



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

June 13, 2025

Melissa Golden
Lead Paralegal and FOIA Specialist
U.S. Department of Justice
Office of Legal Counsel
Room 5517
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Department of Justice (“DOJ”) regulations, 28 C.F.R. § 16.1, *et seq.*

Specifically, CREW requests, from January 20, 2025 until the date this request is processed:

1. All Office of Legal Counsel (“OLC”) opinions, memoranda, guidance, or analyses concerning the Presidential Memoranda entitled “Department of Defense Security for the Protection of Department of Homeland Security Functions.”¹
2. All Office of Legal Counsel (“OLC”) opinions, memoranda, guidance, or analyses concerning the domestic deployment of federal troops, including the scope of legal authority and required processes to do so and any such memoranda, guidance, or analyses concerning any hypothetical, proposed, planned, or executed deployment.

CREW also requests, from January 1, 1965 until the date this request is processed:

1. All OLC opinions, memoranda, guidance, or analyses concerning the authority to deploy National Guard troops pursuant to 10 U.S.C. § 12406.
3. All OLC opinions, memoranda, guidance, or analyses concerning the authority to deploy National Guard troops pursuant to 10 U.S.C. §§ 251-255.
4. All OLC opinions, memoranda, guidance, or analyses concerning actual or potential conflicts between the federal government and state governments over deployment of National Guard troops.
5. All OLC opinions, memoranda, guidance, or analyses that mention the “Posse Comitatus Act” or the “Insurrection Act.”

¹ Pres. Mem. (Jun. 7, 2025),

<https://www.whitehouse.gov/presidential-actions/2025/06/department-of-defense-security-for-the-protection-of-department-of-homeland-security-functions/> (“Trump Memo”).

6. All OLC opinions, memoranda, guidance, or analyses concerning domestic deployment of United States Department of Defense federal military personnel.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, and anyone who was cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its rights under FOIA. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agencywide preservation hold on all documents potentially responsive to this request.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See *id.* § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

According to public reporting, protests in Los Angeles “began to unfold Friday [June 6] as federal authorities arrested immigrants in several locations throughout the sprawling city.”² President Trump, “[i]n a directive [on June 7]. . . invoked a legal provision allowing him to deploy federal service members when there is ‘a rebellion or danger of a rebellion against

² Seung Min Kim, *President Donald Trump pushes ahead with his maximalist immigration campaign in face of LA protests*, Associated Press (June 10, 2025), <https://apnews.com/article/donald-trump-california-immigration-customs-enforcement-newsom-0482a8935419d88986b890b18db5cc03>.

the authority of the Government of the United States.”³ President Trump “called up the California National Guard over the objections of Democratic Gov. Gavin Newsom — the first time in 60 years a president has done so — and is deploying active-duty troops to support the guard”⁴; meanwhile, state and local officials “don’t want the military deployed in the city, and the police chief said it creates logistical challenges for safely handling protests.”⁵ Thereafter, “[t]ensions” in Los Angeles reportedly “escalated Sunday as thousands of protesters took to the streets in response to President Donald Trump’s extraordinary deployment of the National Guard, blocking off a major freeway and setting self-driving cars on fire as law enforcement used tear gas, rubber bullets, and flash bangs to control the crowd.”⁶ California “sued Trump on Monday in an attempt to roll back his National Guard deployment, saying the president trampled on the state’s sovereignty.”⁷

In a legal filing, the United States Department of Justice defended the President’s actions as lawful execution of 10 U.S.C. § 12406, because the events occurring in Los Angeles constituted a “rebellion” and because “the President [was] unable with the regular forces to execute the laws of the United States.”⁸ The brief also argued that the decision to deploy the National Guard is “unreviewable because it is a statutorily authorized discretionary judgment of the President.”⁹ Furthermore, public reporting indicates the decision to deploy troops was not spontaneous, but rather has been the result of months of planning.¹⁰ The public has an interest in knowing whether the arguments that the government is advancing in court and publicly align with the official legal positions of OLC, and if not, why any discrepancies exist.

Given the extraordinary nature of the deployment and the rapid escalation, the American public has significant interests in knowing (1) the Department of Justice, Office of Legal Counsel’s analysis of the legality of invoking 10 U.S.C. § 12406, and to what extent the administration complied with the law, (2) the Department of Justice, Office of Legal Counsel’s analysis of the legality of federal troop deployment, and if and how the office’s opinions have changed during the current presidential administration. OLC has historically provided guidance to presidents about the deployment of National Guard troops domestically.¹¹

³ Jake Offenhartz, Jaimie Ding, & Jason Dearen, *Protests intensify in Los Angeles after Trump deploys hundreds of National Guard troops*, Associated Press (June 8, 2025), <https://apnews.com/article/immigration-protests-raids-los-angeles-78eaba714dbdd322715bf7650fb543d7>; Trump Memo *supra* n. 1.

⁴ Kim, *supra* note 2.

⁵ Jake Offenhartz, *What to know about Trump’s deployment of the Marines and National Guard to LA’s immigration protests*, Associated Press (June 10, 2025), <https://apnews.com/article/insurrection-act-trump-troops-newsom-military-national-guard-a842f79e1c0e244039be274a6f266a7a>.

⁶ Offenhartz et al., *supra* note 3.

⁷ Offenhartz, *supra* note 5.

⁸ *Newsom v. Trump*, Defs.’ Opp. to Pl.’s Mot. for Temp. Restraining Order, 13-17, 3:25-cv-04870 (N.D. Cal.)

⁹ *Id.* at 10.

¹⁰ Priscilla Alvarez and Natasha Bertrand, *Trump’s move to use military for immigration enforcement was months in the making*, CNN (Jun. 12, 2025), <https://www.cnn.com/2025/06/12/politics/immigration-protests-military-national-guard>.

¹¹ See Memorandum Opinion for the Acting General Counsel Department of the Army, Office of Legal Counsel (Apr. 29, 1971), <https://www.justice.gov/file/147726/dl>; see also *id.* n.1 (citing addition OLC opinions about use of troops to perform domestic law enforcement functions).

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. See *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW's website receives hundreds of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Expedited Processing Request

CREW requests expedited processing of this request, pursuant to 5 U.S.C. § 552 and 28 C.F.R. § 16.5(e). CREW is entitled to expedited processing because (1) there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity" and CREW is "primarily engaged in disseminating information," 28 C.F.R. § 16.5(e)(ii), and (2) these same facts raise possible questions, in "[a] matter of widespread and exceptional media interest involving questions about the Government's integrity which affect public confidence." *Id.* § 16.5(e)(1)(iv).

- (1) CREW is "primarily engaged in disseminating information" to the public, as most recently confirmed by the Court in *Citizens for Responsibility and Ethics in Washington v. U.S. DOGE Service*, No. 25-cv-511, 2025 WL 752367, at *13 (D.D.C. Mar. 10, 2025). This "standard 'requires that information dissemination be the main [and not merely an incidental] activity of the requestor,'" but "publishing information 'need not be [the organization's] sole occupation.'" *Protect Democracy Project, Inc. v. U.S. Dep't of Def.*, 263 F. Supp. 3d 293, 298 (D.D.C. 2017). CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW's website receives hundreds of thousands of page views every month. The

website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website. CREW is a credible requestor and disseminator of information often relied on by major media outlets.¹²

There is also an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(6)(E)(v)(II). The facts demonstrate that such urgency exists because (1) the request concerns a matter of current exigency to the American public; (2) the consequences of delaying a response would compromise a significant recognized interest; and (3) the request concerns federal government activity. *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001).

First, the requested records concern a matter of current exigency to the American public insofar as they are “the subject of a currently unfolding story” about the extraordinary deployment of National Guard in Los Angeles. *Id.* In response to protests over arrests of immigrants in Los Angeles, President Trump “called up the California National Guard over the objections of Democratic Gov. Gavin Newsom—the first time in 60 years a president has done so—and is deploying active-duty troops to support the guard”¹³; additionally, local officials “don’t want the military deployed in the city, and the police chief said it creates logistical challenges for safely handling protests.”¹⁴ Thereafter, “tensions” in Los Angeles apparently “escalated Sunday as thousands of protesters took to the streets in response to President Donald Trump’s extraordinary deployment of the National Guard, blocking off a major freeway and setting self-driving cars on fire as law enforcement used tear gas, rubber bullets, and flash bangs to control the crowd.”¹⁵ The “widespread media attention” suggests a matter of urgency to understand the reasons behind the administration’s perceived needs to call the National Guard into federal service, as well as the legal constraints and whether the administration is complying with them.¹⁶

¹² See, e.g., *Citizens for Responsibility and Ethics in Washington*, N.Y. Times, <https://www.nytimes.com/topic/citizens-for-responsibility-and-ethics-in-washington> (last visited Nov. 20, 2024) (list of New York Times articles referencing CREW spanning over a decade); Ed Pilkington and Dharna Noor, *Top US ethics watchdog investigating Trump over dinner with oil bosses*, The Guardian (May 15, 2024), <https://www.theguardian.com/us-news/article/2024/may/15/ethics-watchdog-investigating-trump-big-oil> (referring to CREW as “Top US ethics watchdog”).

¹³ Kim, *supra* note 2.

¹⁴ Offenhartz, *supra* note 5.

¹⁵ Offenhartz et al., *supra* note 3.

¹⁶ See, e.g., James Queally, Nathan Solis, Salvador Hernandez, & Hannah Fry, *National Guard arrives in Los Angeles as fallout from immigration raids continues*, L.A. Times (June 8, 2025), <https://www.latimes.com/california/story/2025-06-08/national-guard-arrives-l-a-immigration-raids>; Juliette Kayyem, *Trump’s Gross Misuse of the National Guard*, The Atlantic (June 10, 2025), <https://www.theatlantic.com/ideas/archive/2025/06/trump-california-national-guard/683093/>; Marisa Lagos, *California Asks Court to Stop National Guard, Marines From Patrolling LA Streets*, KQED (June 10, 2025), <https://www.kqed.org/news/12043548/california-asks-court-to-stop-national-guard-marines-from->

Second, the public urgently needs to understand OLC's guidance on domestic National Guard deployment to understand whether the administration is knowingly flouting its legal duties, and whether arguments being advanced in court align with official DOJ positions. Longstanding American traditions have cautioned against the use of military troops to conduct domestic law enforcement duties.¹⁷ And the authority on which the use of these troops rest, 10 U.S.C. § 12406, "has almost always been treated simply as a statutory basis for shifting control over the Guard from the governor to the president" and raises a matter of first impression for the courts.¹⁸ Courts have found the requisite urgency for expedited processing of records requested in the course of debates about the "legality" of "high-profile government action" like "military strikes against the Syrian government," when "hostilities between" the "U.S and Syria" had "recent[ly] escalat[ed]," and the "White House" had suggested that "another chemical weapons attack" could happen soon." *Protect Democracy Project, Inc. v. U.S. Dep't of Def.*, 263 F. Supp. 3d 293, 299–301 (D.D.C. 2017) (internal quotation marks and citations omitted). The court found urgency to exist because the consequences of keeping the American public in the dark could not be "restarted or wound back." *Id.* The same is true here. The need for public information regarding the legality of deployment of the California National Guard and other federal troops is exceptionally urgent given that California "sued Trump on Monday in an attempt to roll back his National Guard deployment, saying the president trampled on the state's sovereignty"¹⁹; hostilities continue to escalate at this moment in reaction to the deployment of these troops²⁰; and the White House has already

[patrolling-la-streets](#); Jorge Garcia & Arafat Barbakh, *California governor calls Trump National Guard deployment in LA unlawful*, Reuters (June 9, 2025), <https://www.reuters.com/world/us/national-guard-deployed-los-angeles-amid-protests-against-immigration-raids-2025-06-08/>; Brandon Drenon & James FitzGerald, *Everything we know about the protests in LA and other US cities*, BBC (June 11, 2025), <https://www.bbc.com/news/articles/cj93d3r0zz0o>; Nigel Duara, Jeanne Kuang, & Sergio Olmos, *Gavin Newsom asks Trump to withdraw troops from Los Angeles as protests intensify*, Cal Matters (June 8, 2025), <https://calmatters.org/justice/2025/06/national-guard-los-angeles/>; Jack Moore, Riley Hoffman, Kevin Shalvey, Leah Sarnoff, & Emily Shapiro, *LA protests live updates: Trump's actions put democracy 'under assault,' Newsom says*, ABC (June 11, 2025), <https://abcnews.go.com/US/live-updates/la-immigration-protests-live-updates-trump-deploys-2000/?id=122621279>; Zachary B. Wolf, *Insurrection? Rebellion? Overwhelmed? Can Trump legally take control of California's National Guard?*, CNN (June 10, 2025), <https://www.cnn.com/2025/06/10/politics/national-guard-los-angeles-trump-hegseth-newsom>; A Martínez & Jan Johnson, *Sending troops to LA an 'unnecessary escalation,' says California attorney general*, NPR (June 10, 2025), <https://www.npr.org/2025/06/10/nx-s1-5428234/marines-national-guard-los-angeles-trump-lawsuit>.

¹⁷ See Joseph Nunn, *The Posse Comitatus Act Explained*, Brennan Center (), <https://www.brennancenter.org/our-work/research-reports/posse-comitatus-act-explained> (explaining that the Posse Comitatus Act "embodies an American tradition that sees military interference in civilian affairs as a threat to both democracy and personal liberty").

¹⁸ Elizabeth Gotein, *Unpacking Trump's Order Authorizing Domestic Deployment of the Military*, Brennan Center (Jun. 10, 2025),

<https://www.brennancenter.org/our-work/analysis-opinion/unpacking-trumps-order-authorizing-domestic-deployment-military>.

¹⁹ Offenhartz, *supra* note 5.

²⁰ See *supra* note 16.

deployed 2,000 more troops,²¹ and as protests continue in Los Angeles and across the country.²²

Finally, the federalization of National Guard units to assist federal law enforcement concerns quintessential federal government activity.

- (2) The same facts raise possible questions, in “[a] matter of widespread and exceptional media interest involving questions about the Government's integrity which affect public confidence.” 28 C.F.R. § 16.5(e)(1)(iv). As described above, the deployment of federal troops in an American city is happening under unclear legal authority and possibly in violation of the Posse Comitatus Act.²³ There has already been widespread coverage discussing the extreme step of deploying military units over the objection of a sitting governor.²⁴ And this remains a developing story, with 700 marines arriving in Los Angeles on June 10, increasing the need for information about the legal authority for the administration's actions as soon as possible.²⁵ Furthermore, questions remain if the strategy that is being carried out in Los Angeles will be implemented nationally, especially as reporting has indicated that this decision was not spontaneous but rather was months in the making and as Secretary of Defense Pete Hegseth suggested in testimony this week that the order activating federal guard troops on Saturday could apply to other states.²⁶ The lack of public information regarding the President's actions, which are potentially beyond his legal authority, raises significant possible questions of widespread and exceptional public interest regarding the integrity of the federal government.

The undersigned certifies that the above statement is true and correct.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please email foia@citizensforethics.org or call (202) 408-5565. Also, if CREW's request for a fee waiver is denied, please contact our office immediately upon making such a determination.

²¹ Joe Walsh, *Trump administration mobilizing 2,000 more National Guard troops for Los Angeles protests*, CBS News (June 9, 2025), <https://www.cbsnews.com/news/trump-administration-mobilizing-2000-more-national-guard-troops-for-los-angeles-protests/>.

²² Jessie Yeung, Karina Tsui, Antoinette Radford, Alisha Ebrahimji & Rebekah Reiss, *Marines on standby outside LA as protests pop up across the US*, CNN (June 11, 2025), <https://www.cnn.com/us/live-news/la-protests-ice-raids-trump-06-11-25>.

²³ Elizabeth Gotein, *The Insurrection Act” by Any Other Name: Unpacking Trump's Memorandum Authorizing Domestic Deployment of the Military*, Just Security (Jun. 12, 2025), <https://www.justsecurity.org/114282/memorandum-national-guard-los-angeles/>.

²⁴ See *supra* n. 16.

²⁵ Eleanor Watson, *700 Marines arrive in L.A. area amid ICE protests as Newsom files suit to block deployment*, CBS News (Jun. 10, 2025), <https://www.cbsnews.com/news/marines-high-alert-deploy-los-angeles-ice-protests/>.

²⁶ Priscilla Alvarez and Natasha Bertrand, *Trump's move to use military for immigration enforcement was months in the making*, CNN (Jun. 12, 2025), <https://www.cnn.com/2025/06/12/politics/immigration-protests-military-national-guard>.

Where possible, please produce records in electronic format. Please send the requested records to foia@citizensforethics.org or by mail to Alex Goldstein, Citizens for Responsibility and Ethics in Washington, P.O. Box 14596, Washington, D.C. 20044.

Sincerely,

A handwritten signature in cursive script that reads "Alex Goldstein".

Alex Goldstein
Associate Counsel