

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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**Opening Statement of
Chairman Jamie Raskin (MD-08)
Subcommittee on Civil Rights and Civil Liberties
Briefing on “The First Amendment Under Attack: Examining Government Violence
Against Peaceful Civil Rights Protesters and the Journalists Covering Them”
June 29, 2020**

Because I am a professor of constitutional law, people often ask me, “what is the most important part of the Constitution?” And I will talk for a moment about representative government and the separation of powers, judicial review and, these days, the foreign and domestic Emoluments Clauses. But the truth is that American democracy lives and dies by the First Amendment. It is the heart of our Constitution.

The First Amendment contains six rights. President Donald Trump and Attorney General Barr, amazingly, managed to violate or offend every single one of them on Monday, June 1, when they assembled a secret and unidentified paramilitary squad of federal officers and unleashed pepper spray, tear gas and rubber bullets on a crowd of peaceful protesters, many of them my constituents, and attending reporters, all in order to clear a path for Trump and Barr to arrive at the St. John’s Episcopal Church, uninvited, so the President could perform the most grotesque photo op in American history, waving someone else’s Bible upside-down and above his head.

This violent and cartoonish display of Banana Republicanism trampled the right to peaceably assemble on the streets and sidewalks without being assaulted and dispersed by government forces, the right to petition your government for a redress of grievances without being physically attacked by unidentified federal agents, the right to freedom of speech, the right to free press, the right to free exercise of religion without government officials occupying your church property for political reasons and then barring you from your it the next day, and the right not to have government establish religion by fusing governmental and ecclesiastical power, which is surely what Trump intended to do in his own inartful and incompetent way by brandishing the Bible like a political prop, provoking outraged responses from both the Episcopal and Catholic Bishops of Washington for this act of narcissistic idolatry.

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The performance was both unconstitutional and blasphemous as the President trampled the First Amendment rights of the people so he could violate the First Commandment of the Bible, which a lot of our religious citizens do take seriously.

The government's unprovoked photo-op riot in Lafayette Square was not an aberration, but a dramatic illustration of the kinds of official abuse of the First Amendment rights of the people we have seen in the "traditional public forum" of streets and parks over the last five weeks.

Since Mr. Floyd's murder, over 10,000 people have been arrested. Peaceful protesters, journalists, and even members of the clergy have been hit with tear gas, pepper spray, rubber bullets, batons, and more.

Police have used city-wide curfews as an excuse for intimidation and violence. In Minneapolis, police shouted "light 'em up" and shot paintballs at residents standing on their own front porches for the non-crime of recording police marches after curfew. In Los Angeles, police methodically arrested participants in a peaceful demonstration just because it was after curfew. And in Washington, D.C., police kettled over 100 protesters onto one block and then into one house on Swann street, waiting outside all night, ready to arrest any protester who tried to go home after curfew.

There have been disgraceful episodes of violence against protesters, and we will hear unforgettable testimony today from two different women, one, Ms. Ratlieff, a citizen who was protesting, and the other, Ms. Tirado, a journalist who was on the scene, both of whom were shot in the eye in two different protests in two different states. Police have used so-called "less-than-lethal" weapons, including tear gas and rubber bullets fired directly at the heads and in the faces of protesters and journalists. In total, at least 60 people have suffered serious head injuries at the hands of police in these protests. At least 20 of those people suffered eye injuries and at least 7 people have lost an eye.

The unprovoked brutality of some of these offenses against citizen protesters are only known because so many Americans refuse to stop exercising the very freedoms under attack. Videos captured by journalists and protesters alike have shown police indiscriminately spraying tear gas from their vehicles into crowds of people, firing rubber bullets in seemingly indiscriminate ways, and clubbing and shoving protesters who are kneeling or walking with their

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hands in the air. In one of the most haunting videos, America watched as Buffalo police officers shoved a 75-year old protester to the ground, inflicting a grievous head wound and leaving him motionless on the ground. In some instances, videos have forced police to retract false official statements attempting to excuse or deny violent police misconduct.

The free press has been under targeted attack. A CNN news crew was arrested live on air. Cameras have been pulled out of the hands of reporters. In D.C. and Louisville, news crews were shot with rubber bullets and brutalized with police shields as they livestreamed from the protests.

The President has praised and encouraged this authoritarian response. He has called the hundreds of thousands or millions of peaceful protesters “terrorists,” “thugs,” “anarchists,” “agitators,” “looters” and “lowlifes.” He has consistently placed blame on demonstrators who have been brutalized by police, going so far as to call the 75-year-old victim of sickening police violence in Buffalo an “Antifa provocateur,” yet another revealing figment of the presidential imagination. He has repeatedly taunted and threatened protesters, urged police officers to get tough with suspects, and used violent imagery to pour kerosene on the fire. He berates and taunts reporters, describes the press as the “enemy of the people,” and calls any unflattering reports “fake news.”

In American democracy, the free press and reporters are not the “enemies of the people,” but the people’s best friend. “Those who mean to be their own governors,” said James Madison, the author of the First Amendment, “must arm themselves with the power knowledge gives.” “If I had to choose between having a government without a newspaper or a newspaper without a government,” Thomas Jefferson said, “I would not hesitate to choose the latter.”

This president and those that follow him have been at war with the First Amendment, which protects wide-open and robust public debate, loud protest, vigorous controversy and democratic engagement. Destruction of the civil rights and liberties of the people is the road to authoritarianism. The people in the streets who moved us to pass the George Floyd Justice in Policing Act are not the “enemies of the people.” They *are* the people. In American democracy, the Constitution, the streets, and the future all belong to the people, not to the government. Let’s protect the precious First Amendment rights of the people.