

EXHIBIT 1



August 19, 2026

U.S. Department of Defense
Freedom of Information Division
1155 Defense Pentagon
Washington, DC 20301-1155
osd.mc-alex.oatsd-pclt.mbx.foia-policy@mail.mil

Armed Service Board of Contract Appeals
Skyline 6, Room 703
5109 Leesburg Pike
Falls Church, VA 22041-3208
asbca.foia@mail.mil

Defense Contract Audit Agency
FOIA Service Center, Suite 2135
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6219
dcaa.belvoir.hq.mbx.hq-foia@mail.mil

Defense Contract Management Agency
DCMA-DCC, Attn: FOIA Officer
3901 A Avenue
Fort Gregg-Adams, VA 23801
dcma.gregg-adams.hq.mbx.dcma-foia@mail.mil

Defense Counterintelligence and Security Agency
Office of FOIA and Privacy
27130 Telegraph Road
Quantico, VA 22314
dcsa.quantico.dcsa-hq.mbx.foia@mail.mil

Defense Health Agency
DHA FOIA Requester Service Center
7700 Arlington Blvd, Suite 5101
Falls Church, VA 22042-5101
dha.foia@health.mil

Defense Information Systems Agency
Chief Information Office A3E23
6910 Cooper Ave.
Ft. Meade, MD 20755-0549
disa.meade.eiic.mbx.cio-foia@mail.mil

Defense Intelligence Agency
ATTN: IMO-2 (FOIA)
7400 Pentagon
Washington, DC 20301-7400
foia1@dodiis.mil

Defense Logistics Agency
Information Governance & Compliance/Attn:
FOIA/Privacy
6090 Strathmore Road
Richmond, VA 23237
foia.liaison@dla.mil

Defense Technical Information Center
DTIC-R ATTN: FOIA Requester Service Center
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6218
dtic.belvoir.rm.mbx.foia@mail.mil

Department of the Air Force
SAF/AMGI (FOIA)
1000 Air Force Pentagon
Washington, DC 20330-1000
DAF.FOIA@us.af.mil

Department of the Army
U.S. Army Freedom of Information Act
Office Army Records Management
Directorate
9301 Chapek Rd. Bldg. 1458
Fort Belvoir, VA 22060-5605
usarmy.belvoir.hqda-esa.mbx.rmda-foia@army.mil

Department of the Navy
Chief of Naval Operations, DNS-36
2000 Navy Pentagon
Washington, DC 20350-2000
usn.ncr.dns.mbx.don-foia-pa@us.navy.mil

Department of War Office of Inspector
General
DoD Office of Inspector General/FOIA
Requester Service Center
4800 Mark Center Drive, Suite 10B24
Alexandria, VA 22350-1500
foiarequests@dodig.mil

Joint Personnel Recovery Agency
FOIA Requester Service Center
10244 Burbeck Road
Fort Belvoir, VA 22060-5805
js.belvoir.jprra.mbx.foia-pa@mail.mil

National Guard Bureau
Office of Information and Privacy (NGB/JA-OIP)
111 South George Mason Drive, AH2
Arlington, VA 22204-1373
ngb.foia@army.mil

National Security Agency
9800 Savage Rd.
Suite 6932
Fort Meade, MD 20755-6932
foiarsc@nsa.gov

Office of the Secretary of War and Joint Staff
OSD/JS FOIA Requester Service Center,
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155
whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil

U.S. Central Command
United States Central Command J6-8-F
(FOIA/PA)
7115 South Boundary Boulevard
MacDill AFB, FL 33621-5101
centcom.macdill.centcom-hq.mbx.freedom-of-information-act@mail.mil

U.S. Marine Corps
FOIA/PA, Headquarters US Marine Corps
(ARSF), FOIA/PA Section (ARSF)
3000 Marine Corps Pentagon
Washington, DC 20350-3000
hqmcfia@usmc.mil

U.S. Space Force
SAF/AAII (FOIA)
1000 Air Force Pentagon
Washington, DC 20330-1000
DAF.FOIA@us.af.mil

U.S. Strategic Command
USSTRATCOM/J010 (FOIA)
900 SAC BLVD STE N3.101
Offutt AFB, NE 68113
stratcom.offutt.mbx.j0-stratcom-foia@mail.mil

U.S. Special Operations Command
HQ USSOCOM - SOCS-SJS-F/FOIA
Requester Service Center
7701 Tampa Point Boulevard
MacDill AFB, FL 33621-5323
foia@socom.mil

Re: Request Under Freedom of Information Act Concerning Records Related to the Department of Defense's Review of the Operational "Effectiveness" of Women in Ground Combat Roles

(Expedited Processing & Fee Waiver/Limitation Requested)

To Whom It May Concern:

The American Civil Liberties Union and the American Civil Liberties Union Foundation ("ACLU"),¹ the National Women's Law Center ("NWLC"),² and the Service Women's Action Network ("SWAN")³ (together, "Requesting Parties") submit this Freedom of Information Act ("FOIA") request ("Request") for records pertaining to the Department of Defense's ("DoD") decision to undertake a formal review of the "effectiveness" of women in ground combat positions ("Formal Review"), first assigned to the Institute for Defense Analyses ("IDA")⁴ and later reassigned to the Johns Hopkins University Applied Physics Laboratory ("JHU/APL").⁵ The Requesting Parties also seek records relating to Secretary Hegseth's March 30, 2025, Memorandum ordering review of combat arms standards by all of the service branches.

DoD's Formal Review both precedes and succeeds a troubling list of actions that the Department has taken to limit women servicemembers' ability to serve in the military on equal

¹ The American Civil Liberties Union is a non-profit, 26 U.S.C. § 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators. The American Civil Liberties Union Foundation is a non-profit, 26 U.S.C. § 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, and educates the public about civil rights and civil liberties issues across the country.

² The National Women's Law Center is a non-profit, 26 U.S.C. § 501(c)(3) organization that has worked for over fifty years to advance and protect women's legal rights and to remove barriers faced by women and LGBTQIA+ individuals in core aspects of their lives.

³ Service Women's Action Network (SWAN) is a non-profit, 26 U.S.C. § 501(c)(3) organization that supports, defends, and empowers servicewomen and women veterans through advocacy initiatives and community programs. Its mission includes transforming military culture by securing equal opportunity and freedom to serve without discrimination, harassment, or assault.

⁴ Tom Bowman, *Pentagon will begin review of "effectiveness" of women in ground combat positions*, NPR (Jan. 7, 2026), <https://www.npr.org/2026/01/06/nx-s1-5667583/pentagon-review-women-in-ground-combat-roles>.

⁵ Hope Hodge Seck, *Pentagon's women-in-combat review reassigned; deadline extended*, Military Times (Apr. 13, 2026), <https://www.militarytimes.com/news/pentagon-congress/2026/04/14/pentagons-women-in-combat-review-reassigned-deadline-extended/>.

terms as men servicemembers. Women make up nearly 18 percent⁶ of our armed forces and are essential to our military's success. The Requesting Parties have long been committed to ensuring that women are eligible to serve in all roles in our armed services, including ground combat, thus expanding servicewomen's career paths and potential for promotion to senior military leadership. Women's equal opportunity to serve improves recruitment and retention and strengthens our national security and readiness.

DoD and Secretary Hegseth have failed to provide any meaningful explanation about the reasons for undertaking the Formal Review, its scope, or its potential consequences for women's continued service in ground combat roles—thus necessitating this Request.

I. Background

In his roughly 18-month tenure as Secretary of Defense, Pete Hegseth has repeatedly denigrated women servicemembers and veterans, questioned women's ability to serve on equal terms as men, including in ground combat positions, and undertaken a series of actions to limit or even terminate the careers of dedicated, accomplished, senior women military leaders. He also has initiated a wide range of changes in the physical eligibility criteria for servicemembers in each of the military branches, based at least in part on an asserted belief that they subjected women to lower fitness standards. Finally, he has commissioned studies of combat arms standards and women's "effectiveness" in ground combat roles, which are widely interpreted as preludes to the implementation of policies intended to curtail women's service in those roles.

a. The History of Women in Combat in the United States

Women have always been on the front lines of our nation's defense and have served in every major U.S. conflict. In the Revolutionary and Civil Wars, more than 1,000 women disguised themselves as men, fighting—and dying—in some of those conflicts' most notorious battles.⁷ Thousands more served as nurses, spies, cooks, and laundry workers.⁸ During World War I, approximately 34,000 women served in uniform overseas, mostly as nurses and drivers, providing transportation to canteens, hospitals and camps, and working as telephone operators with the U.S. Army Signal Corps, serving close to the frontlines,⁹ while during World War II, more than 350,000 women served in myriad roles, among them as pilots, code-breakers, and intelligence officers.¹⁰ In the Korean War, 120,000 women served,¹¹ while in the Vietnam War,

⁶ *Still Serving: The Role of Women in the Military and After Service*, Mission Roll Call (Mar. 21, 2026), <https://missionrollcall.org/veteran-voices/research-and-reports/still-serving-the-role-of-women-in-the-military-and-after-service/>.

⁷ Danielle DeSimone, *Over 200 Years of Service: The History of Women in the U.S. Military*, USO (Feb. 23, 2023), <https://www.uso.org/stories/3005-over-200-years-of-service-the-history-of-women-in-the-us-military>.

⁸ *Liberty Exhibit Big Idea 4: A Women's War*, Museum of the American Revolution, <https://www.amrevmuseum.org/liberty-exhibit-big-idea-4-a-women-s-war> (last visited Aug. 14, 2026); HISTORY.com Editors, *Women in the Civil War*, HISTORY.com (Feb. 5, 2010), <https://www.history.com/articles/women-in-the-civil-war>.

⁹ *Women in World War I*, National Park Service, <https://www.nps.gov/articles/women-in-world-war-i.htm> (last visited Aug. 14, 2026).

¹⁰ *Women in the Military During World War II*, National Park Service, <https://www.nps.gov/articles/000/women-in-the-military-during-world-war-ii.htm> (last visited Aug. 14, 2026).

¹¹ *The Role of Women in the Korean War*, Korean War Legacy Foundation, <https://koreanwarlegacy.org/chapters/the-role-of-women-in-the-korean-war/> (last visited Aug. 14, 2026).

over 265,000¹² women were deployed, including as nurses and physicians, intelligence officers, and air traffic controllers,¹³ among other positions. During Operations Desert Shield and Desert Storm, 33,000 women undertook critical roles in combat zones, including directing artillery, flying helicopters, and maintaining tactical communications.¹⁴ Servicewomen's role in the military—and specifically, their role on or near the front lines of battle—grew significantly post-9/11. Over 300,000 women served in combat environments in the Iraq and Afghanistan wars.¹⁵

Congress formally recognized women as an enduring part of the military in the Women's Armed Services Integration Act of 1948.¹⁶ The Act permitted women to enlist and serve in all branches of the Armed Services.¹⁷ Women were prohibited, however, from serving in combat positions—by statute, with respect to the Air Force and Navy, and by “established policy,” with respect to the Army and Marines.¹⁸ Women also were prohibited from holding a rank above lieutenant colonel or commander and barred from serving on most ships.¹⁹ In 1988, DoD adopted the “Risk Rule” policy,²⁰ extending women's combat exclusion to bar their participation in any non-combat unit where the risks of exposure to combat were equal to or greater than the combat units they supported. DoD rescinded the Risk Rule in January 1994, instead establishing a new policy that excluded women from assignments to units below the brigade level whose primary mission was direct ground combat, effectively barring them from more than 250,000 jobs in infantry, armor, artillery, and special operations (the “Ground Combat Exclusion Policy”).²¹

Alongside this history of exclusion, however, were incremental gains that allowed thousands of women to make careers in the military active-duty force and gain footholds at its highest levels. In the 1960s and 1970s, mirroring the expansion of civil rights protections for government and private sector workers, Congress eliminated prohibitions on women serving on ships and at top ranks.²² In 1972, women became eligible to serve in the Reserve Officers' Training Corps (“ROTC”), and in 1975, Congress enacted legislation permitting women to enter

¹² VAntage Point Contributor, *Women Veterans bravely served during Vietnam War*, VA News (Mar. 14, 2021), <https://news.va.gov/86001/women-veterans-bravely-served-vietnam-war/>.

¹³ HISTORY.com Editors, *Women in the Vietnam War*, HISTORY.com (Oct. 8, 2025), <https://www.history.com/articles/women-in-the-vietnam-war>.

¹⁴ Marilyn Elizabeth Perry, *Women in the Gulf War*, EBSCO (2022), <https://www.ebsco.com/research-starters/womens-studies-and-feminism/women-gulf-war#research-starter-title>.

¹⁵ Ash Carter, *No Exceptions: The Decision to Open All Military Positions to Women*, Harvard Kennedy School Belfer Center Report at 3 (December 2018), https://www.belfercenter.org/sites/default/files/pantheon_files/files/publication/WomeninCombat_0.pdf.

¹⁶ Pub. L. No. 80-625, 62 Stat. 356.

¹⁷ *Id.*

¹⁸ *Rostker v. Goldberg*, 453 U.S. 57, 76 (1981).

¹⁹ See Women's Armed Services Integration Act of 1948, Pub. L. No., 80-625, 62 Stat. 356.

²⁰ Department of Defense, Report: Task Force on Women in the Military 10 (Jan. 1988), https://www.google.com/books/edition/Report_Task_Force_on_Women_in_the_Milita/X_FGMte09jgC?hl=en&gbpv=1&bsq=risk%20rule.

²¹ Department of Defense Memorandum on direct ground combat definition and assignment rule from the secretary of defense to the secretary of the army, secretary of the navy, secretary of the air force, chairman, joint chiefs of staff, assistant secretary of defense (personnel and readiness) and assistant secretary of defense (reserve affairs) (Jan. 13, 1994).

²² See Cong. Rsch. Serv., R44321, Diversity, Inclusion, and Equal Opportunity in the Armed Services: Background and Issues for Congress 24-25 (2019), https://www.congress.gov/crs_external_products/R/PDF/R44321/R44321.12.pdf.

the military service academies.²³ The U.S. Supreme Court also recognized that women servicemembers were entitled to the same dependent benefits as their men colleagues, and that DoD's failure to provide such benefits was a form of unlawful sex discrimination under the U.S. Constitution.²⁴ Five years later, a federal court struck down as unconstitutional the Navy's ban on servicewomen being assigned to duty aboard ships.²⁵

The National Defense Authorization Act ("NDAA") for Fiscal Years 1992 and 1993 repealed the prohibition on the assignment of women to combat aircraft in the Air Force, the Navy, and the Marines Corps.²⁶ The Act also established the Presidential Commission on the Assignment of Women in the Armed Forces to study the legal, military, and societal implications of amending the exclusionary laws. Notably, the following year, the NDAA for Fiscal Year 1994 repealed remaining prohibitions on women serving on combatant vessels and aircraft; required the Secretary of Defense to ensure that occupational performance standards were gender-neutral; and required the Secretary of Defense to notify Congress 90 days before any policy changes were made regarding the assignment of women to ground combat roles.²⁷

The ill-defined frontlines and insurgent attacks of Iraq and Afghanistan wars blurred the distinction between combat and non-combat roles, bringing into sharp relief the unjustifiability of the Ground Combat Exclusion Policy. Nearly 200 women were killed in combat in those wars, and another 1,102 were wounded.²⁸ Collectively during the Iraq and Afghanistan conflicts, 437 women earned awards for valor, including two Silver Stars, three Distinguished Flying Crosses, 31 Air Medals, 16 Bronze Stars,²⁹ and 500 Purple Hearts.³⁰

In February 2012, in recognition of these contributions, DoD modestly modified the Ground Combat Exclusion Policy, opening approximately 14,000 jobs to women.³¹

b. The Repeal of the Ground Combat Exclusion Policy

In late 2012, the ACLU represented SWAN and four individual servicewomen in a lawsuit challenging the Ground Combat Exclusion Policy as unconstitutional.³² Within weeks, in

²³ Department of Defense Appropriations Authorization Act of 1976, Pub. L. No. 94-106, 89 Stat. 531, 537-538.

²⁴ *Frontiero v. Richardson*, 411 U.S. 677 (1973).

²⁵ *Owens v. Brown*, 455 F. Supp. 291 (D.D.C. 1978).

²⁶ National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. 102-190, 105 Stat. 1290 (1991).

²⁷ National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160, 107 Stat. 1547, 1659 (1993).

²⁸ *Women in the Military Where They Stand*, Service Women's Action Network at 4 (2019), <https://static1.squarespace.com/static/5fd0dd21f269f120630260ee/t/6010286a2e34011cb74e907f/1611671658865/SWAN-Where-we-stand-2019-0416revised.pdf>.

²⁹ By Richard, *Women in Combat: Silver Stars, Combat Action Badges and Casualties*, Military.com (Aug. 31, 2015), <https://www.military.com/daily-news/2015/08/31/women-in-combat-silver-stars-combat-action-badges-casualties.html>.

³⁰ Gretel C. Kovach, *First woman joins Purple Heart chapter*, The San Diego Union-Tribune (Apr. 28, 2013), <https://www.sandiegouniontribune.com/2013/04/28/first-woman-joins-purple-heart-chapter/>.

³¹ Elisabeth Bumiller, *Pentagon Allows Women Closer to Combat, but Not Close Enough for Some*, The N.Y. Times (Feb. 9, 2012), https://www.nytimes.com/2012/02/10/us/pentagon-to-loosen-restrictions-on-women-in-combat.html?_r=0; Capt. Judy Marlow, *Department of Defense opens ground combat roles to female servicemembers*, U.S. Army (Feb. 1, 2013), https://www.army.mil/article/95489/departments_of_defense_opens_ground_combat_roles_to_female_servicemembers.

³² Press Release, ACLU, Legal Challenge Filed Against Policy Excluding Women from Combat (Nov. 27, 2012), <https://www.aclu.org/press-releases/legal-challenge-filed-against-policy-excluding-women-combat>.

January 2013, then-Secretary of Defense Leon Panetta rescinded the Policy, immediately lifting the combat ban with respect to 110,000 jobs, and directing the military branches to submit plans for implementing this historic change, including whether they would seek exemptions for any military occupational specialties (“MOSS”).³³

In the intervening two years, DoD and the United States Special Operations Command (“SOCOM”) conducted “extensive examinations of the opportunities, effects, and implementation issues inherent in opening combat positions to women,” totaling 41 studies.³⁴ Among the issues examined were maintenance of unit cohesion; needed modifications to equipment, gear, uniforms, and facilities; the scope of women’s interest in serving in combat roles; how other nations’ militaries have integrated women into combat roles; sexual assault prevention and response; and potential adaptations to servicemembers’ living arrangements. The Army, Navy, Air Force, and Commander of Special Operations ultimately recommended opening to women all positions in their components, including combat positions; the Marine Corps was the only service that requested exemptions from integration, seeking to retain men-only status for nearly 50,000 positions.³⁵

During this assessment period, Congress directed the Secretaries of all military departments to “develop, review, and validate individual occupational standards, using validated gender-neutral occupational standards, so as to assess and assign members of the Armed Forces to units, including Special Operations Forces.”³⁶ Building on that requirement, Congress elaborated the following year that the “Secretary of Defense shall ensure that the gender-neutral occupational standards being developed by the Secretaries of the military departments . . . (1) accurately predict performance of actual, regular, and recurring duties of a military occupation; and (2) are applied equitably to measure individual capabilities.”³⁷ Congress then added a third criterion two years later, requiring the gender-neutral occupational standards actually “(3) measure the combat readiness of combat units, including special operations forces.”³⁸

In December 2015, DoD announced that all military roles, units, and schools would officially be open to women with “no exceptions,”³⁹ lifting the ban on more than 200,000 ground combat jobs. In the memorandum providing implementation guidance for the full integration of women in the military, then-Secretary of Defense Ash Carter observed that the exhaustive studies

³³ Department of Defense, Memorandum for Secretaries of the Military Departments Acting Under Secretary of Defense for Personnel and Readiness, and Chiefs of the Military Services (Jan. 24, 2013), <https://www.womenvetsusa.org/cmsfiles/docs/rescission-of-1994-direct-ground-combat-definition-&-assignment-rule-secdef-24-jan-2013.pdf?1782929910>; Carter, *supra* n.15 at 4.

³⁴ Carter, *supra* n.15 at 12.

³⁵ *Id.* at 14.

³⁶ National Defense Authorization Act for Fiscal Year 2014, Public Law 113-66, § 524, 127 Stat. 672, 757 (Dec. 26, 2013).

³⁷ National Defense Authorization Act for Fiscal Year 2015, Public Law 113-291, § 524(a), 128 Stat. 3292, 3361-62 (Dec. 19, 2014).

³⁸ National Defense Authorization Act for Fiscal Year 2016, Public Law 114-92, § 525, 129 Stat. 726, 813 (Nov. 25, 2015).

³⁹ Department of Defense, Memorandum for Secretaries of the Military Departments Acting Under Secretary of Defense for Personnel and Readiness, Chiefs of the Military Services, Commander, U.S. Special Operations Command, Subject: Implementation Guidance for the Full Integration of Women in the Armed Forces (Dec. 3, 2015), <https://news.usni.org/2015/12/04/document-secdef-carters-implementation-guidance-to-include-women-in-all-military-positions>.

that DoD had undertaken “yielded insights far beyond gender integration” such as “increas[ing] [DoD’s] understanding of the physical and physiological demands on Service members.”⁴⁰ The memorandum concluded that anyone “who can meet operationally relevant and gender neutral standards, regardless of gender, should have the opportunity to serve in any position.”⁴¹

Today, women comprise 18 percent of all servicemembers,⁴² and more than 5,000 women are serving in combat positions across all branches of the military.⁴³ By statute, they have met the same occupational standards as men servicemembers. More than 150 women have earned Ranger Tabs by completing the U.S. Army’s grueling 62-day small-unit tactics and leadership course.⁴⁴ Others have served as Master Gunners and Company Commanders, and instructors in combat arms schools. They have earned Expert Infantry Badges, Expert Soldier Badges, and Combat Dive Badges.

c. Under Secretary Hegseth, DoD Has Taken a Series of Actions That Denigrate and Inflict Harm on Servicewomen

Throughout his roughly 18-month tenure, Secretary Hegseth has taken a series of actions reflecting hostility to military women. For instance, he has undertaken a campaign of purging senior leaders, among them Adm. Linda Fagan,⁴⁵ commander of the Coast Guard and the first woman to lead a branch of the armed forces; Adm. Lisa Franchetti,⁴⁶ the first woman to lead the Navy and serve on the Joint Chiefs of Staff; Air Force Lt. Gen. Jennifer Short,⁴⁷ the senior military assistant to the Secretary of Defense; Vice Adm. Shoshana Chatfield,⁴⁸ the only woman officer on NATO’s Military Committee; Lt. Gen. Telita Crosland,⁴⁹ the first Black woman to lead the Defense Health Agency; and Vice Adm. Yvette Davids,⁵⁰ the first woman superintendent of the Naval Academy. He also has engaged in unprecedented overruling of the promotion recommendations of senior military officers to block several women Army officers from becoming one-star generals,⁵¹ three women Navy officers from becoming one-star admirals,⁵²

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *2024 Demographics Profile: Active-Duty Members*, Department of Defense, <https://download.militaryonesource.mil/12038/MOS/Infographic/2024-demographics-active-duty-members.pdf> (last visited Aug. 17, 2026).

⁴³ Lolita C. Baldor, *Here’s a look at the number of women in military combat roles*, Associated Press (Nov. 18, 2024), <https://apnews.com/article/women-combat-hegseth-trump-c4ffcbd3de8a62fad87d8c31ff59118>.

⁴⁴ *Id.*

⁴⁵ Heather Mongilio, *Adm. Linda Fagan Removed as Coast Guard Commandant*, USNI News (Jan. 21, 2025), <https://news.usni.org/2025/01/21/adm-linda-fagan-removed-as-coast-guard-commandant>.

⁴⁶ John Ismay, *Hegseth Fires Navy’s Top Officer*, The N.Y. Times (Feb. 21, 2025), <https://www.nytimes.com/2025/02/21/us/politics/hegseth-navy-lisa-franchetti.html>.

⁴⁷ Ellen Mitchell, *Hegseth removes 2 Black and 2 female officers from promotion list: Report*, The Hill (Mar. 27, 2026), <https://thehill.com/policy/defense/5804541-pete-hegseth-pentagon-promotion-list/>.

⁴⁸ Helene Cooper, *Trump Administration Fires Another Female Military Leader*, The N.Y. Times (Apr. 7, 2025), <https://www.nytimes.com/2025/04/07/us/politics/trump-us-military-nato-official-fired-chatfield.html>.

⁴⁹ Idrees Ali & Phil Stewart, *Trump administration pushed out U.S. military health agency head, officials say*, Reuters (Feb. 28, 2025), <https://www.reuters.com/world/us/trump-administration-pushed-out-us-military-health-agency-head-officials-say-2025-03-01/>.

⁵⁰ Mitchell, *supra* n.47.

⁵¹ *Id.*

⁵² Greg Jaffe & Kate Kelly, *Hegseth Strikes Female and Black Navy Officers From Promotion List*, The N.Y. Times (June 1, 2026), <https://www.nytimes.com/2026/06/01/us/politics/hegseth-navy-promotion-list.html>.

and all of the women put forward for promotion to two-star admiral—making 2026 the first year in over a decade that no women active-duty Naval officers will be promoted to admiral.⁵³ The percentage of high-ranking officer nominations going to women across all branches now is the lowest it has been in at least 25 years.⁵⁴ Members of Congress have sought answers from Secretary Hegseth about the bases for these decisions, and whether he plans to continue overruling military leadership.⁵⁵

Additionally, beginning almost immediately upon becoming Secretary of Defense in January 2025, Hegseth has expunged women from DoD history, policy initiatives, and public-facing resources, despite numerous congressional demands for accountability. On January 31, 2025, DoD issued guidance declaring “identity months dead,” thereafter ceasing to use official resources to host events related to cultural awareness months, including Women’s History Month.⁵⁶ Soon after, Arlington National Cemetery’s website deleted materials on women’s military service and guides highlighting the graves of women servicemembers.⁵⁷

In April 2025, the Pentagon altered the Air Force’s policy on pregnant pilots, reverting back to rules set in 2019 that barred women aviators from flying during the first trimester.⁵⁸ A coalition of veteran Members of Congress wrote Secretary Hegseth asking for justification of the abrupt policy reversal, noting this decision was not backed by science but instead was purely political.⁵⁹

That same month, Secretary Hegseth declared that he was “proud[]” to terminate the Women, Peace and Security program within DoD. The program had been created by a statute that President Trump signed in 2017 and was intended to promote the participation of women in all aspects of overseas conflict prevention, management and resolution, as well as post-conflict relief and recovery efforts, to be implemented at the State Department, Pentagon and other government agencies.⁶⁰

In September 2025, Secretary Hegseth eliminated the Defense Advisory Committee on Women in the Services (“DACOWITS”), accusing the 75-year-old agency of “advancing a divisive feminist agenda.”⁶¹ DACOWITS was created in 1951 to provide advice and recommendations on matters and policies relating to the recruitment, retention, employment,

⁵³ Greg Jaffe, *Opportunities Narrow for Women as Hegseth Blocks More Promotions*, The N.Y. Times (July 14, 2026), <https://www.nytimes.com/2026/07/14/us/hegseth-blocks-navy-promotions.html>.

⁵⁴ C.J. Robinson, *Women’s Share of Top Military Promotions Falls as Hegseth Blocks Nominees*, The N.Y. Times (Aug. 6, 2016), <https://www.nytimes.com/2026/08/06/upshot/military-promotions-women-hegseth.html>.

⁵⁵ Congressional Letter to Secretary Hegseth (July 6, 2026), https://www.slotkin.senate.gov/wp-content/uploads/2026/07/26.07.06_SECDEF-Letter_Officer-Promotions.pdf.

⁵⁶ *Identity Months Dead at DOD*, U.S. Dep’t of Defense (Jan. 31, 2025), <https://www.war.gov/News/Releases/Release/Article/4050331/identity-months-dead-at-dod/>.

⁵⁷ Tim Balk, *Arlington Cemetery Website Loses Pages on Black Veterans, Women and Civil War*, The N.Y. Times (Mar. 14, 2025), <https://www.nytimes.com/2025/03/14/us/politics/arlington-cemetery-website-dei.html>.

⁵⁸ Steve Walsh, *Air Force brings back restrictions on pregnant pilots*, NPR (Apr. 15, 2025), <https://www.npr.org/2025/04/15/nx-s1-5357466/air-force-brings-back-restrictions-on-pregnant-pilots>.

⁵⁹ Congressional Letter to Secretary Hegseth (Apr. 10, 2025), <https://s3.amazonaws.com/static.militarytimes.com/assets/pdfs/1744377114.pdf>.

⁶⁰ Ellen Mitchell, *Hegseth “proud” to end Women, Peace and Security program*, The Hill (Apr. 29, 2025), <https://thehill.com/policy/defense/5272905-hegseth-pentagon-women-peace-security/>.

⁶¹ Ellen Mitchell, *Hegseth axes decades-old advisory committee on women in the military*, The Hill (Sept. 23, 2025), <https://thehill.com/policy/defense/5518114-pete-hegseth-advisory-committee-women-military/>.

integration, well-being, and treatment of women in the Armed Forces of the United States. Its bipartisan membership addressed a wide range of issues affecting women servicemembers, such as opportunities for promotion, health concerns, ill-fitting body armor, sexual harassment and assault, parental leave, and childcare.⁶² In its decades-long history, spanning Democratic and Republican administrations, 94 percent of DACOWITS's recommendations were accepted by DoD.⁶³ A coalition of veteran Members of Congress wrote Secretary Hegseth decrying his proposed elimination of DACOWITS, requesting an explanation of how the committee's functions are to be reassigned within DoD.⁶⁴ To date, DoD has been noncommittal about whether and to what extent such reassignments will occur.

On September 30, 2025, DoD released 11 memoranda announcing numerous policy changes. Among them were revisions to the procedures and standards applicable to discrimination and harassment complaints, making it more difficult for servicemembers to obtain relief and shortening the timeframe for expunging violations from personnel files, as well as a memo directing a re-evaluation of DoD's definitions of "hazing," "bullying," and "harassment," stating that "definitions that are overly broad hinder leaders' ability to effectively execute the mission."⁶⁵ The military branches have begun implementing these changes. For instance, in July and August 2026, the military branches each issued guidance prohibiting servicemembers from opening a Military Equal Opportunity complaint into discrimination or discriminatory harassment by filing an anonymous report, instead requiring confidential reporting, which requires the servicemember to provide personally identifying information about the subject of their complaint.⁶⁶

d. Secretary Hegseth Has Expressed Hostility to Women in Combat Roles and Implemented Measures Seeking to Limit Their Access to Those Roles

Secretary Hegseth has made no secret of his antipathy toward the rescission of the Ground Combat Exclusion Policy a decade ago.⁶⁷ Since taking office, he has repeatedly claimed,

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Congressional Letter to Secretary Hegseth (Oct. 13, 2025), https://democraticwomenscaucus.house.gov/uploadedfiles/10.14.2025_letter_to_secretary_hegseth_on_supporting_our_servicewomen.pdf.

⁶⁵ Department of Defense, Memorandum for Senior Pentagon Leadership, Subject: Review of Hazing, Bullying, and Harassment Definitions (Sept. 30, 2025), <https://media.defense.gov/2025/Sep/30/2003812317/-1/-1/1/SECRETARY-OF-WAR-ANNOUNCED-MEMORANDUMS.PDF>.

⁶⁶ Ryan Thomas LaBee, *Navy, Marines End Anonymous Discrimination Complaints Under Hegseth Order*, Military.com (Aug. 11, 2026), <https://www.military.com/navy-marines-end-anonymous-discrimination-complaints-under-hegseth-order>. The Navy and Marine Corps. implemented this change in an August 7, 2026 memo. The Air Force issued similar guidance on July 28, 2026, and the Army announced its changes on July 31, 2026. *See also* Patty Nieberg, *Army ends anonymous reporting for harassment complaints*, Task & Purpose (Aug. 4, 2026), <https://taskandpurpose.com/news/army-harassment-reporting-changes/>.

⁶⁷ For instance, in 2024, before assuming office, Hegseth published a book, *The War on Warriors: Behind the Betrayal of the Men Who Keep Us Free*, in which he argued that women in combat roles undermined military readiness, and that "women cannot physically meet the same standards as men." Lolita C. Baldor, *Hegseth's views on women in combat, infidelity and more – in his own words*, Associated Press (Jan. 14, 2025), <https://apnews.com/article/pete-hegseth-background-defense-secretary-confirmation-hearing-e160e10c86385a8beff110d9190fb34e>. On a November 2024 podcast, Hegseth said, "I'm straight up just saying we should not have women in combat roles. It hasn't made us more effective. Hasn't made us more lethal. Has made fighting more complicated." *Id.*

without evidence, that women have been able to enter formerly-closed jobs only because unspecified “standards” have been lowered, and that women’s presence has undermined combat readiness and unit cohesion. During a recent congressional hearing, leaders from all five service branches and the senior enlisted advisor to the chairman of the Joint Chiefs of Staff unequivocally stated that they have seen no data showing lowered standards or that women’s presence in combat units have diminished unit readiness.⁶⁸ But neither that sworn testimony from the Pentagon’s own leadership, nor any of the studies performed before or since women’s 2016 integration of combat arms, nor servicewomen’s demonstrated heroism and leadership on and off the battlefield, have stopped Secretary Hegseth from insisting that fitness and occupational standards have been lowered to enable women to satisfy them. Nor have they stopped Secretary Hegseth from insisting, as discussed in Section I(e), below, that women’s “effectiveness” in combat arms warrants renewed study.

Hegseth’s tenure has been characterized by rhetoric and policies that emphasize a hyper-masculine conception of physical strength as the leading predictor of combat job performance, untethered from scientific validation and to the exclusion of other skills. On March 30, 2025, shortly after he became Secretary of Defense, Hegseth ordered a 60-day review of combat arms standards by all of the service branches, calling for the redefinition of combat roles and non-combat roles.⁶⁹ Without citation to evidence that existing standards are flawed or applied inconsistently, he stated that “it is essential to identify which positions require heightened entry-level and sustained physical fitness. These roles, which are critical to our military’s mission success, demand exceptional physical capabilities, and the standards for them must reflect that rigor.”⁷⁰ Hegseth further stated, “In establishing those standards, the Secretaries of the Military Departments may not establish standards that would result in any existing Service member being held to a lower standard.”⁷¹ Specifically for ground combat operations, the memo sets out that standards for those positions “should emphasize the ability to carry heavy loads, endure prolonged physical exertion, and perform effectively in austere, hostile environments.”⁷²

In June 2025, DoD announced it would be replacing the Army Combat Fitness Test, utilized to establish eligibility for 21 MOSs, with the Army Fitness Test, to be rolled out in January 2026.⁷³ Among the changes, the new test raises the minimum passing score in each event and eliminates gender-normed scoring but retains age-normed scoring.⁷⁴ DoD cited no studies demonstrating the job-relatedness of the new test or the new scoring to be applied.

⁶⁸ Karen Jowers, *No evidence women in combat roles lower standards, top enlisted leaders say*, Military Times (Feb. 12, 2026), <https://www.militarytimes.com/news/pentagon-congress/2026/02/12/no-evidence-women-in-combat-roles-lower-standards-top-enlisted-leaders-say/>.

⁶⁹ Department of Defense, Memorandum for the Secretaries of the Military Departments, Subject: Combat Arms Standards (Mar. 30, 2025), <https://media.defense.gov/2025/Mar/31/2003678527/-1/-1/1/COMBAT-ARMS-STANDARDS.PDF>.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Army Fitness Test Overview*, U.S. Army, <https://www.army.mil/aft/> (last visited Aug. 17, 2026).

⁷⁴ *Id.* Secretary Hegseth often inaccurately has suggested that gender-normed scoring of fitness tests subjected women to lower “standards” than their male peers. Gender-normed scoring accounts for average differences in men’s and women’s physical characteristics so as to more accurately measure a servicemember’s strength, cardiovascular capacity, and related indicia of “fitness”—in the same way that age-normed scoring, which DoD has retained for combat fitness exams, provides more accurate measurements based on age-related physiological

On September 30, 2025, Secretary Hegseth convened hundreds of military leaders in Quantico, Virginia to give a speech where he announced new directives intended to move away from what he called “woke garbage” towards a “warrior ethos.”⁷⁵ His remarks specifically questioned women’s capacity to serve in combat roles. For instance, he “urge[d] [attendees] to apply . . . the ‘1990 rule’”—referencing the last year of entirely all-male combat forces, before Congress authorized women’s assignment to combat aircraft in the Air Force, Navy, and Marines—and stated: “[Ask] ‘What were the military standards in 1990? And if they have changed, tell me why. Was it a necessary change based on the evolving landscape of combat or was the change due to a softening, weakening or gender-based pursuit of other priorities?’”⁷⁶ And when referring to forthcoming new fitness test scoring for combat roles, Secretary Hegseth stated his intention to hold all servicemembers to the “highest male standard,” stating that “if that means no women qualify for some combat jobs, so be it.”⁷⁷ Hegseth offered no explanation as to how the combat standards from 36 years ago—before the existence of the Internet and countless technological changes that have transformed the reality of modern combat—remain relevant today.

On the same day as his Quantico speech, Secretary Hegseth issued a memorandum regarding physical fitness test requirements, implementing a service fitness test for combat arms personnel that eliminates gender norming but retains age norming, whereas the service fitness test for non-combat arms personnel retains both gender and age-norming.⁷⁸ Again, no evidence was cited to justify the need for the new standards.

In April 2026, the Army announced it would be implementing a new Combat Field Test (“CFT”) required annually for servicemembers serving in 24 designated combat MOSs.⁷⁹ It was adapted from the Expert Physical Fitness Assessment (“EPFA”), the test required to earn the Expert Infantryman Badge, Expert Soldier Badge, and Expert Field Medical Badge—enhanced certifications with notoriously low pass rates.⁸⁰ The CFT includes seven events and must be completed within 30 minutes to pass.⁸¹ No validation studies or other data were put forward to substantiate the CFT as an accurate measure of job performance in the 24 MOSs.

In July 2026, Secretary Hegseth announced a new program he referred to as the “High-T Department of War,” comprised of a new mandatory annual screening program to test all

changes. Servicemembers who pass fitness exams still must satisfy the occupational standards for the specific combat job they seek to hold—which are gender-neutral and have been for three decades.

⁷⁵ Julie Watson, Laurie Kellman & Deepti Hajela, *Pete Hegseth had a lot to say when he summoned military leaders. Here are some facts and context*, Associated Press (Sept. 30, 2025), <https://apnews.com/article/military-combat-women-race-hegseth-d406029d0e0dfd52443ef8d7fcb765cb>; Dave Philipps, *Veterans See Costs and Risks in Hegseth’s Military Rewind to 1990*, The N.Y. Times (Oct. 2, 2025), <https://www.nytimes.com/2025/10/02/us/hegseth-military-veterans-standards.html>.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Department of Defense, *supra* n.65.

⁷⁹ U.S. Army Public Affairs, *US Army announces new Combat Field Test to enhance Soldier readiness*, U.S. Army (Apr. 22, 2026), https://www.army.mil/article/291880/us_army_announces_new_combat_field_test_to_enhance_soldier_readiness.

⁸⁰ For instance, at a 2025 U.S. Army competition among 1,600 soldiers from various units serving in Korea, the average pass rate across all three badges was 27 percent. Joseph Liggio, *Soldiers Earn Expert Badges During Eighth Army’s Annual E3B Competition*, U.S. Army (May 15, 2025), https://www.army.mil/article/285577/soldiers_earn_expert_badges_during_eighth_armys_annual_e3b_competition.

⁸¹ *Id.*

servicemembers age 30 and older for testosterone deficiency.⁸² Servicewomen will also be required to undergo this testing. Servicemembers with low testosterone will be offered testosterone replacement therapy. Medical professionals and researchers have questioned the implementation of such a program, noting that administering testosterone therapy—in the absence of adverse symptoms caused by low hormone levels—is not evidence-based and could cause harm,⁸³ including diminished fertility and increased risk of blood clots, to name a few adverse effects.⁸⁴ Secretary Hegseth, when announcing the new program, stated that it is intended to “restor[e] and optimiz[e] [servicemembers’] natural capabilities . . . [to] ensure[e] [servicemembers] have the biological foundation required to sustain the fight.”⁸⁵ This program is especially concerning, given that women generally have less testosterone than men, and Secretary Hegseth’s language seemingly equates this aspect of an individual’s “biological foundation” with their ability to carry out the demands of their position.

e. DoD’s Formal Review of the “Effectiveness” of Women in Ground Combat Positions

In December 2025, DoD ordered a 6-month review of the “operational effectiveness of ground combat units 10 years after the Department lifted all remaining restrictions on women serving in combat roles” (the “Formal Review”).⁸⁶ DoD ordered the Army and Marine Corps to provide data on the readiness, training, performance, casualties and command climate of ground combat units and personnel—along with any internal studies on “the integration of women in combat”—to the Institute for Defense Analyses (“IDA”), a non-profit funded in part by DoD to provide research and analyses of Department programs.⁸⁷ DoD did not publicly announce the Formal Review; it was disclosed only after a news outlet learned of it.⁸⁸ According to a Pentagon spokesperson, the purpose of the study is to “ensure standards are met and the United States maintains the most lethal military. Our standards for combat arms positions will be elite[,] uniform, and sex neutral because the weight of a rucksack or a human being doesn’t care if you’re a man or a woman. Under [Defense] Secretary [Pete] Hegseth, the Department of War’s [sic] will not compromise standards to satisfy quotas or an ideological agenda—this is common sense.”⁸⁹

In February 2026, at a hearing of the Senate Armed Services Committee, Senator Mazie Hirono asked senior enlisted leaders from each military branch whether women serving in ground combat positions has ever lowered military standards; each leader unequivocally answered that they had not.⁹⁰

⁸² Greg Jaffe & Azeen Ghorayshi, *Hegseth Plans to Screen All Troops, Including Women, for Low Testosterone*, The N.Y. Times (July 15, 2026), <https://www.nytimes.com/2026/07/15/us/politics/hegseth-troops-testosterone.html>.

⁸³ Daniel Wu & Tara Copp, *Hegseth touts a high-testosterone military, as doctors question his claims*, The Washington Post (July 16, 2026), <https://www.washingtonpost.com/health/2026/07/16/hegseth-touts-high-testosterone-military-doctors-question-his-claims/>.

⁸⁴ Jaffe & Ghorayshi, *supra* n.82.

⁸⁵ Hannah Parry, *Hegseth Announces New Required Pentagon Testosterone Tests: Who it Impacts*, Newsweek (July 15, 2026), <https://www.newsweek.com/hegseth-announces-new-required-pentagon-testosterone-tests-who-it-impacts-12200211>.

⁸⁶ Bowman, *supra* n.4.

⁸⁷ *Id.* See also *About IDA*, IDA, <https://www.ida.org/about-ida> (last visited Aug. 18, 2026).

⁸⁸ Bowman, *supra* n.4.

⁸⁹ *Id.*

⁹⁰ Jowers, *supra* n.68; see also Sonner Kehrt, *Hegseth Ordered a New Study of Women in Combat. Critics Say It’s Built to Reach One Conclusion*, The War Horse (July 14, 2026), <https://thewarhorse.org/women-in-combat-review/>.

Shortly thereafter, in April 2026, DoD reassigned the Formal Review from IDA to Johns Hopkins University Applied Physics Laboratory (“JHU/APL”) and extended the timeframe for the review to 12 months—a duration, like the 6-month timeframe assigned for the IDA study, that experts criticize as insufficient to examine a decade of data drawn from such a large population of servicemembers serving in dozens of MOSs.⁹¹ Experts also have questioned JHU/APL’s qualifications to conduct this analysis.⁹² According to published reports, JHU/APL will undertake the “Performance, Readiness, and Integrated Mission Effectiveness Assessment,” which will “identify the dominant drivers of combat performance variance in ground combat units and provide evidence-based findings to inform force design, training, physical standards, and readiness decisions.”⁹³ The researcher leading the JHU/APL study is Jane Pinelis, who authored a widely-discredited review for the Marine Corps in 2015, which found that mixed-gender units did not perform as well as all-men units, a study that Secretary Hegseth referred to repeatedly in his book, *The War on Warriors*.⁹⁴ Critics have characterized the study as too flawed—including in its design, the size of its participant pool, and the process by which participants were selected, and because it failed to measure participants against job-specific combat—to draw reliable conclusions.⁹⁵

At a hearing of the Senate Committee on Armed Services held on May 1, 2026, Senator Hirono asked Secretary Hegseth if the Formal Review had been ordered to justify overturning the Ground Combat Exclusion Policy. He did not answer. Instead, Hegseth stated, “We are laser focused on standards. The highest male standard for every combat arms position should be the standard. And ten years into this, we are reviewing it, which is what the American people would expect.”⁹⁶ When asked if he will share the results of the study with the public, Secretary Hegseth hedged, “We’re doing the study for that very reason to ensure that real science is applied to this, this question and not social engineering like the previous administration.”⁹⁷

Secretary Hegseth’s lack of transparency with lawmakers, coupled with his overtly hostile actions toward servicewomen generally and in combat roles specifically, raises the loudest of alarm bells. It is imperative that DoD’s multiple initiatives questioning women’s performance in combat roles be made available for the public’s inspection and policymakers’ consideration.

⁹¹ Hodge Seck, *supra* n.5.

⁹² Sonner Kehrt, *Hegseth’s Study of Women in Combat Is Designed to Reach One Conclusion*, Mother Jones (July 14, 2026), <https://www.motherjones.com/politics/2026/07/hegseths-study-of-women-in-combat-is-designed-to-reach-one-conclusion/>.

⁹³ Hodge Seck, *supra* n.5.

⁹⁴ Kehrt, *supra* n.92.

⁹⁵ See, e.g. Dr. Ellen Haring & Dr. Megan Mackenzie, *Marine Corps Study Misses the Mark*, Women In International Security (Oct. 13, 2015), <https://wiisglobal.org/wp-content/uploads/Marine-Corps-Study-Misses-the-Mark.pdf>.

⁹⁶ The Economic Times, *‘What PROOF do you have?’: Hirono, Hegseth’s nasty clash over women in combat roles at fiery hearing*, at 5:26 (YouTube, May 1, 2026), <https://www.youtube.com/watch?v=kk1xs1Tq4dE>.

⁹⁷ *Id.* at 6:08.

II. Requested Records

The Requesting Parties seek the release of the following records⁹⁸ from DoD⁹⁹ and any of its components, for the period from January 21, 2025 to present:

1. All records regarding the Formal Review assigned to the IDA, including but not limited to, records sufficient to identify or describe:
 - a. The December 18, 2025 memorandum and any attachments ordering the Formal Review, along with any execution orders issued to the Army and Marine Corps, and any amendments or directives attempting to modify the scope, requirements, or timeline.
 - b. All records submitted by the Army and Marine Corps in response to the December 18, 2025 memorandum including internal research and studies regarding the integration of women in combat, readiness data, training and performance metrics, casualty data, command climate assessments, and deployment capability measures.
 - c. All records relating to the initial selection of the IDA as the entity assigned to perform the Formal Review.
 - d. All records related to the design of the Formal Review, including but not limited to the criteria, standards, and processes used to select men and women participants, and any data and analysis to assess whether the men and women participants in the Formal Review were comparable in training, experience, MOS, and baseline performance.
 - e. All records related to the scoring systems and evaluation frameworks used to determine the results of the Formal Review.
 - f. All records relating to the use of any analytical tools, artificial intelligence, model assumptions, validation methods, limitations, and data inputs of the Formal Review.

⁹⁸ FOIA defines “record[s]” to include “any information” in “any format, including an electronic format.” 5 U.S.C. § 552(f)(2). The term “record[s]” includes all records, writings, and communications preserved in electronic or hard copy form, including, but not limited to, correspondence, letters, draft documents, data files, metadata, spreadsheets, video and/or audio recordings, CDs, DVDs, notes, meeting records, calendar entries, e-mails (and attachments thereto), text and/or audio messages on encrypted and non-encrypted applications (including, but not limited to, iMessage, Signal, WhatsApp, Microsoft Teams, Zoom, Slack, Facebook, X, or Truth Social), reports, instructions, guidance, guidelines, talking points, briefing materials, memoranda, agreements, contracts, memoranda of understanding and/or communications, analyses, orders, directives, notices, statements of policy, procedures, protocols, rules, or training manuals.

⁹⁹ The term “DoD” means the U.S. Department of Defense, and any components, subcomponents, offices, or personnel therein, including, but not limited to, Armed Services Board of Contract Appeals, Defense Contract Audit Agency, Defense Contract Management Agency, Defense Counterintelligence and Security Agency, Defense Health Agency, Defense Information Systems Agency, Defense Intelligence Agency, Defense Logistics Agency, Defense Technical Information Center, Department of the Air Force, Department of the Army, Department of the Navy, Department of War Office of Inspector General, Joint Personnel Recovery Agency, National Guard Bureau, National Security Agency, Office of the Secretary of War and Joint Staff, U.S. Central Command, U.S. Marine Corps, U.S. Space Force, U.S. Strategic Command, U.S. Special Operations Command, and any task force, working group, or digital services unit involved in the adoption, implementation, and/or enforcement of the Formal Review.

- g. All records reflecting the Formal Review's reassignment from IDA to JHU/APL and the decisions to extend the review from 6 to 12 months and to include "field testing."
 - h. Any and all preliminary findings, methodology, and information delivered by IDA to DoD related to the Formal Review prior to its reassignment to JHU/APL.
 - i. All written communications¹⁰⁰ between DoD and Army and Marines Corps leadership, the IDA, and/or the Under Secretary of Defense for Personnel and Readiness relating to the Formal Review.
2. All records regarding the Formal Review assigned to JHU/APL, including but not limited to, records sufficient to identify or describe:
- a. Any and all memoranda ordering the Formal Review, along with any execution orders issued to the Army and Marine Corps, and any amendments or directives attempting to modify the scope, requirements, or timeline.
 - b. All records submitted by the Army and Marine Corps to JHU/APL, including internal research and studies regarding the integration of women in combat, readiness data, training and performance metrics, casualty data, command climate assessments, and deployment capability measures.
 - c. All records related to the design of the Formal Review, including but not limited to the criteria, standards, and processes used to select men and women participants, and any data and analysis to assess whether the men and women participants in the Formal Review were comparable in training, experience, MOS, and baseline performance.
 - d. All records related to the scoring systems and evaluation frameworks used to determine the results of the Formal Review.
 - e. All records relating to the use of any analytical tools, artificial intelligence, model assumptions, validation methods, limitations, and data inputs of the Formal Review.
 - f. All records reflecting the Formal Review's reassignment from IDA to JHU/APL including records regarding the selection of JHU/APL and the decisions to extend the review from six to 12 months and to include "field testing."
 - g. Any and all preliminary findings, methodology, and information delivered by JHU/APL to DoD related to the Formal Review.
 - h. All written communications¹⁰¹ between DoD and Army and Marines Corps leadership, JHU/APL, and/or the Under Secretary of Defense for Personnel and Readiness relating to the Formal Review.

¹⁰⁰ For purposes of Request No. 1, the term "written communications" includes, but is not limited to, letters, notices, guidance, memoranda, instructions, e-mails (and attachments thereto), and text and/or audio messages (including, but not limited to, those sent through the Payment Management System or other platforms, such as iMessage, Signal, WhatsApp, Microsoft Teams, Zoom, Slack, Facebook, X, or Truth Social).

¹⁰¹ For purposes of Request No. 2, the term "written communications" includes, but is not limited to, letters, notices, guidance, memoranda, instructions, e-mails (and attachments thereto), and text and/or audio messages (including, but not limited to, those sent through the Payment Management System or other platforms, such as iMessage, Signal, WhatsApp, Microsoft Teams, Zoom, Slack, Facebook, X, or Truth Social).

3. All records related to Secretary Hegesth's March 30, 2025 Memorandum For the Secretaries of the Military Departments relating to Combat Arms Standards, including but not limited to, records sufficient to identify or describe:
 - a. The plans submitted by the Secretaries of the Military Departments to the Under Secretary of Defense for Personnel and Readiness as prescribed by the March 30, 2025 Memorandum.
 - b. All records relating to the full implementation of these plans.
 - c. All written communications¹⁰² between Secretary Hegesth and any DoD personnel regarding the March 2025 Memorandum.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), we request that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

III. Application for Expedited Processing

We request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E). There is a "compelling need" for these records, as defined in the statute, because the information requested is "urgen[tly]" needed by an organization primarily engaged in disseminating information "to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II). 32 C.F.R. § 286 Subpart C.

a. The Requesting Parties Are Organizations Primarily Engaged in Disseminating Information to Inform the Public about Actual or Alleged Government Activity

i. The ACLU is primarily engaged in disseminating information to inform the public about actual or alleged government activity

The ACLU is "primarily engaged in disseminating information" within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II). Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of the ACLU's work and are among its primary activities. *See ACLU v. Dep't of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group that "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience" to be "primarily engaged in disseminating information").¹⁰³

¹⁰² For purposes of Request No. 3, the term "written communications" includes, but is not limited to, letters, notices, guidance, memoranda, instructions, e-mails (and attachments thereto), and text and/or audio messages (including, but not limited to, those sent through the Payment Management System or other platforms, such as iMessage, Signal, WhatsApp, Microsoft Teams, Zoom, Slack, Facebook, X, or Truth Social).

¹⁰³ Many courts have found that the ACLU, as well as other organizations with similar missions that engage in information-dissemination activities similar to the ACLU are "primarily engaged in disseminating information."

The ACLU disseminates information about government activity through several different publications and platforms. For example, the ACLU regularly publishes the *ACLU Magazine* that reports on and analyzes current events related to civil rights and civil liberties.¹⁰⁴ The *ACLU Magazine* is disseminated to over one million supporters. The ACLU also publishes regular updates and alerts via email to 4.8 million subscribers (comprised of both ACLU members and non-members). These updates are additionally broadcast to over 6.6 million social media followers. The *ACLU Magazine*, as well as the email and social-media alerts, often include descriptions and analysis of information about government activity obtained through FOIA requests. The ACLU also regularly issues press releases and statements to call attention to documents and materials obtained through FOIA requests, as well as other breaking news,¹⁰⁵ and ACLU attorneys and other staff members are interviewed frequently for news stories about documents released through ACLU FOIA requests.¹⁰⁶

¹⁰⁴ See, e.g., *Free Speech, Free Country*, ACLU Magazine (Fall 2025), <https://www.aclu.org/publications/aclu-magazine-fall-2025>.

¹⁰⁵ See, e.g., Press Release, ACLU, ACLU FOIA Litigation Reveals ICE Actively Considering Opening Seven New Immigration Detention Centers (Jan. 29, 2026), <https://www.aclu.org/press-releases/aclu-foia-litigation-reveals-ice-actively-considering-opening-six-new-immigration-detention-centers>; Press Release, ACLU, ACLU FOIA Litigation Reveals New Information About Plans to Expand ICE Detention in Colorado (July 9, 2025), <https://www.aclu.org/press-releases/aclu-foia-litigation-reveals-new-information-about-plans-to-expand-ice-detention-in-colorado>; Press Release, ACLU, Government Releases New Court Opinions Highlighting Further Abuse of Warrantless FISA Surveillance Program (July 21, 2023), <https://www.aclu.org/press-releases/government-releases-new-court-opinions-highlighting-further-abuse-of-warrantless-fisa-surveillance-program>; Press Release, ACLU, Federal Court Permanently Blocks Billions of Dollars in Border Wall Construction (June 28, 2019), <https://www.aclu.org/press-releases/federal-court-permanently-blocks-billions-dollars-border-wall-construction>; Press Release, ACLU, New Documents Reveal NSA Improperly Collected Americans' Call Records Yet Again (June 26, 2019), <https://www.aclu.org/press-releases/new-documents-reveal-nsa-improperly-collected-americans-call-records-yet-again>; Press Release, ACLU, ACLU and Center for Media Justice Sue FBI for Records on Surveillance of Black Activists (Mar. 21, 2019), <https://www.aclu.org/press-releases/aclu-and-center-media-justice-sue-fbi-records-surveillance-black-activists>; Press Release, ACLU, ACLU, Privacy International Demand Government Disclose Nature and Extent of Hacking Activities (Dec. 21, 2018), <https://www.aclu.org/press-releases/aclu-privacy-international-demand-government-disclose-nature-and-extent-hacking>; Press Release, ACLU, New Documents Reveal Government Plans to Spy on Keystone XL Protesters (Sept. 4, 2018), <https://www.aclu.org/press-releases/new-documents-reveal-government-plans-spy-keystone-xl-protesters>; Press Release, ACLU, ACLU Obtains Documents Showing Widespread Abuse of Child Immigrants in U.S. Custody (May 22, 2018), <https://www.aclu.org/news/aclu-obtains-documents-showing-widespread-abuse-child-immigrants-us-custody>; Press Release, ACLU, ACLU Demands CIA Records on Campaign Supporting Haspel Nomination (May 4, 2018), <https://www.aclu.org/news/aclu-demands-cia-records-campaign-supporting-haspel-nomination>; Press Release, ACLU, Advocates File FOIA Request For ICE Documents on Detention of Pregnant Women (May 3, 2018), <https://www.aclu.org/news/advocates-file-foia-request-ice-documents-detention-pregnant-women>.

¹⁰⁶ See, e.g., Corin Faife, *Feds Are Tracking Phone Locations With Data Bought From Brokers*, The Verge (July 18, 2022), <https://www.theverge.com/2022/7/18/23268592/feds-buying-location-data-brokers-aclu-foia-dhs>; Charlie Savage, *N.S.A. Gathered Domestic Calling Records It Had No Authority to Collect*, The N.Y. Times (June 26, 2019), <https://www.nytimes.com/2019/06/26/us/telecom-nsa-domestic-calling-records.html> (quoting ACLU attorney Patrick Toomey); Rachel Frazin, *ACLU Sues FBI Over Black Activist Surveillance Records*, The Hill (Mar. 21, 2019), <https://thehill.com/policy/national-security/fbi/435143-fbi-sued-over-black-activist-surveillance-records> (quoting ACLU attorney Nusrat Choudhury); Cora Currier, *TSA's Own Files Show Doubtful Science Behind Its Behavior Screening Program*, Intercept (Feb. 8, 2017), <https://theintercept.com/2017/02/08/tsas-own-files-show-doubtful-science-behind-its-behavior-screening-program> (quoting ACLU attorney Hugh Handeyside); Larry Neumeister, *Judge Scolds Government over Iraq Detainee Abuse Pictures*, Associated Press (Jan. 18, 2017), <https://apnews.com/general-news-865c32eebf4d457499c017eb837b34dc> (quoting ACLU project director Hina Shamsi); Karen DeYoung, *Newly Declassified Document Sheds Light on How President Approves Drone Strikes*,

Similarly, the ACLU publishes reports about government conduct and civil rights and liberties issues based on its analysis of information derived from various sources, including information obtained from the government through FOIA requests. This material is broadly circulated to the public and widely available to everyone for no cost or, sometimes, for a small fee. The ACLU's projects regularly publish and disseminate reports that include a description and analysis of government documents obtained through FOIA requests.¹⁰⁷ The ACLU also regularly publishes books, "Know Your Rights" materials, fact sheets, and educational brochures and pamphlets designed to educate the public about civil rights and civil liberties issues and government policies and practices that implicate those issues.¹⁰⁸

The ACLU publishes a widely read blog where original editorial content reporting on and analyzing civil rights and civil liberties news is posted daily.¹⁰⁹ The ACLU creates and disseminates original editorial and educational content on civil rights and civil liberties news through multi-media projects, including videos, podcasts, and interactive features. The ACLU also publishes, analyzes, and disseminates information through its heavily visited website, www.aclu.org. The website addresses civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the news, and contains many thousands of documents relating to the issues on which the ACLU is focused. The ACLU's website also serves as a clearinghouse for news about ACLU cases, including analysis about case developments and an archive of case-related documents. Through these pages, and with respect to each specific civil liberties issue, the ACLU provides the public with educational material, recent news, analyses of relevant congressional or executive branch action, government documents obtained through FOIA requests, and further in-depth analytic and educational multimedia features.¹¹⁰ The

Wash. Post (Aug. 6, 2016), <http://wapo.st/2jy62cW> (quoting former ACLU deputy legal director Jameel Jaffer); Catherine Thorbecke, *What Newly Released CIA Documents Reveal About 'Torture' in Its Former Detention Program*, ABC (June 15, 2016), <https://abcnews.com/US/newly-released-cia-documents-reveal-torture-detention-program/story?id=39873389> (quoting ACLU attorney Dror Ladin).

¹⁰⁷ See, e.g., ACLU, *Bad Trip: Debunking the TSA's 'Behavior Detection' Program* (Feb. 2017), https://www.aclu.org/sites/default/files/field_document/dem17-tsa_detection_report-v02.pdf; Carl Takei, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA's Torture Site*, ACLU (Nov. 22, 2016), <https://www.aclu.org/blog/speak-freely/aclu-obtained-emails-prove-federal-bureau-prisons-covered-its-visit-cias-torture>; Brett Max Kaufman, *Details Abound in Drone 'Playbook'—Except for the Ones That Really Matter Most*, ACLU (Aug. 8, 2016), <https://www.aclu.org/news/national-security/details-abound-drone-playbook-except-ones-really-matter-most>; ACLU, *Leaving Girls Behind: An Analysis of Washington D.C.'s "Empowering Males of Color" Initiative* (May 2016), <https://www.aclu.org/report/leaving-girls-behind>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, ACLU (Feb. 22, 2015), <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida>; Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights*, ACLU (Oct. 30, 2015), <https://www.aclu.org/news/privacy-technology/fbi-documents-reveal-new-information-baltimore>; Ashley Gorski, *New NSA Documents Shine More Light into Black Box of Executive Order 12333*, ACLU (Oct. 30, 2014), <https://www.aclu.org/blog/new-nsa-documents-shine-more-light-black-box-executive-order-12333>; ACLU, *Battle for Benefits: VA Discrimination Against Survivors of Military Sexual Trauma* (Nov. 7, 2013), <https://www.aclu.org/documents/battle-benefits-va-discrimination-against-survivors-military-sexual-trauma>.

¹⁰⁸ See, e.g., ACLU, *Know Your Rights*, <https://www.aclu.org/know-your-rights> (last visited Aug. 14, 2026); ACLU Women's Rights Project, *Domestic Violence and Homelessness*, <https://www.aclu.org/sites/default/files/pdfs/dvhomelessness032106.pdf>.

¹⁰⁹ See ACLU, *News & Commentary*, <https://www.aclu.org/blog> (last visited Aug. 14, 2026).

¹¹⁰ See, e.g., *ACLU v. ODNI—FOIA Lawsuit Seeking Records About Government Surveillance Under the USA Freedom Act*, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-odni-foia-lawsuit-seeking-records-about-government-surveillance-under-usa-freedom-act> (last updated Sept. 14, 2023); *ACLU v. DOJ—FOIA Lawsuit*

ACLU website includes many features on information obtained through the FOIA. The ACLU maintains an online “Torture Database,” a compilation of over 100,000 pages of FOIA documents that allows researchers and the public to conduct sophisticated searches of its contents relating to government policies on rendition, detention, and interrogation.¹¹¹ The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through the FOIA.¹¹²

ii. NWLC is primarily engaged in disseminating information to inform the public about actual or alleged government activity

NWLC is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II). Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of NWLC’s work and are among its primary activities. *See, e.g., Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *ACLU*, 321 F. Supp. 2d at 29 n.5; *Elec. Priv. Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).

NWLC has a supporter base of over 663,856 followers across its social media channels, including Instagram (over 76,000 followers) and Bluesky (over 31,000 followers), as well as over 778,000 subscribers to our email list. In February 2026, the NWLC’s website, www.nwlc.org, had 168,000 page views, of which 102,000 were unique visitors. NWLC

Seeking Information on Federal Agencies’ Surveillance of Social Media, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-lawsuit-seeking-information-federal-agencies-surveillance-social-media> (last updated Apr. 8, 2024); *ACLU v. DOJ—FOIA Case for Records Relating to Targeted Killing Law, Policy, and Casualties*, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-case-records-relating-targeted-killing-law-policy-and-casualties> (last updated Apr. 23, 2019); Executive Order 12,333—FOIA Lawsuit, ACLU Case Page, <https://www.aclu.org/cases/executive-order-12333-foia-lawsuit> (last updated Dec. 3, 2018); *ACLU v. United States*, ACLU Case Page, <https://www.aclu.org/cases/aclu-motions-requesting-public-access-fisa-court-rulings-government-surveillance> (last updated Nov. 1, 2021) (*ACLU Motions Requesting Public Access to FISA Court Rulings on Government Surveillance*); *ACLU v. DOJ—FOIA Lawsuit Demanding OLC Opinion on “Common Commercial Service Agreements,”* ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-lawsuit-demanding-olc-opinion-common-commercial-service-agreements> (last updated Apr. 6, 2016); FOIA Request for Justice Department Policy Memos on GPS Location Tracking, ACLU Case Page, <https://www.aclu.org/cases/foia-request-justice-department-policy-memos-gps-location-tracking> (last updated Mar. 12, 2014); Florida Stingray FOIA, ACLU Case Page, <https://www.aclu.org/cases/florida-stingray-foia> (last updated Feb. 22, 2015); Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, (Feb. 22, 2015) <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida?redirect=blog/national-security-technology-and-liberty/aclu-obtained-documents-reveal-breadth-secretive-stingray>.

¹¹¹ *The Torture Database*, ACLU Database, <https://www.thetorturedatabase.org> (last visited Aug. 14, 2026); *see also FOIA Database Regarding the U.S. Government’s Violent Extremism Initiatives*, ACLU Database, <https://www.aclu.org/foia-collection/cve-foia-documents> (last updated Sept. 9, 2016); *TSA Behavior Detection FOIA Database*, ACLU Database, <https://www.aclu.org/foia-collection/tsa-behavior-detection-foia-database> (last updated Sept. 26, 2016); *Targeted Killing FOIA Database*, ACLU Database, <https://www.aclu.org/foia-collection/targeted-killing-foia-database> (last updated Dec. 21, 2015).

¹¹² *Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance*, ACLU (Mar. 5, 2009), https://www.aclu.org/sites/default/files/pdfs/safefree/olcmemos_2009_0305.pdf; *Statistics on NSLs Produced by Department of Defense*, ACLU, https://assets.aclu.org/live/uploads/document/nsll_stats.pdf (last visited Aug. 14, 2026).

regularly issues press releases and statements regarding government activity and related impacts on gender justice and issues that impact women, LGBTQIA+ people, children, and families. In addition, NWLC regularly publishes reports about government conduct and gender justice issues based on its analysis of information and materials from various sources, including government documents and data sets. Accordingly, NWLC is primarily engaged in disseminating information.

iii. SWAN is primarily engaged in disseminating information to the public about issues relating to women servicemembers and women veterans

SWAN is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II). SWAN’s purpose is to advocate for change within the military to increase opportunities for women, and to ensure that women servicemembers and veterans’ healthcare needs are met. It accomplishes its purpose by educating the public and its membership about military changes and providing a network of pro bono resources to address any challenges facing women servicemembers and veterans.

SWAN is an established national community with a public-facing platform through which it regularly disseminates information concerning women servicemembers and veterans. SWAN is comprised of approximately 12,500 community members, including servicemembers, veterans, military families, advocates, and other stakeholders with an interest in issues affecting military women. In addition to monthly communications directly with its community, SWAN publishes policy updates, educational resources, advocacy materials, research, and information about developments affecting servicewomen and women veterans through its publicly accessible website and other communications channels. In 2025, SWAN’s website received approximately 27,000 views, and it received approximately 17,000 views to date in 2026. These figures demonstrate SWAN’s established capacity to communicate information obtained through this request to a broad audience beyond the organization itself.

Accordingly, SWAN is primarily engaged in disseminating information.

Together, the Requesting Parties plan to analyze, publish, and disseminate to the public the information and materials gathered through this Request. The records requested are not sought for commercial use, and the Requesting Parties plan to disseminate the information disclosed as a result of this Request to the public at no cost.

b. The Records Sought Are Urgently Needed to Inform the Public About Actual or Alleged Government Activity

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, they pertain to DoD’s decision to initiate a review of the performance of women serving in ground combat units. As discussed in Part I, *supra*, Secretary Hegseth has repeatedly questioned women’s capacity to serve in ground combat, mischaracterized longstanding gender-neutral occupational standards, and has made a series of decisions that have and will continue to do incalculable harm to all servicewomen’s ability to serve and thrive in the armed forces. Indeed, Secretary Hegseth’s

rhetoric criticizing diversity in the armed forces' combat ranks as inconsistent with a "warrior ethos" already has translated into widespread action specifically hostile to women – such as firing women leaders and blocking their promotions, eliminating protections from harassment and abuse, eradicating groups working to remove unjust barriers to service, and erasing from DoD websites the history of military women's many accomplishments from.

DoD's decision to mount a Formal Review of women in ground combat is potentially a harbinger of a larger effort to constrict who is eligible for combat. In addition to potentially violating the U.S. Constitution, rolling back women's ability to serve in combat also impairs our national security. Accordingly, the records sought relate to a matter of widespread and exceptional public and media interest in DoD's efforts to hinder women's ability to equally participate in the military. As such, there is an urgent need to inform the public about the Formal Review. Expedited processing is therefore appropriate under 5 U.S.C. § 552(a)(6)(E) and the Agency's implementing regulations.

IV. Application for Waiver or Limitation of Fees

The Requesting Parties seek a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure 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." 5 U.S.C. § 552(a)(4)(A)(iii). The Requesting Parties also seek a waiver of search fees on the grounds that the Requesting Parties qualify as "representative[s] of the news media" and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

a. The Request Is in the Public Interest Because It Will Likely Contribute Significantly to Public Understanding of the Operations or Activities of the Government and Is Not Primarily in the Commercial Interest of the Requesting Parties

As discussed in great detail in Parts I and III, this Request concerns serious and urgent questions surrounding DoD's decision to undertake a Formal Review of women in ground combat positions.

The Requesting Parties are not filing this Request to further any commercial interest. As described above, any information and records disclosed as a result of this Request will be made available by the requesting parties to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters." (quotation marks omitted)).

b. The Requesting Parties Are Representatives of the News Media and the Records Are Not Sought for Commercial Use

The Requesting Parties seek a waiver of search fees on the grounds that each of the Requesting Parties qualify as "representative[s] of the news media," and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). All organizations meet the statutory

and regulatory definitions of a “representative of the news media” because each organization is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(III); *see also Nat’l Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA); *Serv. Women’s Action Network v. Dep’t of Defense*, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters, including ACLU, were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs); *ACLU of Wash. v. Dep’t of Justice*, No. C09–0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU*, 321 F. Supp. 2d at 30 n.5 (finding non-profit public interest group to be “primarily engaged in disseminating information”). The Requesting Parties therefore are “representative[s] of the news media” for the same reasons they are “primarily engaged in the dissemination of information.”¹¹³

Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar in kind to those of the Requesting Parties to be “representatives of the news media” as well. *See, e.g., Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat’l Sec. Archive*, 880 F.2d at 1387; *Jud. Watch, Inc. v. Dep’t of Justice*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).¹¹⁴

On account of these factors, fees associated with responding to FOIA requests are regularly waived for the ACLU, NWLC, and SWAN.¹¹⁵ As was true in those instances, the Requesting Parties meet the requirements for a fee waiver here.

¹¹³ *See supra*, Part III.

¹¹⁴ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information and public education activities. *See, e.g., Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d 5; *Nat’l Sec. Archive*, 880 F.2d at 1387; *see also Leadership Conference on Civil Rights*, 404 F. Supp. 2d at 260; *Jud. Watch, Inc.*, 133 F. Supp. 2d at 53–54.

¹¹⁵ For example, in July 2025, the U.S. Equal Employment Opportunity Commission granted NWLC a fee waiver request regarding a FOIA request for documents relating to the Commission’s enforcement actions and policies. As to the ACLU, in June 2018, the U.S. Citizenship and Immigration Services granted a fee-waiver request regarding a FOIA request for documents relating to the use of social media surveillance. In August 2017, CBP granted a fee-waiver request regarding a FOIA request for records relating to a muster sent by CBP in April 2017. In June 2017, the Department of Defense granted a fee-waiver request regarding a FOIA request for records pertaining to the authorities approved by President Trump in March 2017 which allowed U.S. involvement in Somalia. In June 2017, the Department of Defense, the CIA, and the Office of Inspector General granted fee-waiver requests regarding a FOIA request for records pertaining to U.S. involvement in the torture of detainees in prisons in Yemen, Eritrea, and aboard Yemeni or Emirati naval vessels. In May 2017, CBP granted a fee-waiver request regarding a FOIA request for documents related to electronic device searches at the border. In April 2017, the CIA and the Department of State granted fee-waiver requests in relation to a FOIA request for records related to the legal authority for the use of military force in Syria. In March 2017, the Department of Defense Office of Inspector General, the CIA, and the Department of State granted fee-waiver requests regarding a FOIA request for documents related to the January 29,

Pursuant to applicable statutes and regulations, we expect a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii).

If the Request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We further reserve the right to appeal a decision to withhold any information or deny a waiver of fees.

Thank you for your prompt attention to this matter. Please furnish the records to:

Gillian Thomas
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, New York 10004
T: 212-834-7356
gthomas@aclu.org

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi).

Respectfully submitted,



Adrienne DerVartanian
Lauren Khouri
National Women's Law Center
1350 I Street NW, Suite 700
Washington, DC. 20005
T: 202-588-5180
adervartanian@nwlc.org
lkhouri@nwlc.org

Gillian Thomas
Vania Leveille
Ashley Johnson
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
T: 212-834-7356
gthomas@aclu.org

Elisa Cardnell
Rita Graham
Service Women's Action Network
1015 15th Street NW, Suite 600
Washington, DC 20005
T: 202-798-5136
president@servicewomen.org

2017 raid in al Ghayil, Yemen. In June 2016, the Office of the Director of National Intelligence granted a fee-waiver request regarding a FOIA request related to policies and communications with social media companies' removal of "extremist" content. In May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the Department of Justice for documents related to Countering Violent Extremism Programs.