



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

June 13, 2025

California Army National Guard
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OSD/JS FOIA Requester Service Center, Office of Freedom of Information
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Re: Freedom of Information Act Request

Dear FOIA Officers:

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 United States Department of Defense (“DOD”) regulations, 32 C.F.R. § 286.1 *et seq.* FOIA’s definition of agency includes federally recognized National Guard units, including the California Army National Guard (CA ARNG), “at all times.”¹

Specifically, CREW requests the following records from January 20, 2025 to the date that this request is processed:

1. All communications between employees of the CA ARNG and employees of the National Guard Bureau (NGB), United States Department of the Army (US Army), or the DOD Office of the Secretary and Joint Staff (OSD/JS) that

¹ *In re Sealed Case*, 551 F.3d 1047, 1049 (D.C. Cir. 2009); *CREW v. U.S. Dep’t of Army*, No. 21-cv-2482, 2023 WL 3995639 (D.D.C. June 14, 2023). *See also* Dep’t of Defense Directive 5400.07, Freedom of Information Act Program (D.O.D. 2019).

mention, reference, or relate to the federal deployment of CA ARNG, including but not limited to final directives to enforce the June 7, 2025 Presidential Memorandum *Department of Defense Security for the Protection of Department of Homeland Security Functions*. For purposes of this request, the term “employee” includes full-time and part-time employees regardless of classification, detailees, volunteers, and contractors.

2. All guidance, memoranda, final directives, policies, and other documents that mention, reference, or relate to the federal deployment of CA ARNG, including but not limited to documents that mention, reference, or relate to the preparation for or enforcement of June 7, 2025 Presidential Memorandum *Department of Defense Security for the Protection of Department of Homeland Security Functions*. This request includes records that pertain to CA ARNG specifically, as well as records that pertain to national guard units generally and apply to CA ARNG.
3. All guidance, memoranda, final directives, policies, and other documents that mention, reference, or relate to the assessment of 10 U.S.C. § 12406 and its applicability, including but not limited to documents that mention, reference, or relate to the federal deployment of CA ARNG.

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, which as noted above, VNG is subject to compliance. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agency wide 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, including in the fashion district of Los Angeles and at a Home Depot.”² President Trump, “[i]n a directive Saturday . . . invoked a legal provision allowing him to deploy federal service members when there is ‘a rebellion or danger of a rebellion against 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 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.”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

Given the extraordinary nature of the deployment and the rapid escalation, the American public has significant interests in knowing (1) whether there has been analysis on the legality of invoking 10 U.S.C. § 12406, and to what extent the administration complied with the law, (2) what is the scope of authority of the deployed members of CA ARNG, and whether any of them communicated skepticism about the legality of their deployment, among other information, in order to engage in informed debates about necessary interventions to prevent the precipitation of further harm during the protests.

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

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>.

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>.

⁴ Kim, *supra* note 1.

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 2.

⁷ Offenhartz, *supra* note 5.

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 is entitled to expedited processing because there is an "urgency to inform the public concerning actual or alleged Federal Government activity," and CREW "is primarily engaged in disseminating information," 5 U.S.C. § 552(6)(E)(v)(II).

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.⁸

⁸ 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

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”⁹; 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.”¹⁰ 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.”¹¹ 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.¹²

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”).

⁹ Kim, *supra* note 1.

¹⁰ Offenhartz, *supra* note 5.

¹¹ Offenhartz et al., *supra* note 2.

¹² 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-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,

Second, the American public urgently needs the information in the requested communications, directives and memoranda in order to understand (1) the legality of CA ARNG's deployment, (2) the authority that both CA ARNG and the current administration understand themselves to have with regard to the conduct of that deployment, (3) whether the CA ARNG and federal government are adhering to that authority, (4) the parameters by which additional deployments might be ordered, and (5) what intervention might be needed to ensure that CA ARNG and the federal government are operating within the bounds of the law in the course of both this deployment and future deployments, which have the potential to result in physical harm to both CA ARNG personnel and members of the public. 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, justifications, and scope of CA ARNG's deployment 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"¹³; hostilities continue to escalate at this moment in reaction to the deployment of CA ARNG¹⁴; and the White House has already deployed 2,000 more members of CA ARNG,¹⁵ with more escalation on the horizon.¹⁶ The deployment of federal troops in an American city is happening under unclear legal authority and possibly in violation of the Posse Comitatus Act.¹⁷ There has already been widespread coverage discussing the extreme step of deploying military units over the objection of a sitting governor.¹⁸ And this remains a developing story, with 700 marines arriving in Los Angeles

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>.

¹³ Offenhartz, *supra* note 5.

¹⁴ See *supra* note 12.

¹⁵ 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/>.

¹⁶ 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>.

¹⁷ 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/>.

¹⁸ See *supra* n. 16.

on June 10, increasing the need for information about the legal authority for the administration's actions as soon as possible.¹⁹ 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.²⁰

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

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 me at agoldstein@citizensforethics.org and foia@citizensforethics.org or call me at (202) 408-5565. Also, if CREW's request for a fee waiver is denied, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to agoldstein@citizensforethics.org and foia@citizensforethics.org or by mail to Alex Goldstein, Citizens for Responsibility and Ethics in Washington, 1331 F St. NW, Suite 900, Washington, D.C. 20004.

Sincerely,



Alex Goldstein
Associate Counsel

¹⁹ 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/>.

²⁰ 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>.