts of the world, such as Palestine and the West Bank.

The Oregonian newspaper reported that Trip has no regrets trying to document the local movement in support of Black lives and against police violence. He said, “There are so many people of color putting themselves at more risk than I am and it’s inspiring. They’re creating a world I want my son to live in far more than the one we had three months ago. The sentiment he expressed is the reason that thousands more Oregonians marched into the streets after the federal troopers arrived. They spoke out not just in downtown Portland, also in neighborhoods and suburbs in the metro region. Oregonians demonstrated across the state and continue to declare that our local-, state-, and federal governments must for the first time deliver the full benefits of American citizenship to Black Americans.

Have you heard about the 16 year old and her father, Nat, a local businessman? Federal police shot so-called “less lethal” weapons at the family while they participated in protest in support of Black lives? Days later she remained deaf in one ear, and had wounds, abrasions, cuts, and blisters on her face, shoulders and back. Nat would want you to know that, “Our children are not scared. Our children believe in the mission. Our children understand what’s at stake and the opportunity.” He also said, “I don’t think the feds are doing anything that the Portland police haven’t done already,” he said. “They’ve been doing this, often to Black protesters, for years with the same level of violence.” How sad that rather than setting a better example for Nat’s daughter, federal police were as irresponsible and violent as the local police protestors are calling out to change.

Beyond the injuries that federal police inflicted upon Portland protestors, there are many other people who did not participate in the rallies who have also been negatively impacted. Most nights during the federal occupation, those officers sprayed clouds of chemical gas. People who live and work downtown felt the effects of tear gas in their living rooms and on their commutes as it seeped outward for blocks. They heard frightening flash bang devices throughout the night, and woke to pepper powder cover streets that trigger asthma attacks, coughing, and stinging eyes.

Houseless community members were also under siege by federal police. They were caught in the commotion as federal police pushed and gassed the crowd. If one lives on the streets, there is nowhere to go when massive amounts of tear gas is sprayed or police bull rush a crowd down the block where they are sleeping.

There are more examples of the violence perpetrated by federal police that we do not have the time to touch upon in this hearing. Thank goodness for the street medics and health care students who volunteer each night to help injured protestors. We also appreciate the protests in solidarity organized by community members in Seattle, Oakland, and elsewhere. Justice cannot wait, and some of realize that we are in this together.

Despite the violence from federal officials carrying large firearms and chemical fumigators, the youth in our community continued to lead. They show up night after night to organize demonstrations and to teach them grassroots action. In many places, parents and caring adults followed. Particularly, when elders saw news of

federal police shooting munitions and plumes of gas at young, unarmed, and non-violent protestors, more Oregonians began to protest.

While I spend long days, and weekends, working to be sure that the non-profit I lead is strong, nimble and responsive to the growing needs of the communities we serve, I am one of the more than 20 million people who stand together to protest, rally and to petition our government for immediate change. We lift up victims of police violence. We say her name. We are sick and tired of being sick and tired. And we cannot remain quiet when we know that Tamir Rice, Quanice Hayes, Stonechild Chiefstick, Kendra James, Eric Gardner, Jason Washington, Andres Guardado, George Floyd and Breonna Taylor and many more were not the last child, teenager, father, sister, veteran, or Americans to be senselessly killed at the hands of state violence. We remember too Mulugeta Seraw, James Byrd, Sandra Bland, Tete Gulley, Ahmaud Arbery and too many others who were killed by white supremacists or other cowards seeking to control and terrify Black people.

I congratulate my neighbors, colleagues, friends who have taken to the streets to support the movement for Black lives. Soon they will pick up a ballot, too, because justice cannot wait. It must be built using local, state, and federal approaches all at once.

As I conclude, I thank staff who are working in this committee, and in both chambers of Congress during this time in history. Your work is valuable and necessary.

Together we can make this country live up to its promise. The United States of America can be a beacon of hope and democracy. To achieve that, our country must make good on its long overdue debt to Black Americans. It is time for all of us to get into good trouble, necessary trouble, as the Honorable John Lewis called upon us to do, until justice claims its victory and our nation's Constitution is made real to all in this country.

I submit this statement for the record. I look forward to answering your questions and highlighting the genuine challenges that federal law officers posed to building justice and lasting peace in Portland, Oregon, and beyond.

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