



March 9, 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 Iran*

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. Specifically, DDF requests the following records from January 20, 2025, through the date on which this request is processed:

1. All records, including final legal memorandum, describing the legal authority for the use of military force, including airstrikes and drone strikes, by the Department of Defense,¹ the Department of the Army, the Department of the Navy, the Department of the Air Force, or any other component, officer, or employee of the Department of Defense, against the Islamic Republic of Iran (Iran), including any government official, employee, contractor, or agent of Iran (including, but not limited to, Supreme Leader Ayatollah Khamenei) or any targets within the territorial borders of Iran.

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

¹ References to the “Department of Defense” include references to the “Department of War” or any other unofficial name used to refer to the Department of Defense, its components, or any of its officers or employees acting in an official capacity.

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.² 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.”³ By March 2, 2026—two days later—Trump was proven right. By that date, at least 6 U.S. service members were killed,⁴ three U.S. planes had been destroyed by friendly fire,⁵ and the U.S. Embassy in Saudi Arabia was targeted by suspected Iranian drone strikes.⁶ A day later, the U.S. had been forced to close its embassies in Saudi Arabia, Kuwait, and Lebanon⁷ and both a CIA facility in Saudi Arabia⁸ and a U.S. military base in Qatar had been struck.⁹ Meanwhile, it is estimated a total of over 1000 people have been killed so far in Iran,¹⁰ with hundreds injured or killed in surrounding countries including Lebanon, the UAE, and Kuwait.¹¹ Among civilians killed are reportedly over 150 children who were attending girl’s school located in southern Iran.¹²

There are serious open questions about how the President and the Administration concluded that the war in Iran was legally permissible. Article I, section 8, of the U.S. Constitution provides Congress with the exclusive power to declare war.¹³ As Alexander Hamilton noted in *The*

² Donald Trump, February 28, 2026, Statement Concerning Iran Attacks (Feb. 28, 2026), available at <https://www.pbs.org/newshour/world/read-trumps-full-statement-on-iran-attack>.

³ *Id.*

⁴ 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/>.

⁵ 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>.

⁶ Alyssa Lukpat, *U.S. Mission to Saudi Arabia Issues Shelter-in-Place Notice After Drone Attack*, THE 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-CAMJNM5FGG11Gkkdm817?msocid=3da182519d1667ae064094489c116663>.

⁷ 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#cmmat46qn00003b6vwrdo18f5>.

⁸ 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>.

⁹ 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#cmmb4jjm400003576cql9002i>.

¹⁰ Rebecca Schneid, *More than 1,000 Civilians Killed in U.S.-Israeli Bombing of Iran, Rights Group Says*, TIME (Mar. 4, 2026), <https://time.com/7382536/iran-civilians-killed-girls-school/>.

¹¹ Al Jazeera, *US-Israel Attacks on Iran: Death toll and injuries live tracker* (last updated Mar. 4, 2026), <https://www.aljazeera.com/news/2026/3/1/us-israel-attacks-on-iran-death-toll-and-injuries-live-tracker#:~:text=At%20least%20555%20people%20have%20been%20killed%20across,where%20a%20strike%20on%20an%20elementary%20girls%20school>.

¹² Mohamad El Chamaa, *Reported airstrike hits Iranian girls’ school*, THE WASHINGTON POST (Feb. 28, 2026), <https://www.washingtonpost.com/world/2026/02/28/iran-airstrike-girls-school-deaths/>.

¹³ U.S. Const. Art. 1, § 8 (providing Congress, not the President, with the power to declare war and raise and regulate the armed forces); *Talbot v. Seeman*, 5 U.S. (1 Cranch) 1 (1801) (“The whole powers of war [are] by the constitution of the United States . . . vested in congress”); *Campbell v. Clinton*, 203 F.3d 19, 39 (D.C. Cir. 2000)

Federalist Papers, the role of Commander-in-Chief was intentionally circumscribed, lacking the powers the British king held to declare war and raise and regulate the armed forces.¹⁴ Rather, the Commander-in-Chief was to simply be the “first General and admiral of the Confederacy.”¹⁵ As Justice John Marshall said in *Talbot v. Seeman*, “The whole powers of war [are] by the constitution of the United States . . . vested in Congress.”¹⁶ The President can only engage in activities that rise to the level of a war if Congress has authorized the president to do so, or the president is rebuffing an attack upon the United States.¹⁷ Furthermore, Article 2(4) of the UN Charter, which was ratified by the U.S. Senate in 1945, prohibits the use of force against the territorial integrity or political independence of any other member state. The only exception to this, set forth under Article 51 of the Charter, is for self-defense.¹⁸

President Trump, the Department of Defense, and the Department of State have provided an array of reasons for Operation Epic Fury.¹⁹ These include regime change, preventing Iran from gaining nuclear weapons, and responding to potential future threats to American lives.²⁰ A list of objectives for Operation Epic Fury issued by White House Press Secretary Karoline Leavitt, days after the operation began, expanded that list to include killing terrorists, annihilating the Iranian Navy, and preventing the making of IEDs.²¹ As several experts recently explained, however, these explanations do not comport with the narrow legal justifications authorizing the President’s unilateral use of military force.²² Likewise, some of those purported reasons do not appear to have a credible factual basis.²³

(quoting *Berk v. Laird*, 429 F.2d 302, 305 (2d Cir.1970) (“History makes clear that the congressional power ‘to declare War’ conferred by Article I, section 8, of the Constitution was intended as an explicit restriction upon the power of the Executive to initiate war on his own prerogative which was enjoyed by the British sovereign”).

¹⁴ THE FEDERALIST NO. 69 (Alexander Hamilton).

¹⁵ *Id.*

¹⁶ 5 U.S. (1 Cranch) 1 (1801).

¹⁷ *Prize Cases*, 67 U.S. (2 Black) 635 (1863); see also War Powers Resolution, Pub. L. No. 93-148 (1973), § 2(c) (codified at 50 U.S.C. § 1541).

¹⁸ U.N. Charter Art. 51.

¹⁹ See, e.g., Joe Walsh, et al., *Why is the U.S. attacking Iran? Here’s what the Trump administration has said motivated the strikes*, CBS NEWS (Mar. 5, 2026),

<https://www.cbsnews.com/news/why-us-attack-iran-trump-administration/>.

²⁰ Susan Glasser, *Can Donald Trump Win a War with Iran If He Can’t Explain Why He Started It?*, THE NEW YORKER (Mar. 2, 2026),

<https://www.newyorker.com/news/letter-from-trumps-washington/can-donald-trump-win-a-war-with-iran-if-he-cant-explain-why-he-started-it>; Aaron Blake, *The Trump team’s shifting story on war with Iran*, CNN (Mar. 2, 2026),

<https://www.cnn.com/2026/03/02/politics/hegseth-rubio-trump-iran-messaging>; Tom Dunlavey, *Trump says new call for regime change in Iran justified by ‘imminent threats’ to US*, ABC NEWS (Feb. 28, 2026),

<https://abcnews.com/Politics/trump-new-call-regime-change-iran-justified-imminent/story?id=130629024>.

²¹ Karoline Leavitt (@PressSec) X.com (Mar. 2, 2026), <https://x.com/PressSec/status/2028528697460863394>.

²² 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>; Marko Milanovic, *The American-Israeli Strikes on Iran are (Again) Manifestly Illegal*, EJIL: TALK! (Feb. 28, 2026),

<https://www.ejiltalk.org/the-american-israeli-strikes-on-iran-are-again-manifestly-illegal/>; Brian Egan & Tess Bridgeman, *Top Experts’ Backgrounder: Military Action Against Iran and US Domestic Law*, JUST SECURITY (Feb. 28, 2026),

<https://www.justsecurity.org/64645/war-powers-trump-iran-strikes/>; Eliav Lieblich, *Double Preemption, Imminence, and the U.S. Attack Against Iran*, JUST SECURITY (Mar. 3, 2026),

<https://www.justsecurity.org/133093/preemption-imminence-rubio-iran/>; Brian Finucane, *Operation Epic Fury and the Law*, THE CONTRARIAN (Mar. 3, 2026), <https://contrarian.substack.com/p/operation-epic-fury-and-the-law>.

²³ For example, senior administration officials have contested the view that Iran had plans to imminently attack the United States. Michelle Price, et al., *US intel did not suggest a preemptive strike from Iran before US-Israeli attacks*,

- Regime change is not a legitimate predicate for the President’s military force under either domestic or international law. Article (2)4 of the UN Charter clearly prohibits use of force that intervenes in another member state’s internal politics. And the President’s use of the military for that purpose far exceeds his limited Article II powers to rebuff imminent attacks on the U.S. or its citizens.
- The President has not claimed that Iran had nuclear weapons. Preventing Iran from *eventually* having nuclear weapons,²⁴ no matter how laudable a goal, would not rise to the level of an “armed attack” authorizing the use of force under Article 51.²⁵ Nor would it give the President unilateral authority to engage in a war with another country under the Constitution.
- The Administration’s claim that they struck against Iran because Iran posed an imminent threat lacks both a logical and factual basis. Secretary of State Marco Rubio explained that “the imminent threat was that we knew that if Iran was attacked, and we believed they would be attacked, that they would immediately come after us.”²⁶ Rubio referred to the strikes as being made “proactively in a defensive way.”²⁷ However, reporting suggests

AP sources say, THE HILL (Mar. 1, 2026),

<https://thehill.com/policy/defense/iran-us-israel-intelligence-preemptive-strike/>; Jack Detsch, et al., *Pentagon offers no evidence to support claim it attacked Iran in defense*, POLITICO (Mar. 1, 2026),

<https://www.politico.com/news/2026/03/01/trump-iran-preparing-attack-no-evidence-00806447>; Phil Stewart & Humeyra Pamuk, *Pentagon tells Congress no sign that Iran was going to attack US first, sources say*, REUTERS (Mar. 1, 2026),

<https://www.reuters.com/world/us/pentagon-tells-congress-no-sign-that-iran-was-going-attack-us-first-sources-say-2026-03-02/>. Likewise, there are suggestions that the real basis was that the Administration was upset that it could not immediately receive capitulation from Iran on future development and enrichment of uranium. Kathryn Watson, *Senior Trump official says Iran wasn't "willing to make the type of deal that President Trump would have been satisfied with"*, CBS NEWS (Mar. 3, 2026),

<https://www.cbsnews.com/live-updates/iran-war-us-israel-day-4-trump-gives-no-timeline-as-gulf-states-attacked/#post-update-a847861f>.

²⁴ Importantly, a senior government official explained that President Trump initiated the war after his negotiating team was unable to extract immediate concessions regarding *future* development of Iranian nuclear weapons. Edward Wong & Michael Crowley, *Why Diplomacy Was Doomed: Trump’s Issue Was Iran’s Leadership Itself*, THE NEW YORK TIMES (Mar. 1, 2026), <https://www.nytimes.com/2026/03/01/us/politics/iran-trump-diplomacy-fail.html>. CBS reports that one official stated that “It was very clear [Iran was] just trying to buy time in order to preserve whatever they could to *get past the term of President Trump*, in order to, you know, get to a nuclear weapon.” Kathryn Watson, *Senior Trump official says Iran wasn't "willing to make the type of deal that President Trump would have been satisfied with"*, CBS NEWS (Mar. 3, 2026),

<https://www.cbsnews.com/live-updates/iran-war-us-israel-day-4-trump-gives-no-timeline-as-gulf-states-attacked/#post-update-a847861f> (emphasis added).

²⁵ Michael Schmitt, et al., *Expert Q&A: Are U.S. Threats or Use of Force Against Iran Lawful?*, JUST SECURITY (Feb. 21, 2026), <https://www.justsecurity.org/132180/us-iran-war-strike/>. Even if Iran had nuclear weapons, experts have pointed out that “merely having a weapons capability is not a ground for invoking self-defense.” *Id.*

²⁶ Secretary of State Marco Rubio, Remarks to the Press (Mar. 2, 2026), <https://www.state.gov/releases/office-of-the-spokesperson/2026/03/secretary-of-state-marco-rubio-remarks-to-press-6>.

²⁷ Robert Jimison, *Rubio Walks Back Suggestion That Israel Forced U.S. Hand in Iran Strikes*, THE NEW YORK TIMES (Mar. 3, 2026), <https://www.nytimes.com/2026/03/03/world/middleeast/israel-iran-strikes-rubio.html>.

that the U.S. and Israel had apparently planned the operation for months,²⁸ and that senior administration officials explained that there was no evidence that Iran was preparing to launch a preemptive strike against the U.S.²⁹ Moreover, *Politico* reported days beforehand that senior administration officials were contemplating having Israel attack Iran alone which might lead to a potential attack on U.S. bases, giving the U.S. a predicate to retaliate.³⁰ And President Trump went as far as to say that the United States “forced [Israel’s] hand” in initiating the Iran attacks.³¹ But there is simply no precedent for permitting preemptive strikes that are a result of a nation’s own aggressive activities.³² If the U.S. and Israel had planned an attack on Iran, they cannot claim to be defending themselves from Iran.

In addition, the Trump Administration did not engage in a fulsome consultation with Congress before initiating hostilities as is required by the War Powers Resolution of 1973 (WPR).³³ Rather, the Secretary of State Marco Rubio spoke with seven of the eight members of the Gang of Eight, a bi-partisan subset of Members of Congress who are involved in certain intelligence decisions,³⁴ shortly before the attack.³⁵ That call lasted an hour and was for the purposes of giving them a “heads up” and does not appear to have disclosed the underlying legal rationale for the attack.³⁶ It is unclear the legal basis that the Trump Administration had for not consulting with Congress as is required by the WPR.

In addition, President Trump’s War Powers report to Congress following the attack on Iran provided scant description of the legal basis for the attack.³⁷ The report reiterates Administration concerns that Iran has weapons of war and is seeking the ability to create nuclear weapons.³⁸ The report asserts that the “threat to the United States and its allies and partners became untenable”³⁹

²⁸ Joe Gambrell, et al., *U.S. and Israel launch a major attack on Iran, Trump says Supreme Leader Khamenei killed*, PBS NEWS (Feb. 28, 2026), <https://www.pbs.org/newshour/world/u-s-and-israel-launch-a-major-attack-on-iran-trump-says-supreme-leader-khamenei-killed>.

²⁹ See sources cited *supra* nt. 23.

³⁰ Dasha Burns & Nahal Toosi, *White House officials believe ‘the politics are a lot better’ if Israel strikes Iran first*, POLITICO (Feb. 25, 2026), <https://www.politico.com/news/2026/02/25/white-house-politics-israel-strikes-iran-00799456>.

³¹ Robert Jimison, *Rubio Walks Back Suggestion That Israel Forced U.S. Hand in Iran Strikes*, THE NEW YORK TIMES (Mar. 3, 2026), <https://www.nytimes.com/2026/03/03/world/middleeast/israel-iran-strikes-rubio.html>.

³² Eliav Lieblich, *Double Preemption, Imminence, and the U.S. Attack Against Iran*, JUST SECURITY (Mar. 3, 2026), <https://www.justsecurity.org/133093/preemption-imminence-rubio-iran/>.

³³ 50 U.S.C. § 1542.

³⁴ 50 U.S.C. § 3093(c)(2).

³⁵ Sam Gringlas, *Iran strikes were launched without approval from Congress, deeply dividing lawmakers*, NPR (Feb. 28, 2026), <https://www.npr.org/2026/02/28/nx-s1-5730203/iran-israel-trump-congress-strikes-reaction>; John Hudson & Ellen Nakashima, *Rubio called key lawmakers on Iran strikes ahead of time, White House says*, THE WASHINGTON POST (Feb. 28, 2026), <https://www.washingtonpost.com/world/2026/02/28/israel-strikes-iran-live-updates/#link-MDGXXF3FSFHV5E5KLMISZPSBRQ>.

³⁶ *Id.*

³⁷ President Trump, War Powers Report (Mar. 2, 2026), <https://www.documentcloud.org/documents/27725118-war-powers-report-iran/#document/p1>.

³⁸ *Id.*

³⁹ *Id.*

but does not suggest that there was an imminent risk of armed attack, the only basis for President Trump to unilaterally initiate a war with Iran.

Given the inconsistent and incomplete statements by the Administration regarding the factual and legal predicates for the war in Iran, it is imperative that the Administration provide a legal basis for their actions. In cases where military action is being considered by the President, it is often the case that he will seek the opinion of the Attorney General (through the Office of Legal Counsel) to assess the legality of the engagement.⁴⁰ Given the extensive military force used here, it is expected that the President would have sought the opinion of the Office of Legal Counsel prior to undertaking Operation Epic Fury.

Fee Waiver Request

Pursuant to 5 U.S.C. 552(a)(4)(A) 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.’”⁴¹ DDF’s request meets all elements.

The records DDF is seeking from OLC relate to an “operation[.]” or “activit[y]” of the Department of Justice and the Department of Defense. The Department of Justice’s Office of Legal Counsel (OLC) has been delegated the Attorney General’s statutory and Constitutional authority to provide formal opinions to agencies and to the President.⁴² OLC opinions are treated as “controlling” in the executive branch, and the culmination of the executive branch’s thought process on such matters.⁴³

Disclosure of any opinions provided by the Office of Legal Counsel concerning the authority of the Department of Defense to enter into military hostilities with Iran is imperative to assuring the American public of the legal basis—or lack thereof—for the President’s actions. These records implicate some of the most profound issues concerning the limits of Executive Branch power under the U.S. Constitution, issues that our Founders viewed as central to the separation-of-powers that have secured the liberties of American citizens for nearly 250 years.

⁴⁰ See, e.g., Memorandum from T. Elliot Gaiser, Assistant Attorney General, to the Legal Advisor, National Security Council, *Proposed War Department Operation to Support Enforcement Efforts in Venezuela* (Dec. 23, 2025), <https://www.justice.gov/olc/media/1423306/dl?inline>; *April 2018 Airstrikes Against Syrian Chemical-Weapons Facilities*, 42 Op. O.L.C. 39 (2018); *Authority to Order Targeted Airstrikes Against the Islamic State of Iraq and the Levant*, 38 Op. O.L.C. 1 (2014); *Authority to Use Military Force in Libya*, 35 Op. O.L.C. 1 (Apr. 1, 2011); *Authority of the President Under Domestic and International Law to Use Military Force Against Iraq*, 26 Op. O.L.C. 143, 152 (2002).

⁴¹ *Cause of Action v. FTC*, 799 F.3d 1108, 1115 (D.C. Cir. 2015).

⁴² 28 C.F.R. § 0.25.

⁴³ 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>.

The power to initiate war is one of the most important powers that the American people delegated to the federal government. Its abuse not only implicates core questions concerning the structure of power in our nation but raises imperative issues concerning civil liberties and human life. The public deserves to have the full explanation, both the factual predicate and the legal basis, of why we have entered into hostilities with Iran. So too for the coordinate branch—Congress—who has been delegated the sole authority to declare war. That branch is currently considering several War Powers Resolutions that would limit the ability of the President to further conduct military operations in Iran.⁴⁴ Understanding the legal basis for the Administration’s attacks would be vital for understanding how best to structure any limits on the ability of the President to engage in hostilities in Iran.

Given the significant importance in understanding how far OLC believes the power of the President goes in regards to this military action, 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.”⁴⁵

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.⁴⁶ DDF maintains a dedicated website where it provides information related to its activities which can be accessed by the public.⁴⁷ The purpose of the disclosure is to inform the public about the activities of the government.

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.”⁴⁸ 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

⁴⁴ Mia McCarthy, *House Democrats introduce alternative war powers resolution*, POLITICO (Mar. 3, 2026), <https://www.politico.com/live-updates/2026/03/03/congress/dems-new-war-powers-measure-00810200>; Luke Garrett, *Congress gears up for vote on Trump's war powers in Iran*, NPR (Mar. 2, 2026), <https://www.npr.org/2026/03/02/g-s1-112092/iran-war-powers-congress-trump>.

⁴⁵ *Vietnam Veterans of Am. v. Dep't of Def.*, 453 F. Supp. 3d 508, 518 (D. Conn. 2020) (quoting *U.S. DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773 (1989)) (cleaned up).

⁴⁶ 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>.

⁴⁷ See Democracy Defenders Fund, News and Resources (last visited, Sept. 22, 2025), <https://www.democracydefendersfund.org/news-resources>.

⁴⁸ *Nat’l Sec. Archive v. Dep’t. of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

related to information sought under the FOIA.⁴⁹ Pursuant to existing case law, DDF clearly meets the criteria for a fee waiver under section 552(a)(4)(A)(ii)(II).⁵⁰

In the event my 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 28 C.F.R. § 16.5(e) because (1) there exists “[a]n urgency to inform the public about an actual or alleged Federal Government activity” and DDF is “primarily engaged in disseminating information” and (2) this is a “[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)(ii), (iv).

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 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.”⁵¹ 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.”⁵²

The war in Iran raises questions of the utmost urgency. American service members have lost their lives. Iran has retaliated against its neighboring nations and U.S. bases, and there is a real risk that the U.S. and Israel's first strike attack will result in retaliatory attacks on the territorial U.S.⁵³ The legal basis for placing American lives at risk must be airtight. Yet, to date, the Administration has provided no definitive explanation of how the President's actions comport with international or domestic law. Given the serious concerns that experts have already raised

⁴⁹ MS Now, Weeknight (Aug. 11, 2025), 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.

⁵⁰ See, e.g., *Cause of Action v. FTC*, 799 F.3d 1108, 1120 (D.C. Cir. 2015); *Nati'l Sec. Archive v. DoD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

⁵¹ 28 C.F.R. § 16.5(e)(1)(ii).

⁵² *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)).

⁵³ Jana Winter, *Intelligence assessment warns of Iranian attacks on US following Khamenei's death*, REUTERS (Mar. 2, 2026), <https://www.reuters.com/world/middle-east/intelligence-assessment-warns-iranian-attacks-us-following-khameneis-death-2026-03-02/>.

that the attack was the initiation of an illegal war, this lack of transparency is deeply troubling. Only Congress can initiate an offensive war, and even then, is limited in what can be authorized under the UN Charter. Delay in the production of any legal basis from the Office of Legal Counsel leaves the American public in the dark as to matters of vital national and international importance-matters that have led to the deaths of hundreds of civilians already. The war in Iran is also having substantial impacts on the world economy. Gas prices raised 7% in mere days,⁵⁴ and the Strait of Hormuz, through which much of the Middle East's oil is shipped, has been closed for fear of Iranian attacks.⁵⁵ The war in Iran has also disrupted international travel and led to the State Department helping to evacuate over 9,000 Americans from the region.⁵⁶ This is the emblematic case in which “a delay in obtaining information can reasonably be foreseen to cause a significant adverse consequence to a recognized interest” of Americans in having the federal government adhere to the rule of law and the law of armed conflict.⁵⁷

DDF is also an entity that is “primarily engaged in disseminating information” to the public.⁵⁸ 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.⁵⁹ 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.⁶⁰ By utilizing a variety of news media sources, DDF is able to make its

⁵⁴ Rebecca Elliott, *Oil Prices Surge After Iran Attack*, THE NEW YORK TIMES (last updated Mar. 2, 2026), <https://www.nytimes.com/2026/03/01/business/energy-environment/iran-war-oil-prices.html>.

⁵⁵ Reuters, *Iran vows to attack any ship trying to pass through Strait of Hormuz* (Mar. 2, 2026), <https://www.reuters.com/world/middle-east/iran-vows-attack-any-ship-trying-pass-through-strait-hormuz-2026-03-02/>.

⁵⁶ Press Release, Department of State, U.S. Assistance to Ensure the Safety of American Citizens Overseas (Mar. 3, 2026), <https://www.state.gov/releases/office-of-the-spokesperson/2026/03/u-s-assistance-to-ensure-the-safety-of-american-citizens-overseas>.

⁵⁷ *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001).

⁵⁸ See, e.g. *Protect Democracy Project, Inc. v. United States Dep't of Just.*, 498 F. Supp. 3d 132, 139 (D.D.C. 2020).

⁵⁹ 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. Farenthold, *Two Watchdogs Were Rebuffed From Joining Trump's Cost-Cutting Effort*, THE NEW YORK 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/>.

⁶⁰ 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),

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.

2. The request involves a matter of widespread and exceptional media interest involving questions about the Government'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 Department of Defense's use of military force in Iran has generated exceptionally widespread media interest. Dozens of news and media outlets, including CNN, CBS, NBC, ABC, and the New York Times, have released hundreds of stories related to the war in Iran.⁶¹ As noted above, dozens of commentators, including sitting Members of Congress, former military officers, and non-governmental organizations have raised serious questions about the legality of the war in Iran.⁶² It seems clear that the President's actions are having an impact

<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 & Viginia 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>.

⁶¹ See, e.g., Live Updates, War with Iran, CNN (last visited Mar. 5, 2026), <https://www.cnn.com/world/live-news/iran-war-us-israel-trump-03-04-26> (over 100 individual articles concerning the Iran War); Live Updates, CBS LIVE UPDATES (last visited Mar. 5, 2026), <https://www.cbsnews.com/live-updates/us-iran-war-israel-strikes-tehran-lebanon-day-5-al-uheid-targeted/> (dozens of articles concerning the war with Iran); Live Updates, NBC NEWS (last visited Mar. 5, 2026), <https://www.nbcnews.com/world/iran/live-blog/live-updates-iran-supreme-leader-gulf-attacks-israel-tehran-trump-rcna261634> (ditto); Live Updates, ABC NEWS (last visited Mar. 5, 2026), <https://abcnews.com/International/live-updates/iran-live-updates-idf-targets-iranian-internal-security/?id=130743836> (ditto); Live Updates, THE NEW YORK TIMES (last visited Mar. 5, 2026), <https://www.nytimes.com/live/2026/03/04/world/iran-war-israel-lebanon-trump> (ditto). This is just a representative sample of the hundreds, if not thousands, of articles that have been written about the war in Iran at the time of this FOIA request.

⁶² See sources cited *supra* nt. 22; Elizabeth Warren, *Trump's war against Iran is illegal and a betrayal of the American people* (Feb. 28, 2026), <https://www.warren.senate.gov/newsroom/videos/watch/trumps-war-against-iran-is-illegal-and-a-betrayal-of-the-american-people>; Jerry Nadler, Statement on Trump's Military Action in Iran (Feb. 28, 2026), <https://nadler.house.gov/news/documentsingle.aspx?DocumentID=397468>; D'Angelo Gore, *Legality of Latest Iran Attack in Question*, FACTCHECK.ORG (Mar. 3, 2026), <https://www.factcheck.org/2026/03/legality-of-latest-iran-attack-in-question/>; Charlie Savage, *The Legality, or Illegality, of Killing a Foreign Leader, Explained*, THE NEW YORK TIMES (Mar. 2, 2026), <https://www.nytimes.com/2026/03/02/us/politics/iran-khamenei-dead-trump-legal.html>; Austin Campbell, *Trump's Iran Attack Was Illegal, Former U.S. Military Officials Allege*, THE INTERCEPT (Mar. 1, 2026), <https://theintercept.com/2026/03/01/trump-iran-attack-war-powers-resolution-united-nations-charter-legal/>; Haroon Siddique, *What is the legality of the US and Israeli attacks on Iran?*, THE GUARDIAN (Mar. 2, 2026),

on public confidence. Americans overwhelmingly disapprove of the U.S. war in Iran.⁶³ The President's approval rating is the lowest it has ever been across both of his terms.⁶⁴ Disclosure of any legal justifications that may have been provided by OLC is necessary to help the public understand better what basis the Administration thought they had to act, and whether they adhered any safeguards or limits.

As noted, DDF has a proven ability to reach broad and diverse audiences, which positions this organization as a key disseminator of this missing information. Moreover, DDF has extensive knowledge of the rules and regulations that protect against government corruption and malfeasance and is uniquely situated to understand and convey information received through this FOIA concerning potential improprieties to the public.

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 █████@democracydefenders.org. Please send the requested records to █████@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 Founder
Democracy Defenders Fund

<https://www.theguardian.com/law/2026/mar/02/legality-us-israel-attacks-iran-uk>; Common Cause, *Trump's Iran War is Illegal, and Congress Must Stop It* (Mar. 2, 2026), <https://www.commoncause.org/resources/trumps-iran-war-is-illegal-and-congress-must-stop-it/>; Brad Reed, *Experts Worldwide Agree: US-Israel Attack on Iran a Clear Violation of International Law*, COMMON DREAMS (Mar. 3, 2026), <https://www.commondreams.org/news/trump-iran-war-illegal>; Arms Control Association, *Illegal U.S.-Israel Attacks Not Justifiable on Nonproliferation Grounds* (Feb. 28, 2026), <https://www.armscontrol.org/pressroom/2026-02/illegal-us-israel-attacks-not-justifiable-nonproliferation-grounds>; Center for International Policy, *Congress Must Stop Trump's Illegal War on Iran* (Feb. 28, 2026), <https://internationalpolicy.org/publications/congress-must-stop-trumps-illegal-war-on-iran/>.

⁶³ Jennifer Agiesta & Ariel Edwards-Levy, *CNN poll: 59% of Americans disapprove of Iran strikes and most think a long-term conflict is likely*, CNN POLITICS (Mar. 2, 2026), <https://www.cnn.com/2026/03/02/politics/cnn-poll-59-of-americans-disapprove-of-iran-strikes-and-most-think-a-long-term-conflict-is-likely>; G. Elliot Morris, *Trump starts a war with Iran that few Americans support*, STRENGTH IN NUMBERS (Feb. 28, 2026), <https://www.gelliottmorris.com/cp/189665026>.

⁶⁴ Donald Trump's approval rating, THE ECONOMIST (last updated Mar. 5, 2026), <https://www.economist.com/interactive/trump-approval-tracker>.

/s/

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Ethics and Anticorruption Chief Counsel and Director
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/s/

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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.⁶⁵ 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.⁶⁶
- 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.

⁶⁵ 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).

⁶⁶ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).