



January 8, 2026

Melissa Golden,  
FOIA Liaison  
Office of Legal Counsel  
Department of Justice  
Room 5517  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Re: Freedom of Information Act Request—OLC Opinion Authorizing Military Force in Venezuela

Dear FOIA Officer,

Democracy Defenders Fund (“DDF”) respectfully submits the following request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.* and Department of Justice (“DOJ”) regulations, 28 C.F.R. part 16:

1. All Office of Legal Counsel (OLC) opinions, memorandum, guidance, or analyses concerning the use of military force and the deployment of military and law enforcement officers to the Bolivarian Republic of Venezuela for the purposes of apprehending, arresting, and transporting or Nicolas Maduro Moros (“Maduro”) and Cilia Adela Flores de Maduro (“Flores”) for the purposes of criminal prosecution.
2. Any OLC memoranda cited in the OLC memorandum in #1, or whose reasoning informed the OLC memorandum in #1.

Please search for responsive records regardless of format, medium, or physical characteristics. If it is your position any portion of the requested records is exempt from disclosure, DDF requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*.<sup>1</sup> If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. 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. Please be advised that DDF intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agency-wide preservation hold on documents potentially responsive to this request.

### **Fee Waiver Request**

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<sup>1</sup> 484 F.2d 820 (D.C. Cir. 1973).

Pursuant to 5 U.S.C. 552(a)(4)(A)(i) and 28 C.F.R. 16.10(k), DDF requests a waiver of fees associated with processing this request. Department regulations provide for a waiver of fees when it involves the “disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” Courts have found that a fee waiver is appropriate when the disclosure will “(1) shed light on ‘the operations or activities of the government’; (2) be ‘likely to contribute significantly to public understanding’ of those operations or activities; and (3) not be ‘primarily in the commercial interest of the requester.’”<sup>2</sup> DDF’s request meets all elements.

In addition, DDF is seeking a waiver of search fees on the grounds that DDF is a “representative of the news media” and the records will not be used for commercial purposes.

In the event that fees are not waived, we agree to pay reasonable duplication fees in an amount not to exceed \$100, but we request to be notified before processing incurs expenses in excess of that amount.

#### **A. The Request Concerns an Operation or Activity of the Government and Is Likely to Contribute Significantly to Public Understanding**

As the New York Times reported on January 6, 2026, Attorney General Pamela Bondi acknowledged that OLC provided a final legal opinion to the Department of Defense authorizing the use of military force to apprehend, arrest, and transport Venezuelan President Maduro and First Lady Flores for purposes of arraignment and trial in the United States.<sup>3</sup> The Attorney General has delegated to the Department of Justice’s Office of Legal Counsel (OLC) her statutory and Constitutional authority to provide formal opinions to agencies and to the President.<sup>4</sup> OLC opinions are treated as “controlling” in the executive branch, and the culmination of the executive branch’s thought process on such matters.<sup>5</sup> The sought-after records purportedly provide justification for the federal government to execute lethal strikes within the territory of another nation and to execute an arrest of the leader of a foreign nation. The use of military force and law enforcement activities are a core operation or activity of the executive branch. The requested records of the OLC therefore relate to an “operation[]” or “activit[y]” of the Department of Justice and the Department of Defense.

Disclosure of this information will significantly aid the public’s understanding of the legal basis for the use of military force to apprehend, arrest, and transport Venezuelan President Maduro and First Lady Flores. The federal government is only permitted to engage in the use of military force in limited circumstances. In general, the Constitution and congressional statutes only

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<sup>2</sup> *Cause of Action v. FTC*, 799 F.3d 1108, 1115 (D.C. Cir. 2015).

<sup>3</sup> Charlie Savage, *Justice Dept. Memo Approved Military Incursion Into Venezuela as Lawful*, N.Y. TIMES (Jan. 6, 2026), <https://www.nytimes.com/2026/01/06/us/politics/justice-dept-memo-venezuela.html>.

<sup>4</sup> 28 C.F.R. 0.25.

<sup>5</sup> Department of Justice, Office of Legal Counsel, *Best Practices for OLC Legal Advice and Written Opinions* (July 16, 2010), <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/26/olc-legal-advice-opinions.pdf>.

permit lethal operations when Congress has declared war, has authorized the use of force, or there is an imminent attack upon the United States as described in the War Powers Resolution of 1973.<sup>6</sup> Over time, however, OLC has provided that the President may also authorize limited attacks for reasons outside of those provided by Congress.<sup>7</sup> OLC's expansive reading of the President's inherent unilateral authority to utilize the military has been subject to intense scrutiny over the years.<sup>8</sup> The incursion into Venezuela raises the most serious questions of the President's Constitutional authority and his adherence to international law. As former State Department Legal Advisor and Legal Advisor to the National Security Council, Brian Egan recently explained "[a]pplying even the OLC's expansive view from its recent opinions to Operation Absolute Resolve [the military operation name for the abduction of Maduro and Flores], the Executive action clearly crosses the threshold for requiring congressional authorization."<sup>9</sup> Moreover, legal experts have roundly agreed that the President's actions violated international law, including Article 2(4) of the UN Charter.<sup>10</sup> Given the significant importance in understanding how far OLC believes the power of the President goes in regards to military interventions, there is an exceptional need for public access to these records. "[R]eleasing the information at issue here [would] vindicate[] the core purpose of FOIA: exercising citizens' right to be informed about what their government is up to."<sup>11</sup>

Finally, the purpose of the disclosures is not "primarily in the commercial interest of" DDF. DDF is a nonprofit organization established under section 501(c)(3) of the Internal Revenue Code. DDF's core mission is to defend the rule of law, fight corruption, and protect elections using a variety of tools including publication of information concerning ongoing activities of the government. DDF and its staff regularly speak on issues related to government activities through traditional broadcast media, podcasts, and issuance of op-eds.<sup>12</sup> DDF maintains a dedicated

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<sup>6</sup> U.S. Const. art. I, § 8, cl. 1, 11-14; 50 U.S.C. §§ 1541-1548 (2006).

<sup>7</sup> April 2018 Airstrikes Against Syrian Chemical-Weapons Facilities, 42 Op. O.L.C. 39 (2018); Authority to Use Military Force in Libya, 35 Op. O.L.C. 1 (Apr. 1, 2011); Proposed Deployment of United States Armed Forces into Bosnia, 19 Op. O.L.C. 327 (1995); Deployment of United States Armed Forces into Haiti, 18 Op. O.L.C. 173 (1994); Authority to Use United States Military Forces in Somalia, 16 Op. O.L.C. 6 (1992); Presidential Power to Use the Armed Forces Abroad Without Statutory Authorization, 4A Op. O.L.C. 185, 187 (1980); The President and the War Power: South Vietnam and the Cambodian Sanctuaries, 1 Op. O.L.C. Supp. 321, 331 (May 22, 1970).

<sup>8</sup> See, e.g., Brian Finucane, *Time for the Biden Administration to Disavow the Dangerous Soleimani Legal Opinions*, JUST SECURITY (Jan. 3, 2022), <https://www.justsecurity.org/79700/time-for-the-biden-administration-to-disavow-the-dangerous-soleimani-legal-opinions/>; Curtis Bradley & Jack Goldsmith, *OLC's Meaningless "National Interests Test" for the Legality of Presidential Uses of Force*, LAWFARE (June 5, 2018), <https://www.lawfaremedia.org/article/olcs-meaningless-national-interests-test-legality-presidential-uses-force>.

<sup>9</sup> Brian Egan, Tess Bridgeman, & Ryan Goodman, *Congress, the President, and the Use of Military Force in Venezuela*, JUST SECURITY (Jan. 7, 2026), <https://www.justsecurity.org/128211/congress-president-military-force-venezuela/>.

<sup>10</sup> Micheal Schmitt, Ryan Goodman, & Tess Bridgeman, *International Law and the U.S. Military and Law Enforcement Operations in Venezuela*, JUST SECURITY (Jan. 5, 2026), <https://www.justsecurity.org/127981/international-law-venezuela-maduro/>.

<sup>11</sup> *Vietnam Veterans of Am. v. Dep't of Def.*, 453 F. Supp. 3d 508, 518 (D. Conn. 2020) (cleaned up).

<sup>12</sup> See, e.g., Norman Eisen, Virginia Canter, and Richard W. Painter, *A Plane from Qatar? C'Mon, Man*, N.Y. TIMES (May 14, 2025), <https://www.nytimes.com/2025/05/14/opinion/trump-plane-qatar-crypto.html>; Jennifer Rubin, Richard Painter, and Virginia Canter, *Trump's Crypto Conflicts of Interest*, THE CONTRARIAN (Apr. 25, 2025), <https://contrarian.substack.com/p/ginny-canter-and-richard-painter>; MSNBC, THE WEEKEND (July 6, 2025),

website where it provides information related to its activities which can be accessed by the public.<sup>13</sup> Consistent with our nonprofit status and educational mission, the purpose of the disclosure is to inform the public about the activities of the government.

## **B. Democracy Defenders Fund Is a Representative of the News Media and the Records Are Not Being Sought for Commercial Use**

In addition, DDF requests waiver of fees related to processing this request as a “representative of the news media” pursuant to 5 U.S.C. 552(a)(4)(A)(ii)(II). DDF routinely collects information of “potential interest to a segment of the public” and “uses its editorial skills to turn the raw materials into a distinct work and distributes that work to an audience.”<sup>14</sup> As noted above, DDF maintains a dedicated webpage for informing the public about activities related to government activity through a variety of media including press releases, public reports, and op-eds. DDF experts routinely engage with the public and with other members of the news media to publicize important information, including information related to government activities and information related to information sought under the FOIA.<sup>15</sup> Pursuant to existing case law, DDF clearly meets the criteria for a fee waiver under section 552(a)(4)(A)(ii)(II).<sup>16</sup>

### **Request for Expedited Processing**

DDF has requested expedition of this request because:

- 1. The request concerns an urgency to inform the public about an actual or alleged federal government activity, and DDF is primarily engaged in disseminating information concerning that activity.**

Department regulations provide for expedited processing of any request involving an “urgency to inform the public about an actual or alleged Federal government activity, if made by a person who primarily engaged in disseminating information.”<sup>17</sup>

There is an absolute current urgency to ensuring the American public has access to the requested OLC opinions. The government’s use of military force to invade a sovereign nation—resulting in the deaths of approximately 80 foreign nationals from two different nations<sup>18</sup>—and the removal of its head of state is extraordinary. Important factual differences distinguish this operation from

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<https://www.msnbc.com/the-weekend/watch/-it-s-a-stench-of-corruption-norm-eisen-warns-of-an-ethics-crisis-with-trump-s-second-term-242759237701>.

<sup>13</sup> See Democracy Defenders Fund, News and Resources (last visited, Jan. 7, 2026),

<https://www.democracydefendersfund.org/news-resources>.

<sup>14</sup> *Nat’l Sec. Archive v. Dept. of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

<sup>15</sup> MSNBC, THE WEEKNIGHT (Aug. 11, 2025), [https://www.youtube.com/watch?v=uH\\_MuwWUvJg&t=10s](https://www.youtube.com/watch?v=uH_MuwWUvJg&t=10s); PBS FRONTLINE, TRUMP’S POWER & THE RULE OF LAW: NORMAN EISEN (July 23, 2025), [https://www.youtube.com/watch?v=h\\_J\\_tX\\_-9IM](https://www.youtube.com/watch?v=h_J_tX_-9IM).

<sup>16</sup> See, e.g., *Cause of Action v. FTC*, 799 F.3d 1108, 1120 (D.C. Cir. 2015); *Nat’l Sec. Archive v. DoD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

<sup>17</sup> 5 C.F.R. 16.5(e)(1)(ii).

<sup>18</sup> Dan Lamothe, et al., *Maduro raid killed about 75 in Venezuela, U.S. officials assess*, THE WASH. POST (Jan. 6, 2026), <https://www.washingtonpost.com/national-security/2026/01/06/maduro-raid-death-toll/>.

past military operations, including the removal of General Manuel Noriega. The breathtaking nature of the President's actions and the arguments that OLC made to justify the removal of President Maduro raise serious questions about how far they view the President's authority. This is not an academic question: military activities continue near Venezuela, and the President has threatened further actions.<sup>19</sup> In addition, the President and his advisors have even hinted that they may take similar actions in other countries including our NATO-allies.<sup>20</sup> Unfortunately, while Attorney General Bondi has agreed to make the document available to at least some members of Congress, she has not agreed to make it available to the public. Yet the American people deserve to know why their military believes it is authorized to enter another country, kill dozens of people, and remove a sitting head of state. Public confidence in America's military is of paramount concern. Release of the requested records not only will serve to provide greater understanding of the federal government's ongoing military operations in Venezuela but also the scope of what the executive branch believes that it can do without Congressional authorization.

DDF's public dissemination and media outreach are extensive, allowing it to connect with a vast and diverse audience across various platforms, making it uniquely positioned to effectively inform the public about the findings of this request.<sup>21</sup> Through a combination of investigative reports, in-depth analyses, press releases, and dynamic engagement on multiple digital and traditional media channels, DDF ensures that critical information reaches a wide spectrum of stakeholders, from policymakers and advocacy groups to individual citizens seeking accountability in government operations. This multifaceted approach amplifies the impact of the information obtained and facilitates informed public discourse on pressing issues. DDF's communications infrastructure is robust and designed to maximize reach and engagements. With a significant presence across social media platforms, and targeted outreach initiatives, DDF has built a network capable of rapidly disseminating accurate and detailed information regarding government activities. By making these findings relatable and understandable, DDF not only informs but empowers the public to participate meaningfully in conversations about governance and accountability. The necessity of expediting the production of responsive records is underscored by DDF's proven capacity to reach a wide audience and spark meaningful public dialogue.

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<sup>19</sup> Micheal Scherer, *Trump Threatens Venezuela's New Leader With a Fate Worst Than Maduro's*, THE ATLANTIC (Jan. 4, 2026), <https://www.theatlantic.com/national-security/2026/01/trump-venezuela-maduro-delcy-rodriguez/685497/>.

<sup>20</sup> Steve Holland, et al., *Trump discussing how to acquire Greenland, US military always an option, White House says*, REUTERS (Jan. 6, 2026), <https://www.reuters.com/world/trump-advisers-discussing-options-acquiring-greenland-us-military-is-always-an-2026-01-06/>; Tom Bennett, *Which Countries Could Be in Trump's Sights After Venezuela?*, BBC (Jan. 6, 2026), <https://www.bbc.com/news/articles/cd0ye72r4vpo>.

<sup>21</sup> See e.g., Virginia Canter, et al., *Why we 'Democracy Defenders' are demanding information about DOGE*, MSNBC (Dec. 27, 2024), <https://www.msnbc.com/opinion/msnbc-opinion/group-launched-inquiry-musk-ramaswamys-doge-rcna185248>; see also David A. Fahrenthold, *Two Watchdogs Were Rebuffed From Joining Trump's Cost-Cutting Effort*, N.Y. TIMES (Jan. 16, 2025), <https://www.nytimes.com/2025/01/16/us/doge-trump-watchdogs.html>; Stephen M. Lepore, *DOGE'S brutal response to former Obama and Clinton aides attempting to join Elon Musk's cost cutting machine*, DAILY MAIL (Jan. 17, 2025), <https://www.dailymail.co.uk/news/article-14295275/DOGE-brutal-response-former-Obama-Clinton-aides-Elon-Musk.html>; Travis Gettys, *'Too many to enumerate': Watchdogs open probe into Musk's alleged 'conflicts of interest'*, RAWSTORY (Dec. 27, 2024), <https://www.rawstory.com/musk-doge-ethics/>.



**2. The request involves a matter of widespread and exceptional media interest involving questions about the President's integrity which affect public confidence.**

DDF requests expedited processing as well under 28 C.F.R. 16.5(e)(1)(iv), which provides that the Department will process requests on an expedited basis if it involves “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.”

There is no question that the federal government’s use of military force and abduction of President Maduro and his wife is a matter of exceptional media interest. Dozens of media sources have written articles about the United States’ incursion in Venezuela in just the 5 days since it occurred. Articles have been written by, among others, every major media outlet including the New York Times, the Washington Post, the Associated Press, CNN, Fox News, NPR, USA Today, the BBC, ABC, CBS, and NBC News.<sup>22</sup> The extensive media coverage also serves as evidence of widespread concern that the United States’ activities were illegal, unconstitutional, and incompatible with its international law obligations.<sup>23</sup> The requested documents are essential for ensuring the public remains informed. As noted, DDF has a proven ability to reach broad and diverse audiences, which positions this organization as a key

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<sup>22</sup> See, e.g., Jennifer Jacobs, et al., *Trump says U.S. is ‘in charge’ of Venezuela, Maduro jailed in New York after U.S. military operation*, CBS NEWS (Jan. 5, 2026), <https://www.cbsnews.com/live-updates/venezuela-us-military-strikes-maduro-trump/>; Leo Sands & Kelly Kasulis Cho, *Trump Says U.S. is ‘in charge’ in Venezuela after Maduro’s capture*, THE WASH. POST (Jan. 4, 2026), <https://www.washingtonpost.com/world/2026/01/04/us-venezuela-trump-maduro/>; Michael Sinkewicz, *Trump Confirms US Strike in Venezuela, says President Maduro has been ‘Captured’*, FOX NEWS (Jan. 3, 2026), <https://www.foxnews.com/world/explosions-venezuelan-capital-caracas-reports?msockid=3da182519d1667ae064094489c116663>; Lazaro Gamio, et. al., *Maps, Videos and Photos: How Maduro’s Capture Unfolded*, N.Y. TIMES (Jan. 4, 2026), <https://www.nytimes.com/interactive/2026/01/03/world/americas/maduro-capture-venezuela-strikes-maps.html>; Anne Flatherty, et al., *US Captures Maduro, Carries out ‘Large Scale Strike’ in Venezuela: Trump*, ABC NEWS (Jan. 3, 2026), <https://abcnews.go.com/International/explosions-heard-venezuelas-capital-city-caracas/story?id=128861598>; George Petras, et al., *Mapping US Attacks in Venezuela: Timeline of Nicolas Moduro’s Capture*, USA TODAY (Jan. 7, 2026), <https://www.usatoday.com/story/graphics/2026/01/03/maps-timeline-us-attacks-venezuela-maduro-captured/88005969007/>; Domenico Montanaro, *7 Takeaways from Trump’s incursion into Venezuela*, NPR (Jan. 5, 2026), <https://www.npr.org/2026/01/05/nx-s1-5666331/trump-politics-venezuela-republicans-democrats>; Stefano Pozzebon, et al., *The US has captured Venezuelan leader Maduro. Here’s what to know*, CNN (Jan. 3, 2026), <https://edition.cnn.com/2026/01/03/americas/venezuela-explosions-intl-hnk>; Michael Sisak, et al., *Maduro says ‘I was captured’ as he pleads not guilty to drug trafficking charges*, ASSOCIATED PRESS (Jan. 5, 2026), <https://apnews.com/article/maduro-venezuela-trump-criminal-case-131f59e517cc8314a53c8dace230d328>; Tom Bennett, *Which Countries Could Be in Trump’s Sights After Venezuela?*, BBC (Jan. 6, 2026), <https://www.bbc.com/news/articles/cd0ye72r4vpo>; Kristen Welker & Jonathan Allen, *Trump says the U.S. isn’t at war with Venezuela*, NBC NEWS (Jan. 5, 2026), <https://www.nbcnews.com/politics/donald-trump/trump-says-us-not-war-venezuela-rcna252427>. As should be clear by the sheer volume of reporting on this issue, these articles are merely a sampling of the dozens and dozens of articles written, each of which is incorporated by reference into this document.

<sup>23</sup> James Landale, *US Sharply Criticised by Foes and Friends Over Maduro Seizure*, BBC (Jan. 5, 2026), <https://www.bbc.com/news/articles/cwy1812n13eo>; Lisa Mascaro, Joshua Goodman, & Ben Finley, *Was Trump’s Attack on Venezuela Illegal? What International Law Says About Maduro’s Capture*, THE INDEPENDENT (Jan. 5, 2026), <https://www.independent.co.uk/news/world/americas/trump-illegal-venezuela-attack-international-law-maduro-b2894605.html>; Charlie Savage, *Can the U.S. Legally ‘Run’ Venezuela After Maduro’s Capture? Here’s What to Know*, THE N.Y. TIMES (Jan. 3, 2026), <https://www.nytimes.com/2026/01/03/us/politics/maduro-venezuela-trump-legal-issues.html>.

disseminator of this missing information. These insights are especially critical given our extensive knowledge of government corruption and malfeasance.

Immediate compliance with this FOIA request is necessary not only to uphold legal obligations under FOIA but also to address the growing demand for transparency on an issue of national importance that has captured significant national attention. The government's credibility depends on its willingness to timely meet this demand and to allow the public to scrutinize its actions through the lens of complete and accurate information.

If you have any questions about this clarification or foresee any problems in fully releasing the requested records, please contact us at [REDACTED]. Please send the requested records to [REDACTED] Democracy Defenders Fund, 600 Pennsylvania Ave., S.E., Washington, D.C. 20003. Thank you for your assistance in this matter.

The undersigned hereby certify that these statements submitted supporting DDF's request for expedited processing are true and correct to the best of our knowledge and belief.

Sincerely,

/s/

Ambassador Norman Eisen (ret.)  
Executive Chair and Founder  
Democracy Defenders Fund

/s/

Virginia Canter  
Ethics and Anticorruption Chief Counsel and Director  
Democracy Defenders Fund

/s/

Christopher Swartz  
Senior Ethics Counsel  
Democracy Defenders Fund

**Guidance Regarding the Search and Processing of Requested Records:**

- In connection with its request for records, DDF provides the following guidance regarding the scope of records sought and the search and processing of records:
- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.<sup>24</sup> It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; DDF has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.<sup>25</sup>
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records.
- If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

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<sup>24</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

<sup>25</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).