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RE: Freedom of Information Act Request—*Determinations Related to Targeting of Iranian Civilian and “Dual Use” Infrastructure*

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 Defense (“DoD” or “the Department”) regulations, 32 C.F.R. part 286. Specifically, DDF requests the following records concerning Operation Epic Fury from February 1, 2026, through the date on which this request is processed:

1. The titles of targeting files used in Operation Epic Fury, including electronic target folders, target system analysis and effects studies, and target nomination lists or packets for strikes on “dual use” infrastructure;
2. Rules of Engagement (ROE) and Special Instructions (SPINS) issued for Operation Epic Fury, and any directives modifying the Rules of Engagement (ROE) for machine-nominated targets;

3. Collateral Damage Estimates (CDE) Methodology (CDM) Worksheets prepared for and specific assessments for targets in Iran categorized as “dual use” or civilian infrastructure;
4. Policies, directives, instructions, and final determinations regarding Positive Identification (PID) required for any targeting decisions made in Operation Epic Fury;
5. Any determination as to the theater-wide Non-Combatant Cut-off Value (NCV) for Operation Epic Fury;
6. Reports from Defense Intelligence Agency’s National Center for Medical Intelligence (NCMI) regarding any target selected for Operation Epic Fury;
7. Standard Operating Procedures (SOPs) or Concept of Operations (CONOPS) for the Maven Target Workbench regarding any objects targeted or selected for targeting in Operation Epic Fury, including any instructions on deconfliction or reassessment of AI-generated targets that originally appear on the No Strike List or the Restricted Target List;
8. Directives, instructions, or policies modifying the Rules of Engagement (ROE) for machine-nominated targets, including any modifications to target vetting or validation;
9. All final legal reviews, legal assessments, or legal justifications concerning target development related to “dual use” targets including any legal opinion, advice, or analysis concerning whether targets nominated during Operation Epic Fury were consistent with the law of armed conflict, the DoD Law of War Manual, and DoD Directive 2311.01 or any superseding directive related to targeting development;
10. Communications between the Office of the Secretary of War/Defense (OSW/OSD) and Joint Staff Legal Counsel regarding the President’s April 7, 2026, social media statement on targeting priorities;
11. Any instructions or cables sent to CENTCOM Staff Judge Advocate (SJA) concerning the broadening of the Target Nomination List (TNL).

### **General Search Guidelines**

Please search for responsive records regardless of format, medium, or physical characteristics. We request that searches be made of the primary accounts and mobile devices for these officials and any other email addresses, accounts, or devices that they use for official business. If it is your position any portion of the requested records is exempt from disclosure, DDF requests that you provide an index of those documents as required under *Vaughn v. Rosen*. 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 reasonably is foreseeable, the agency should institute an agency-wide preservation hold on documents potentially responsive to this request.

## Background

On Saturday, February 28, 2026, President Trump announced that the United States initiated “major combat operations” against Iran.<sup>1</sup> In announcing Operation Epic Fury, Trump explained that “[t]he lives of courageous American heroes may be lost, and we may have casualties. That often happens in war.”<sup>2</sup> By March 2, 2026—two days later—Trump was proven right. By that date, at least 6 U.S. service members were killed,<sup>3</sup> three U.S. planes had been destroyed by friendly fire,<sup>4</sup> and the U.S. Embassy in Saudi Arabia was targeted by suspected Iranian drone strikes.<sup>5</sup> A day later, the U.S. had been forced to close its embassies in Saudi Arabia, Kuwait, and Lebanon<sup>6</sup> and both a CIA facility in Saudi Arabia<sup>7</sup> and a U.S. military base in Qatar had been struck.<sup>8</sup> It is estimated that over 3,000 Iranians have been killed, with the majority being Iranian civilians, while over 13 U.S. soldiers have been killed.<sup>9</sup> The Administration has conducted hundreds of airstrikes, including attacks on over two dozen universities and several health care establishments.<sup>10</sup> Among civilians killed are reportedly over 150 children who were attending a girls’ school located in southern Iran.<sup>11</sup>

Starting the week of March 30, President Trump began to threaten to attack critical civilian infrastructure in Iran if the Iranian government did not open the Strait of Hormuz. These threats included that the U.S. would “conclude our lively ‘stay’ in Iran by blowing up and completely obliterating all of their Electric Generating Plants, Oil Wells and Karg Island (and possibly all

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<sup>1</sup> Donald Trump, Statement Concerning Iran Attacks (Feb. 28, 2026), *available at* <https://www.pbs.org/newshour/world/read-trumps-full-statement-on-iran-attack>.

<sup>2</sup> *Id.*

<sup>3</sup> Caroline Linton, *6 U.S. Members killed in Iranian strike on Kuwait, Pentagon says*, CBS NEWS (Mar. 2, 2026), <https://www.cbsnews.com/news/iran-military-operation-american-service-members-killed-centcom/>.

<sup>4</sup> Richard Luscombe, *Three US fighter jets mistakenly shot down over Kuwait*, THE GUARDIAN (Mar. 2, 2026), <https://www.theguardian.com/world/2026/mar/02/us-fighter-jets-kuwait>.

<sup>5</sup> Alyssa Lukpat, *U.S. Mission to Saudi Arabia Issues Shelter-in-Place Notice After Drone Attack*, WALL ST. J. (Mar. 2, 2026), <https://www.wsj.com/livecoverage/iran-israel-us-strikes-2026/card/u-s-mission-to-saudi-arabia-issues-shelter-in-place-notice-after-drone-attack-CAMJNM5FGGII Gkkdm8I7?msocid=3da182519d1667ae064094489c116663>.

<sup>6</sup> Kaanita Iyer & Jennifer Hansler, *US Closes Embassy in Lebanon*, CNN (Mar. 3, 2026), <https://www.cnn.com/world/live-news/iran-war-us-israel-trump-03-03-26#cmmat46qn00003b6vvrdo18f5>.

<sup>7</sup> Zachary Cohen, *CIA station in Saudi Arabia damaged in Monday’s suspected Iranian drone strike*, CNN (Mar. 3, 2026), <https://www.cnn.com/world/live-news/iran-war-us-israel-trump-03-03-26#cmmbappnl00003b6s7vuquhw7>.

<sup>8</sup> Michael Rios, *Iranian missile hits largest US military base in Middle East, Qatar says*, CNN (Mar. 3, 2026), <https://www.cnn.com/world/live-news/iran-war-us-israel-trump-03-03-26#cmmb4jjm400003576cq19002i>.

<sup>9</sup> Nayera Abdallah & Menna Alaaeldin, *How many people have been killed in the Iran War?*, REUTERS (Apr. 10, 2026), <https://www.reuters.com/world/middle-east/how-many-people-have-been-killed-us-israel-war-iran-2026-04-07>; James C. Reynolds, *US-Iran war in numbers: Thousands killed and billions spent as fragile ceasefire takes effect*, THE INDEPENDENT (Apr. 9, 2026), <https://www.independent.co.uk/news/world/middle-east/iran-israel-us-war-death-toll-b2953551.html>.

<sup>10</sup> Julian E. Barnes, et al., *U.S. at Fault in Strike on School in Iran, Preliminary Inquiry Says*, N.Y. TIMES (Mar. 11, 2026), <https://www.nytimes.com/2026/03/11/us/politics/iran-school-missile-strike.html>; Lexi Lonas Cochran, *Strikes on Iranian universities raise war crime questions, fears of retaliation*, THE HILL (Apr. 2, 2026), <https://thehill.com/homenews/education/5811380-iran-war-university-strikes-war-crimes/>; World Health Organization, *Conflict deepens health crisis across Middle East, WHO says* (Mar. 11, 2026), <https://www.who.int/news/item/11-03-2026-conflict-deepens-health-crisis-across-middle-east--who-says>.

<sup>11</sup> Mohamad El Chamaa, *Reported airstrike hits Iranian girls’ school*, WASH. POST (Feb. 28, 2026), <https://www.washingtonpost.com/world/2026/02/28/iran-airstrike-girls-school-deaths/>.

desalination plants!),”<sup>12</sup> that U.S. military forces were in the process of “blasting Iran back to oblivion”,<sup>13</sup> and that “IT IS TIME FOR IRAN TO MAKE A DEAL BEFORE ITS TOO LATE, AND THERE IS NOTHING LEFT OF WHAT STILL COULD BECOME A GREAT COUNTRY!”<sup>14</sup> The purpose of these attacks was evident: to open the Strait of Hormuz. As the President posted days before the attack “OPEN THE HORMUZ STRAIT, TAKE THE OIL, & MAKE A FORTUNE.”<sup>15</sup> On Easter Sunday, President Trump announced in an expletive-ridden post that he would attack Iranian power plants and bridges if Iran did not open the Strait by Tuesday, April 7, 2026:

*Tuesday will be Power Plant Day, and Bridge Day, all wrapped up in one, in Iran. There will be nothing like it!!! Open the Fuckin’ Strait, you crazy bastards, or you’ll be living in Hell – JUST WATCH! Praise be to Allah. President DONALD J. TRUMP*<sup>16</sup>

The Administration’s brinkmanship culminated with President Trump threatening that Iran’s “whole civilization will die.” On April 7, a two-week ceasefire was announced at the eleventh hour.<sup>17</sup> However, as that ceasefire has deteriorated, the President has again re-iterated his threats to attack Iranian civilian infrastructure. On April 19, President Trump posted on Truth Social:

*We’re offering a very fair and reasonable DEAL, and I hope they take it because, if they don’t, the United States is going to knock out every single Power Plant, and every single Bridge, in Iran. NO MORE MR. NICE GUY! They’ll come down fast, they’ll come down easy and, if they don’t take the DEAL, it will be my Honor to do what has to be done, which should have been done to Iran, by other Presidents, for the last 47 years.*<sup>18</sup>

The President’s statements constitute command intent that DoD officials and JAG officers must interpret. It seems clear that DoD officials have been under extreme pressure to operationalize these broad threats into specific targeting orders. Consistent with the President’s threats, on April 6, Secretary Hegseth said during a press conference that “Iran has a choice. Choose wisely, because this President does not play around. You can ask Soleimani, you can ask Maduro, you

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<sup>12</sup> Donald J. Trump (@realdonaldtrump), Truth Social (Mar. 30, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116317880658472708>.

<sup>13</sup> Donald J. Trump (@realdonaldtrump), Truth Social (Apr. 1, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116329512466946656>.

<sup>14</sup> Donald J. Trump (@realdonaldtrump), Truth Social (Apr. 2, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116336091138489301>.

<sup>15</sup> Donald J. Trump (@realdonaldtrump), Truth Social (Apr. 3, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116340751005894827>

<sup>16</sup> Donald J. Trump (@realdonaldtrump), Truth Social (Apr. 5, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116351998782539414>.

<sup>17</sup> Alex Leary, *Trump Agrees to Two-Week Cease-Fire With Iran if Hormuz Reopened*, WALL ST. J. (Apr. 7, 2026), <https://www.wsj.com/livecoverage/iran-war-2026-trump-deadline-latest-news/card/trump-agrees-to-two-week-cease-fire-with-iran-r5jmI8YZ8KnGtuSMKMIq>.

<sup>18</sup> Donald J. Trump (@realdonaldtrump), Truth Social (Apr. 19, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116431297579272777>.

can ask Khamenei.”<sup>19</sup> After the ceasefire was announced, on April 8, Secretary Hegseth said that “if Iran had refused our terms, the next targets would be their power plants, their bridges, and oil and energy infrastructure. Targets they could not defend and could not realistically rebuild. It would have taken them decades. And we were locked and loaded.”<sup>20</sup> He continued, saying “President Trump had the power to cripple Iran’s entire economy in moments” but that he did not do so because they accepted a deal under “overwhelming pressure.”<sup>21</sup> In response to a question as to whether “the President was really prepared to wipe out Iran entirely?” Secretary Hegseth responded, “I said we were locked and loaded” and that “He [President Trump] ultimately said we can take it all from you [Iran]. Your ability to export energy will be taken away. And the U.S. military has the ability to strike those things with impunity. That type of threat is what brought them to a place where they effectively said ‘OK’ we want to cut this deal.”<sup>22</sup> Reporting from *Politico* on April 6 identifies that other DoD officials were intimately involved in preparing the planned attacks, including target selection.<sup>23</sup> DoD officials apparently sought to create a list of energy sites that could be targeted to include “dual use” infrastructure in an attempt to avoid allegations that the U.S. was engaged in war crimes by bombing civilian infrastructure.<sup>24</sup>

Targeting power grids and energy production, like the South Pars gas field or the Bushehr nuclear power plant, requires them to be “military objectives.”<sup>25</sup> This requires a specific legal determination that the facility provides a “definite military advantage.”<sup>26</sup> According to the DOD Law of War Manual (LoWM), “objects are either military objectives or they are not; there is no intermediate legal category.”<sup>27</sup> A definite military advantage must be “concrete and perceptible,” and the DoD LoWM reflects customary law of armed conflict that “[d]iminishing the morale of the civilian population and their support for the war effort does not provide a definite military advantage”;<sup>28</sup> rather, violence and threats of violence for the purpose of threatening a civilian population are strictly prohibited under customary law of armed conflict.<sup>29</sup>

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<sup>19</sup> WATCH: Hegseth says U.S. military has done its part 'for now' after Trump agrees to 2-week Iran ceasefire, PBS NEWS (Apr. 8, 2026), <https://www.pbs.org/newshour/world/watch-hegseth-says-u-s-military-has-done-its-part-for-now-after-trump-agrees-to-2-week-iran-ceasefire>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Paul McLeary & Leo Shane III, *Pentagon’s new plans in Iran give Trump a way out of war crime accusations*, POLITICO (Apr. 6, 2026), <https://www.politico.com/news/2026/04/06/pentagon-iran-war-crime-accusations-00860468>.

<sup>24</sup> *Id.*

<sup>25</sup> DoD LoWM § 5.6.

<sup>26</sup> 10 U.S. Code § 950p(a)(1) (defining “military objective” as “combatants and those objects during hostilities which, by their nature, location, purpose, or use, effectively contribute to the war-fighting or war-sustaining capability of an opposing force and whose total or partial destruction, capture, or neutralization would constitute a *definite military advantage* to the attacker under the circumstances at the time of an attack.”) [emphasis added].

<sup>27</sup> DoD LoWM § 5.6.1.2.

<sup>28</sup> *Id.* § 5.6.7.3.

<sup>29</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949, and Relating to the Protection of Victims of International Armed Conflicts, Art. 51(2) (1977) reprinted in 16 I.L.M. 1391 (hereinafter Protocol I) (the United States is not a party to Protocol I, however, the United States recognizes the principle of distinction as a matter of customary international law); DoD LoWM § 5.2.2.

## Fee Waiver Request

Pursuant to 5 U.S.C. 552(a)(4)(A) and 32 C.F.R. § 286.12(l), 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.” DoD regulations provide that this standard is met with disclosure of the requested information would (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>30</sup> DDF’s request meets all elements.

DDF’s request deals with records that would both shed light on government operations and activities—threatened and actual targeting and strikes on Iran’s civilian infrastructure—as well as aid substantially in the public’s understanding of the legality of those decisions. These records relate to DoD targeting for attacks, like the U.S. missile strike on an elementary school in Iran that killed 175 people, including many children,<sup>31</sup> and the Administration’s unprecedented threats to attack vital civilian Iranian infrastructure to coerce Iran to reopen the Strait of Hormuz.

The requested records would be likely to contribute significantly to public understanding of these operations or activities. Currently there is a great degree of public debate and confusion about what the policy of the United States is, or was, regarding attacks on civilian infrastructure as a part of Operation Epic Fury. Attacks against civilian infrastructure violate the law of armed conflict and DoD policies. Moreover, the threat of widespread destruction of power plants, bridges, and other civilian objects appears to violate the law of armed conflict and the DoD Law of War Manual, which prohibit threats intended to spread terror among another nation’s civilian population.<sup>32</sup> The purported justifications for these attacks are lacking. Serious questions exist about how the DoD identified targets and assessed the legality of indiscriminate strikes on so-called “dual use” infrastructure like power plants and bridges. Under the principle of distinction, set forth in the DoD Law of War Manual, dual use objects can only be targeted if they are military objectives.<sup>33</sup> But that process requires a step-by-step analysis. In addition, any assessment of whether to conduct a strike must consider whether doing so would disproportionately harm the civilian population.<sup>34</sup> Several commentators have raised serious concerns already that the threats made by the President are illegal, and the DoD’s preparation to operationalize those threats appears inconsistent with DoD policies aimed at ensuring conformity

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<sup>30</sup> 32 C.F.R. § 286.12(l)(2)(i)-(iii); *See also Cause of Action v. FTC*, 799 F.3d 1108, 1115 (D.C. Cir. 2015).

<sup>31</sup> Julian E. Barnes, et al., *U.S. at Fault in Strike on School in Iran, Preliminary Inquiry Says*, THE N.Y. TIMES (Mar. 11, 2026), <https://www.nytimes.com/2026/03/11/us/politics/iran-school-missile-strike.html>.

<sup>32</sup> DoD LoWM § 5.2.2. *See also* Judge Advocate General Air Force Pamphlet 110-31, §5-3a(1)(a) (“Acts or threats of violence which have the primary object of spreading terror among the civilian population are prohibited”); Margaret Donovan & Rachel VanLandingham, *When War Crimes Rhetoric Becomes Battlefield Reality: The Slippery Slope to Total War on Iran*, JUST SECURITY (Apr. 6, 2026), <https://www.justsecurity.org/135797/war-crimes-rhetoric-power-plants-iran/>.

<sup>33</sup> DoD LoWM, §§ 5.2.2, 5.6.1.2.

<sup>34</sup> DoD LoWM, §§ 5.10, 5.12.

with the law of armed conflict.<sup>35</sup> Release of these records, which relate to legal and factual determinations concerning targeting objects in Iran, including use of artificial intelligence, would shed light on DoD's activities in support of the President's threats to attack Iranian civilian infrastructure. They would also help uncover the process used in these attacks to hold the DoD to account for adhering to basic principles of the law of armed conflict and prevent negligent, wanton, and reckless operations that can result in the death of innocent people. It has been reported, for example, that the U.S. struck a girls' school in Minab based on both old data and potentially by reliance on advanced AI tools like Anthropic's Claude and Palantir's Maven Smart System.<sup>36</sup>

In addition, 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 regularly speaks on issues related to government activities through traditional broadcast media, podcasts, and issuance of op-eds.<sup>37</sup> DDF maintains a dedicated website where it provides information related to its activities which can be accessed by the public.<sup>38</sup> The purpose of the disclosure is to inform the public about the activities of the government.

DDF also 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>39</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>40</sup> Pursuant to existing case law, DDF clearly meets the criteria for a fee waiver under section 552(a)(4)(A)(ii)(II).<sup>41</sup>

<sup>35</sup> Margaret Donovan & Rachel VanLandingham, *When War Crimes Rhetoric Becomes Battlefield Reality: The Slippery Slope to Total War on Iran*, JUST SECURITY (Apr. 6, 2026), <https://www.justsecurity.org/135797/war-crimes-rhetoric-power-plants-iran/>.

<sup>36</sup> Alex Woodward, *Old intelligence and AI? Behind the deadly attack on an Iranian girls' school that left 175 dead*, THE INDEPENDENT (Mar. 12, 2026), <https://www.independent.co.uk/news/world/americas/us-politics/iran-school-attack-ai-investigation-b2937456.html>.

<sup>37</sup> See, e.g., Norman Eisen, Virginia Canter, and Richard W. Painter, *A Plane from Qatar? C'Mon, Man*, THE 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), <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>38</sup> See Democracy Defenders Fund, News and Resources (last visited, Apr. 25, 2026), <https://www.democracydefendersfund.org/news-resources>.

<sup>39</sup> *Nat'l Sec. Archive v. Dept. of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

<sup>40</sup> MS Now, *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>41</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).

In the event 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.

### **Request for Expedited Processing**

DDF is entitled to expedited processing of this request pursuant to 5 U.S.C. § 552 and departmental regulations at 32 C.F.R. § 286.8(e) because (1) “the information is urgently needed . . . in order to inform the public concerning actual or alleged government activity” and DDF is “primarily engaged in disseminating information” and (2) the “failure to obtain the requested information on an expedited basis could reasonably be expected to harm substantial humanitarian interests.”

#### **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.**

As the Supreme Court explained in *NLRB v. Robbins Tire & Rubber Co.*, “[t]he basic purpose of [the] FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.” Department regulations provide for expedited processing of any request involving “information urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged government activity.”<sup>42</sup> In assessing whether there is an established urgency courts look to three factors: “(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity.”<sup>43</sup>

DDF’s request relates to records that are necessary for the American public to access given the immense, novel, and unprecedented breadth of the United States’ threat to take military action against civilian objects up-to-and including, as President Trump said, killing an entire civilization. Americans need this information because they must trust that the DoD is operating within the confines of the law of armed conflict and DoD policies. As over 100 international law experts recently warned, DoD’s actions “are causing serious harm to civilians in the Middle East” and “contribute to escalating the conflict, damaging the environment and the global economy, and . . . risk degrading the rule of law and fundamental norms that protect every nation’s civilians.”<sup>44</sup> Moreover, these threats “undermine U.S. legitimacy”, “pose a significant risk of moral and psychic injury for servicemembers”, and “puts soldiers at risk of later liability.”<sup>45</sup> It is urgently necessary that these records be produced so that Americans can assess

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<sup>42</sup> 32 C.F.R. § 286.8(e)(1)(ii).

<sup>43</sup> *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001) (citing H.R. Rep. No. 104–795, at 26 (1996)).

<sup>44</sup> Letter from 100 International Law Experts: U.S. Strikes on Iran Violate UN Charter and May be War Crimes, JUST SECURITY (Apr. 2, 2026), <https://www.justsecurity.org/135423/professors-letter-international-law-iran-war/>.

<sup>45</sup> Margaret Donovan & Rachel VanLandingham, *When War Crimes Rhetoric Becomes Battlefield Reality: The Slippery Slope to Total War on Iran*, JUST SECURITY (Apr. 6, 2026), <https://www.justsecurity.org/135797/war-crimes-rhetoric-power-plants-iran/>.

the risk of DoD's actions. It is also urgently necessary that these records be produced so that other branches of government, such as the U.S. Congress, have access to the types of documents that might be helpful in overseeing DoD.

DDF is also an entity that is "primarily engaged in disseminating information" to the public.<sup>46</sup> 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. 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>47</sup> DDF management and staff frequently publish reports, op-ed, and articles in traditional and new media, including in the *Contrarian* which is owned by DDF's sister organization, Democracy Defenders Action.<sup>48</sup> By utilizing a variety of news media sources, DDF is able to make its investigative findings relatable and understandable. As a result, 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.

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.

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<sup>46</sup> See, e.g. *Protect Democracy Project, Inc. v. United States Dep't of Just.*, 498 F. Supp. 3d 132, 139 (D.D.C. 2020).

<sup>47</sup> See e.g., *Trump's Power & The Rule of Law*: Norman Eisen, PBS FRONTLINE (Mar. 24, 2025) <https://www.pbs.org/wgbh/frontline/interview/norman-eisen/>; Virginia Canter, et al., *Why we 'Democracy Defenders' are demanding information about DOGE*, MS NOW (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/>.

<sup>48</sup> John Danforth, et al., *Trump's War on Iran is Illegal*, THE CONTRARIAN (Mar. 2, 2026), <https://contrarian.substack.com/p/trumps-war-on-iran-is-illegal>; Norman Eisen, et al., *The Coming Legal and Congressional Action to Fight 'The Donroe Doctrine'*, THE CONTRARIAN (Jan. 7, 2026), <https://www.contrariannews.org/p/the-coming-legal-and-congressional>; Christopher Swartz & Virginia Canter, *Congress is abandoning centuries-old ethics lessons in its crypto push*, THE HILL (Oct. 9, 2025), <https://thehill.com/opinion/finance/5545644-crypto-regulation-conflict-interest/>; Gabe Lezra, et al., *15 Ways You Can Fight for Democracy*, THE CONTRARIAN (Mar. 18, 2025), <https://contrarian.substack.com/p/15-ways-you-can-fight-for-democracy>; Jennifer Rubin & Craig Becker, *Craig Becker on the power of unions & Trump's attacks against civil institutions at large*, THE CONTRARIAN (Aug. 29, 2025) <https://contrarian.substack.com/p/craig-becker-on-the-power-of-unions>; Jennifer Rubin & Virginia Canter, *Musk Turned a Government Role into a Profit Machine: Ginny Canter on Musk's Conflicts of Interest*, THE CONTRARIAN (Jun. 6, 2025), <https://contrarian.substack.com/p/musk-turned-a-government-role-into>.

**2. The failure to obtain the requested information on an expedited basis could reasonably be expected to harm substantial humanitarian interests.**

As noted above, President Trump and the DoD have already engaged in attacks that have resulted in the death of innocent civilians. The threats made by President Trump, and which DoD appears to have been ready to operationalize, could have resulted in the immediate death of hundreds if not thousands of Iranian civilians and long-term widespread disease, starvation, and lack of access to water. Although the threats have not come to pass, the U.S.-Iran ceasefire is tenuous and there is a strong likelihood that if the ceasefire does not hold the U.S. could again threaten and possibly undertake strikes against the Iranian people. It is therefore necessary that the public have access to the requested records to hold DoD to account and to deter future attacks that might result in attacks or threats on Iranian civilians. As a result, “the failure to obtain the requested information on an expedited basis could reasonably be expected to harm substantial humanitarian interests.”<sup>49</sup>

**Conclusion**

If you have any questions about this clarification or foresee any problems in fully releasing the requested records, please contact us at FOIA@democracydefenders.org. Please send the requested records to FOIA@democracydefenders.org or 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 Co-Founder  
Democracy Defenders Fund

/s/

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

/s/

Christopher Swartz  
Senior Ethics Counsel  
Democracy Defenders Fund

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<sup>49</sup> 32 C.F.R. § 286.8(e)(1)(ii)(B).

**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>50</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>51</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>50</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>51</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).