

Shelby Leighton*
Mariam Elbakr*
PUBLIC JUSTICE
1620 L Street NW, Suite 630
Washington, DC 20036

Leila Nasrolahi*
PUBLIC JUSTICE
475 14th St., Suite 610
Oakland, CA 94612

Athul Acharya, OSB #152436
Sara Rosenberg*
PUBLIC ACCOUNTABILITY
P.O. Box 14672
Portland, OR 97211

Counsel for All Media Intervenors

Jon Bial, OSB #002048
Katia Alcantar, OSB #201714
OREGON PUBLIC BROADCASTING
7140 S Macadam Avenue
Portland, OR 97219

Counsel for Oregon Public Broadcasting

**pro hac vice application forthcoming*

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

STATE OF OREGON, *et al.*

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States, *et al.*

Defendants.

Case No. 3:25-cv-01756-IM

**NON-PARTY MEDIA
ORGANIZATIONS' MOTION TO
INTERVENE FOR THE LIMITED
PURPOSE OF UNSEALING COURT
RECORDS AND LIFTING THE
PROTECTIVE ORDER**

Request for Oral Argument

TABLE OF CONTENTS

	<u>Page(s)</u>
LR-7-1 CERTIFICATION.....	1
MOTION.....	1
MEMORANDUM OF LAW IN SUPPORT OF MOTION	2
I. BACKGROUND AND PROCEDURAL HISTORY.....	3
II. ARGUMENT	6
III. CONCLUSION.....	9
CERTIFICATE OF COMPLIANCE	10

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Beckman Indus., Inc. v. Int’l Ins. Co.</i> , 966 F.2d 470 (9th Cir. 1992).....	6
<i>Foltz v. State Farm Mut. Auto. Ins. Co.</i> , 331 F.3d 1122 (9th Cir. 2003)	7
<i>Globe Newspaper Co. v. Super. Ct. for Norfolk Cnty.</i> , 457 U.S. 596 (1982)	5
<i>Muhaymin v. City of Phoenix</i> , No. CV-17-04565-PHX-DLR, 2021 WL 5173767 (D. Ariz. Nov. 3, 2021)	7
<i>Oregon v. Trump</i> , --- F. Supp. 3d ---, 2025 WL 3126773 (D. Or. Nov. 7, 2025).....	5
<i>Oregon v. Trump</i> , 802 F. Supp. 3d 1277 (D. Or. 2025)	2
<i>Oregon v. Trump</i> , No. 25-7194 (9th Cir. Jan. 27, 2026), Dkt. No. 25	5
<i>Oregonian Publ’g Co. v. U.S. Dist. Ct. for Dist. of Or.</i> , 920 F.2d 1462 (9th Cir. 1990)	6
<i>Press-Enterprise Co. v. Superior Ct. of Calif. for Riverside Cnty.</i> , 478 U.S. 1 (1986).....	6
<i>San Jose Mercury News, Inc. v. U.S. Dist. Ct. -- N. Dist.</i> , 187 F.3d 1096 (9th Cir. 1999)	5–7
Rules	
Fed. R. Civ. P. 24	1, 5–8
Other Authorities	
Alex Baumhardt, <i>Guard Deployment to Portland Stays Blocked as Ninth Circuit Reviews Decision</i> , Oregon Cap. Chron. (Oct. 28, 2025), https://oregoncapitalchronicle.com/2025/10/28/guard-deployment-to-portland- stays-blocked-as-9th-circuit-reviews-decision/	2

Anna Griffin, *Judge Permanently Blocks National Guard Deployments to Portland for ICE Protests*, N.Y. Times (Nov. 7, 2025), <https://www.nytimes.com/2025/11/07/us/politics/portland-oregon-national-guard.html> 3

Claire Rush & Chris Megerian, *Trump Says He Will Send Troops to Portland, Oregon, in Latest Deployment to US Cities*, AP News (Sept. 27, 2025, 10:47 PM PST), <https://apnews.com/article/trump-federal-troops-portland-oregon-f8659de72f28289ef22bd924d149a52f> 2

Dareh Gregorian and Alicia Victoria Lozano, *Judge Permanently Bars Trump from Deploying National Guard Troops to Portland in Response to Immigration Protests*, NBC News (Nov. 7, 2025), <https://www.nbcnews.com/news/us-news/judge-permanently-bars-trump-deploying-national-guard-troops-portland-rcna236421> 3

Europa Press, *Un Tribunal de Apelación Da a Trump el Control de la Guardia Nacional de Oregón, Pero No le Permite su Despliegue* (Oct. 9, 2025), <https://www.europapress.es/internacional/noticia-tribunal-apelacion-da-trump-control-guardia-nacional-oregon-no-le-permite-despliegue-20251009044949.html> 3

Joni Auden Land, *Circumventing Court Order's Intent, Trump Sends California National Guard to Oregon*, Or. Pub. Broad. (Oct. 5, 2025), <https://www.opb.org/article/2025/10/05/california-national-guard-oregon/> 2

Kevin Doyle and Reuters, *U.S. Judge Rules Trump Illegally Ordered National Guard Troops to Portland*, Al Jazeera (Nov. 8, 2025), <https://www.aljazeera.com/news/2025/11/8/us-judge-rules-trump-illegally-ordered-national-guard-troops-to> 3

KPTV, *100 Oregon National Guard Soldiers Return Home After Portland Deployment Attempt* (Jan. 16, 2026), <https://www.kptv.com/2026/01/16/100-oregon-national-guard-soldiers-return-home-after-portland-deployment-attempt/> 2

OregonLive, *Trump Troop Deployments to Portland, Other Cities Cost \$496 Million and Counting* (Jan. 28, 2026), <https://www.oregonlive.com/nation/2026/01/trump-troop-deployments-to-portland-other-cities-cost-496-million-and-counting.html> 2

LR-7-1 CERTIFICATION

Counsel for non-party media organizations the Associated Press, Gray Local Media, Inc., Oregon Capital Chronicle, Oregon Public Broadcasting, and Oregonian Media Group (collectively, “Media Intervenors”), certify that they conferred with counsel for the State of Oregon, the City of Portland, and the State of California (collectively, “Plaintiffs”), and counsel for Donald Trump, Pete Hegseth, the U.S. Department of Defense, Kristi Noem, and the U.S. Department of Homeland Security (collectively, “Defendants”), by telephone and email regarding this Motion.

Notwithstanding that conferral, the parties could not reach agreement on the substantive relief sought by Media Intervenors. As to the discrete issue of whether Media Intervenors can intervene in this action under Federal Rule of Civil Procedure 24(b), Plaintiffs consent to and Defendants oppose this Motion to Intervene.

MOTION

Pursuant to Federal Rule of Civil Procedure 24(b), Media Intervenors hereby move for leave to intervene for the limited purpose of asserting the right of the press and the public to access court records and certain records produced in discovery in this matter. Specifically, Media Intervenors seek to intervene to unseal court records, disclose the identities of trial witnesses, and challenge confidentiality designations pursuant to the stipulated protective order entered on October 16, 2025 (“Stipulated Protective Order”). *See* ECF 88. Separate motions seeking substantive relief will follow.

This Motion is supported by the following memorandum of law and the declaration of Jon Bial, submitted as Exhibit 1.

MEMORANDUM OF LAW IN SUPPORT OF MOTION

As this Court noted when enjoining the federal government from deploying the Oregon National Guard to Portland, this case implicates some of “the most fundamental principles in our constitutional democracy.” *Oregon v. Trump*, 802 F. Supp. 3d 1277, 1281 (D. Or. 2025). Because “the issues at stake in this case are important, and the consequences of this Court’s decision are far-reaching,” *id.* at 1296, the public has a significant interest in examining information that was presented to this Court at trial and produced by the Parties during discovery.

In service of this public interest, Media Intervenors—a broad, politically diverse coalition of media organizations—have reported on the underlying events and proceedings in this case.¹ Confidentiality restrictions on some information, including documents introduced at trial, have hindered the press’s ability to report on the many important questions raised in this case, including questions about how the federal government characterizes and responds to civilian speech. As a result of the restrictions, the press and the public have limited access to

¹See, e.g., Claire Rush & Chris Megerian, *Trump Says He Will Send Troops to Portland, Oregon, in Latest Deployment to US Cities*, AP News (Sept. 27, 2025, 10:47 PM PST), <https://apnews.com/article/trump-federal-troops-portland-oregon-f8659de72f28289ef22bd924d149a52f> [https://perma.cc/5LH4-PFX4]; Joni Auden Land, *Circumventing Court Order’s Intent, Trump Sends California National Guard to Oregon*, Or. Pub. Broad. (Oct. 5, 2025, 5:54 PM), <https://www.opb.org/article/2025/10/05/california-national-guard-oregon/> [https://perma.cc/4MKZ-U3Q5]; Alex Baumhardt, *Guard Deployment to Portland Stays Blocked as Ninth Circuit Reviews Decision*, Oregon Cap. Chron. (Oct. 28, 2025, 5:09 PM), <https://oregoncapitalchronicle.com/2025/10/28/guard-deployment-to-portland-stays-blocked-as-9th-circuit-reviews-decision/> [https://perma.cc/R4LG-59FF]; *100 Oregon National Guard Soldiers Return Home After Portland Deployment Attempt*, KPTV (Jan. 16, 2026, 1:06 PM), <https://www.kptv.com/2026/01/16/100-oregon-national-guard-soldiers-return-home-after-portland-deployment-attempt/>; *Trump Troop Deployments to Portland, Other Cities Cost \$496 Million and Counting*, OregonLive (Jan. 28, 2026, 4:39 PM), <https://www.oregonlive.com/nation/2026/01/trump-troop-deployments-to-portland-other-cities-cost-496-million-and-counting.html> [https://perma.cc/C44V-34EW].

what facts existed—or did not exist—to support the positions of the parties with respect to the deployment of the National Guard and the decision of the Court. That limited access to facts makes it difficult for the public to assess the parties’ operations, decision-making, and treatment of civilians exercising free speech, both in relation to the immigration enforcement operations in Portland giving rise to this litigation and Defendants’ subsequent operations in other parts of the country.

Media Intervenors come together to intervene in this action to ensure information relevant to their reporting is not shielded from public view. Because this motion to intervene is timely, would not cause delay, and would not prejudice the parties, this Court should grant it and consider Media Intervenors’ request for relief, which will follow by separate motions.

I. BACKGROUND AND PROCEDURAL HISTORY

In 2025, demonstrations in Portland, Oregon occurred alongside national protests regarding immigration enforcement practices. During this period, federal officials pronounced Portland a “war-ravaged” city and subsequently activated the National Guard to Portland over Oregon’s objection. These events drew significant local, national, and international attention.²

² See, e.g., *supra* n.1; Dareh Gregorian and Alicia Victoria Lozano, *Judge Permanently Bars Trump from Deploying National Guard Troops to Portland in Response to Immigration Protests*, NBC News (Nov. 8, 2025, 8:09 PM), <https://www.nbcnews.com/news/us-news/judge-permanently-bars-trump-deploying-national-guard-troops-portland-rcna236421> [https://perma.cc/V2KU-UE2R]; Anna Griffin, *Judge Permanently Blocks National Guard Deployments to Portland for ICE Protests*, N.Y. Times (Nov. 7, 2025), <https://www.nytimes.com/2025/11/07/us/politics/portland-oregon-national-guard.html> [https://perma.cc/F56X-Z35L]; Europa Press, *Un Tribunal de Apelación Da a Trump el Control de la Guardia Nacional de Oregón, Pero No le Permite su Despliegue* (Oct. 9, 2025), <https://www.europapress.es/internacional/noticia-tribunal-apelacion-da-trump-control-guardia-nacional-oregon-no-le-permite-despliegue-20251009044949.html> [https://perma.cc/A2X9-DVHK]; Kevin Doyle and Reuters, *U.S. Judge Rules Trump Illegally Ordered National Guard Troops to Portland*, Al Jazeera (Nov. 8, 2025), <https://www.aljazeera.com/news/2025/11/8/us-judge-rules-trump-illegally-ordered-national-guard-troops-to> [https://perma.cc/9HJF-W3H7].

In response to the deployment of the National Guard, Plaintiffs initiated this action against Defendants, arguing that military deployment to Portland was part of a broader retribution campaign to coerce Democrat-led cities into carrying out the Trump administration’s political agenda in violation of the Tenth Amendment of the United States Constitution and the Posse Comitatus Act. *See* ECF 58 at 2, 17–18, 23. Plaintiffs allege that local law enforcement had sufficiently maintained public safety, and so the federal government’s deployment on the basis of “crime” was pretextual. *Id.* at 25. Plaintiffs further alleged that, rather than deescalating unrest, deployment heightened it and harmed the public’s economic well-being and safety. *Id.* at 26 (“Further, the needless presence of federalized troops will lead directly to escalated tensions and increased unrest, interfering with state and local law enforcement’s ability to maintain order.”).

On October 16, 2025, this Court issued the Stipulated Protective Order governing the exchange of discovery. ECF 88. At trial, numerous documents related to the operations in Portland were filed entirely under seal. ECF 145 at 765:25–775:6. Some government witnesses were permitted to testify under pseudonym. ECF 141 at 13:9–14:10. Further, in response to Media Intervenor Oregon Public Broadcasting’s public records requests, the State of Oregon and the City of Portland refused to disclose some records in this case based solely on the Stipulated Protective Order, which lacks the record-specific “good cause” findings required by Rule 26(c).³ *See* Ex. 1, Decl. of Jon Bial, ¶¶ 6-8; ECF 88.

Based on the evidence before it, the Court held that the federal government’s federalization and deployment of National Guard troops to the Portland ICE facility violated

³ Media Intervenors have also submitted requests pursuant to the Freedom of Information Act to the U.S. Department of Justice (“U.S. DOJ”), which acknowledged the requests but dismissed them on the grounds that it could not determine which of its offices had the records.

10 U.S.C. § 12406 and the Tenth Amendment. *Oregon v. Trump*, --- F. Supp. 3d ---, 2025 WL 3126773, at *2 (D. Or. Nov. 7, 2025). The Court issued an order permanently enjoining the implementation of three memoranda authorizing those deployments. *Id.* at *2, *29. The Court relied on evidence that the demonstrations at the ICE facility were largely peaceful, there was an overall lack of violence towards federal officers, and protesters caused no more than minimal interference with federal law enforcement operations. *Id.* at *34.

Defendants appealed this Court's permanent injunction order to the Ninth Circuit and subsequently moved to dismiss their own appeal. ECF 148; *see* Mot. Dismiss, *Oregon v. Trump*, No. 25-7194 (9th Cir. Jan. 27, 2026), Dkt. No. 25. The Ninth Circuit dismissed the consolidated appeals. *See* ECF 158. The parties submitted a joint status report identifying remaining issues following the Ninth Circuit's dismissal, which include disputes about the potential disclosure of information by the public body parties in response to requests under Oregon Public Records Law (ORS 192.311 *et seq.*). ECF 160. On February 27, 2026, the Parties filed a proposed order of dismissal which includes language retaining this Court's jurisdiction over matters related to the outstanding confidentiality issues and enforcement of this Court's permanent injunction. ECF 162.

II. ARGUMENT

Federal courts have long recognized the right of the media to intervene under Rule 24(b) to assert the public's right of access to court records and proceedings, including discovery materials. *San Jose Mercury News, Inc. v. U.S. Dist. Ct. -- N. Dist. (San Jose Mercury)*, 187 F.3d 1096, 1100, 1103 (9th Cir. 1999); *cf. Globe Newspaper Co. v. Super. Ct. for Norfolk Cnty.*, 457 U.S. 596, 609 n. 25 (1982) ("representatives of the press and general public must be given an opportunity to be heard" on matter of public access) (quotation marks and citation omitted).

Media Intervenors' right of access to courts is presumptive. *See Press-Enterprise Co. v. Superior Ct. of Calif. for Riverside Cnty.*, 478 U.S. 1, 8 (1986); *Oregonian Publ'g Co. v. U.S. Dist. Ct. for Dist. of Or.*, 920 F.2d 1462, 1465 (9th Cir. 1990).

Permissive intervention under Rule 24(b)(2) is the procedural mechanism under which a non-party may assert its right to access judicial records or “test whether the ‘good cause’ requirements of Rule 26(c) have been met with respect to a particular item of discovery.” *San Jose Mercury*, 187 F.3d at 1100, 1103. Typically, a court may grant permissive intervention if the movant presents “(1) an independent ground for jurisdiction; (2) a timely motion; and (3) a common question of law and fact between the movant’s claim or defense and the main action.” *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992). But when, as here, Media Intervenors seek to intervene only for the limited purpose of preserving access to court records and proceedings and challenging a protective order, they need not “demonstrate independent jurisdiction or a common question of law or fact,” only that their motion is timely. *See id.* at 473–75; *San Jose Mercury*, 187 F.3d at 1100–01. In determining whether the motion is timely, a court must consider “(1) the stage of the proceeding at which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for and length of the delay.” *San Jose Mercury*, 187 F.3d at 1101.

This Motion is timely. On October 16, 2025, the Court entered the Stipulated Protective Order governing the treatment of materials designated as confidential by either party. *See* ECF 88. Documents were filed under seal between October and December 2025. *See* ECF 70–71, 153, 155. Beginning October 29, 2025, this Court held a three-day consolidated preliminary injunction hearing and bench trial, hearing testimony from eight witnesses. *See* ECF 85, 125, 127, 133. Two of Defendants’ witnesses testified anonymously and were identified throughout

the trial by either their initials or a pseudonym. *See* ECF 140–45. On November 19, 2025, the Court granted an unopposed motion to seal dozens of trial exhibits. *See* ECF 121, 149. Most recently, the City of Portland and Oregon Department of Justice both refused to produce records pursuant to requests under the Oregon Public Records Law based on the Stipulated Protective Order. Ex. 1 ¶¶ 7–8. Only several months have passed since materials were first designated confidential under the Stipulated Protective Order, filed under seal, or withheld from the public subject to the Stipulated Protective Order, and this period is well within what courts deem timely. *See San Jose Mercury*, 187 F.3d at 1101 (“[D]elays measured in years have been tolerated where an intervenor is pressing the public’s right of access to judicial records.”).

Further, allowing Media Intervenors to intervene will not unduly delay or prejudice the adjudication of the original parties’ rights. *See* Fed. R. Civ. P. 24(b)(3). Because the parties agree that the underlying action should be dismissed, permitting intervention at this stage will not delay resolution on the merits or disrupt the litigation schedule. ECF 160. Moreover, as explained in Media Intervenors’ forthcoming motions to unseal and lift confidentiality designations, the parties seeking continued secrecy have an existing burden to establish that (1) there are compelling reasons for keeping specific court records sealed or witness identities hidden, and (2) there is “good cause” under Rule 26(c) to maintain confidentiality restrictions on certain unfiled materials produced in discovery. *See Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1130–31, 1134–36 (9th Cir. 2003); *Muhaymin v. City of Phoenix*, No. CV-17-04565-PHX-DLR, 2021 WL 5173767, at *2 (D. Ariz. Nov. 3, 2021) (“The mere fact that Defendants will need to explain why the relevant records should remain sealed is not, itself, unduly prejudicial.”).

Finally, some of the issues that will be raised by Media Intervenors are currently before the Court. Media Intervenor Oregon Public Broadcasting has requested records from two Plaintiffs in this case. Ex. 1 ¶¶ 5–6. Plaintiffs and Defendants disagree as to what information must be disclosed to the public. ECF 160. Briefing on this issue will be completed by March 20, 2026. ECF 161. Media Intervenors intend to raise additional issues before that date relating to the Stipulated Protective Order and the sealing of documents. Because consideration of all confidentiality-related issues at the same time will ultimately promote judicial economy, this motion is well-timed.

III. CONCLUSION

Because Media Intervenors satisfy the requirements for permissive intervention under Rule 24(b), the Court should grant their motion and allow them to seek access to court records and discovery materials.

Dated: March 6, 2026

Submitted,

/s/ Athul Acharya
Athul Acharya, OSB #152436
Sara Rosenberg*
PUBLIC ACCOUNTABILITY
P.O. Box 14672
Portland, OR 97211

Shelby Leighton*
Mariam Elbakr*
PUBLIC JUSTICE
1620 L Street NW, Suite 630
Washington, DC 20036

Leila Nasrolahi*
PUBLIC JUSTICE
475 14th St., Suite 610
Oakland, CA 94612

Counsel for All Media Intervenors

Jon Bial, OSB #002048
Katia Alcantar, OSB #201714
OREGON PUBLIC BROADCASTING
7140 S Macadam Avenue
Portland, OR 97219

Counsel for Oregon Public Broadcasting

**pro hac vice application forthcoming*

CERTIFICATE OF COMPLIANCE

This brief complies with the applicable word-count limitation under LR 7-2 because it contains 1,988 words, including headings, footnotes, and quotations, but excluding the caption, table of contents, table of cases and authorities, signature block, exhibits, and any certificates of counsel.

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

STATE OF OREGON, *et al.*

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States, *et al.*

Defendants.

Case No. 3:25-cv-01756-IM

**DECLARATION OF JON BIAL IN
SUPPORT OF MEDIA INTERVENORS'
MOTION TO INTERVENE**

I, Jon Bial, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18 and am competent to testify to the matters set forth herein.

I make this declaration based on my personal knowledge and, if called as a witness, could and would testify competently to the facts stated herein.

2. I submit this Declaration in support of Media Intervenors' Motion to Intervene.

3. I am Deputy General Counsel of Oregon Public Broadcasting ("OPB"). OPB is an independent, nonprofit media organization with a mission to inform communities across Oregon and the Pacific Northwest by delivering in-depth, fact-driven coverage of politics, science and the environment, arts and culture, education, and more.

4. OPB, through its reporters, submitted requests for records in this case to the Oregon Department of Justice ("Oregon DOJ"), the City of Portland (the "City"), and the United State Department of Justice ("U.S. DOJ").

5. Specifically, OPB submitted a public records request under the Freedom of Information Act (FOIA) to the U.S. DOJ on November 4, 2025 seeking copies of all exhibits

that the federal government submitted at trial. On November 21, 2025, the U.S. DOJ closed the request via letter, stating “the files and records of United States Attorneys are maintained in over one hundred separate offices throughout the United States” and directed OPB to submit a new request and specify which office the records were directed. OPB replied to the U.S. DOJ and continues to seek the records but as of the date of this Declaration no records have been released to OPB. Attached as Exhibit A is a true and correct copy of the U.S. DOJ’s letter dated November 21, 2025 to OPB reporter Troy Brynelson responding to OPB’s FOIA request. I obtained this letter from Troy Brynelson in the course of my duties at OPB.

6. OPB also submitted a set of public records requests under the Oregon Public Records Law (OPRL) to the Oregon DOJ seeking:

- “Any and all information . . . regarding an Oct. 4, 2025, deployment of the Oregon National Guard to the U.S. Immigration and Customs Enforcement facility in Portland, Oregon.”
- Copies of the deposition transcripts and videos.
- Access to specific trial exhibits from the case.

7. The Oregon DOJ responded on December 11, 2025, declining to produce certain responsive materials. For documents the Oregon DOJ did produce, certain portions were redacted on the basis that they were confidential under the stipulated protective order entered on October 16, 2025 (“Stipulated Protective Order”) or subject to the Court’s ruling of witness anonymization. The Oregon DOJ withheld other documents, stating that it had repeatedly sought clarification from the U.S. DOJ as to which exhibits were sealed or required redaction under the Stipulated Protective Order. Responsive records continue to be withheld. Attached as Exhibit B is a true and correct copy of the email dated December 11,

2025 from the Oregon DOJ to OPB reporter Conrad Wilson responding to OPB's public records requests under the OPRL. I obtained this email from Conrad Wilson in the course of my duties at OPB.

8. On November 4, 2025, OPB submitted a public records request under the OPRL to the City for "copies of all the exhibits the City of Portland collated for the court record in State of Oregon, et. al v. Trump in the recent federal trial overseen by Judge Immergut." On December 1, 2025, OPB submitted another public records request for "federal records that the city attorney's office received that were NOT entered into exhibits in the federal trial between Oregon DOJ/California/Portland vs. The Trump administration related to the Nat'l Guard deployment." The City withheld some records that were responsive to the requests. For each request, the City cited the Stipulated Protective Order in this case as the justification for withholding. Attached as Exhibits C through E are a true and correct copies of the emails exchanged between the City and OPB reporter Troy Brynelson between December 15, 2025 and February 6, 2026 regarding OPB's public records requests under the OPRL. I obtained these emails from Troy Brynelson in the course of my duties at OPB.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 6, 2026 at Portland, Oregon.

Jon Bial

Jon Bial

EXHIBIT A



U.S. Department of Justice

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

Suite 5.400, 3CON Building
175N Street, NE
Washington, DC 20530

(202) 252-6020

November 21, 2025

Troy Brynelson
7140 S Macadam Ave.
Portland, OR 97219
tbrynelson@opb.org

Re: Request Number EOUSA-2026-000368
Subject of Request: copies of all the exhibits that the federal government submitted to Oregon v. Trump

Dear Troy Brynelson:

The Executive Office for United States Attorneys (EOUSA) has received your Freedom of Information Act (FOIA) and/or Privacy Act (PA) request and assigned the above number to it. In response to your FOIA/PA request, the paragraph(s) checked below apply:

1. The Freedom of Information Act only applies to records already in existence and does not require an agency to **conduct research, create new records, or answer questions presented as FOIA requests.**
2. Please be advised that the FOIA provides a right of access to federal agency records that exist and can be located in federal agency files. The FOIA does not apply to records that are maintained by states, counties, or cities, or by the legislative or judicial branches of the government. With regard to the **specific questions you asked** in your request letter, please be advised that the FOIA does not require federal **conduct research, create new records, or answer questions presented as FOIA requests**, but rather is limited to requiring agencies to provide access to reasonably described, nonexempt records.
3. The files and records of United States Attorneys are maintained in over one hundred separate offices throughout the United States. Please **identify the specific United States Attorney's office(s)** where you believe records may be located. This would be primarily the district(s) in which a prosecution or litigation occurred.
4. **You did not request any records.** A proper Freedom of Information Act request for records must **reasonably describe the records** sought. See 5 U.S.C. § 552(a)(3)(A). After carefully reviewing your request, I have determined that you did not reasonably describe the subject of your request. Please provide more detailed information about the records you seek, such as appropriate dates, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number.

5. A proper Freedom of Information Act request for records must **reasonably describe the records** sought. See 5 U.S.C. § 552(a)(3)(A). After carefully reviewing your request, I have determined that you did not reasonably describe the subject of your request. Please provide more detailed information about the records you seek, such as appropriate dates, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number.
6. It appears that the records you seek are likely to be maintained by **state or local authorities**. For your information, the federal Freedom of Information Act applies only to records maintained by federal agencies that are subject to the FOIA. Records that are maintained by state or local authorities are subject only to any records access laws that might be applicable to those states and localities. Accordingly, if you have not already done so, I suggest that you make a request for such records to the proper state or local authority in accordance with the appropriate state or local records access law.
7. Your request seeks records which may be available from the **clerk of the court**. You should contact the clerk of the court directly to seek possible release of the records.
8. You have **requested records pertaining to yourself**. Therefore, you will need to verify your identity as required by Department regulation 28 C.F.R. § 16.41(d) (2019). Specifically, if you would like this Office to process your request and search for responsive records in this Office, you will need to either (1) return a completed Certification of Identity form to this Office, or (2) provide a statement notarized or under penalty of perjury pursuant to 28 U.S.C. § 1746, indicating your full name, place of birth, date of birth, and current address. A form is enclosed for your use. As stated below, the form needs to be submitted as a new request accompanied by a description of your request.
9. You have **requested records concerning a third party**. To the extent that non-public responsive records exist, without consent, proof of death, or an overriding public interest, disclosure of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(6) & (b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office is not required to conduct a search for the requested records. Should you obtain the authorization and consent of the third party for release of the records to you, please submit a new request for the documents accompanied by the written authorization. A form is enclosed to assist you in providing us the authorization and consent of the third party. Your name should appear in the section titled "Optional." The authorization must be notarized or signed under penalty of perjury pursuant to 18 U.S.C. § 1001.

We will release, if requested, any public records maintained in our files, such as court records and news clippings, without the express authorization of the third party, a death certificate, or public justification for release. If you desire to obtain public records that exist in our files, please reply with a letter asking for the public documents. Please send your letter to the address above. The request will need to be reasonably described by providing detailed information about the records you seek, such as appropriate dates, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number.

Once you have corrected the above deficiencies, please submit a new request for the documents. The new request should include a full description of your request and correct any deficiency. Please do not send back Certification of Identity forms without a request description. Stand alone Certification of Identity forms will not be processed. This is a final determination and your request for information has been closed. **When we have received your new, corrected request, we will open a new file for you. Please send your new, corrected request**

This is the final action on this above-numbered request. If you are not satisfied with EOUSA's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." If possible, please provide a copy of your original request and this response letter with your appeal.

You may contact the EOUSA FOIA Public Liaison for any further assistance and to discuss any aspect of your request. The contact information for EOUSA is 175 N Street, NE, Suite 5.400, Washington, DC 20530; telephone at 202-252-6020. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Kevin Krebs
Assistant Director

Enclosure

U.S Department of Justice

Certification of Identity

FORM APPROVED OMB NO. 1103-0016
EXPIRES 05/31/2023

Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ _____Citizenship Status ² _____ Social Security Number ³ _____

Current Address _____

Date of Birth _____ Place of Birth _____

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ _____ Date _____

¹Name of individual who is the subject of the record(s) sought.

²Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴Signature of individual who is the subject of the record sought.

EXHIBIT B

From: Conrad Wilson cwilson@opb.org
Subject: FW: [External] OPB Records Requests - National Guard Litigation
Date: December 11, 2025 at 5:32 PM
To: Ryan Haas rhaas@opb.org, Jon Bial jbial@opb.org, Michelle Wiley mwiley@opb.org

A circular logo with the letters "CW" inside.

From: Pitcher David <david.pitcher@doj.oregon.gov>
Date: Thursday, December 11, 2025 at 4:45 PM
To: Conrad Wilson <cwilson@opb.org>
Cc: Silcox Teresa <Teresa.Silcox@doj.oregon.gov>
Subject: [External] OPB Records Requests - National Guard Litigation

Hi Conrad,

I want to provide an update on your three records requests concerning the National Guard litigation.

1. Any and all information - documents, communications, video, records, reports, depositions, notes, etc. - regarding an Oct. 4, 2025 deployment of the Oregon National Guard to the U.S. Immigration and Customs Enforcement facility in Portland, Oregon.

Our response to this request is complete. Records responsive to this request can be found on our public records website page related to this litigation under the section labeled "State of California Trial Exhibits." The responsive records are Exhibits 201, 202, and 209.

2. I am requesting any and all copies -- transcripts and video -- of depositions associated with this case: 3:25-cv-01756.

We have previously posted two deposition transcripts to our website. I just emailed six additional transcripts, which will complete our production. Any portions of the transcripts that that are redacted were done so because they were designated as confidential pursuant to the Court's protective order. Therefore, Oregon DOJ is obligated to keep those portions of the transcripts confidential at this time, and we would assert the exemptions provided by ORS 192.355(8) and ORS 192.398(2). You can seek review of this decision via the mechanism described in ORS 192.427. We also have video of these depositions that is responsive to your request, but the video has not been edited to remove the portions designated as confidential. If, after reviewing the redacted deposition transcripts, you believe there are limited sections of the video you need for your reporting, we can work with you to provide those excerpts. If you need us to provide redacted versions of the entire videos, we will have to provide OPB with a fee estimate due to the burden associated with that task.

3. I'm requesting the following trial exhibits from this federal case, 3:25-cv-01756 (several listed exhibits):

We are still processing this request. During the trial, certain exhibits were entered under seal. Oregon DOJ has repeatedly sought clarity from US DOJ about what specific exhibits US DOJ contends are sealed or otherwise subject to the protective order (with or without redactions). We are currently awaiting a further response from US DOJ. We anticipate that we will be disclosing additional records, and we estimate that we will complete our response to your request on or before December 18.

David Pitcher

Senior Assistant Attorney General | Public Records Counsel | General Counsel Division
Oregon Department of Justice
1162 Court St NE, Salem, OR 97301
503.871.3731

***** CONFIDENTIALITY NOTICE ***** This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system. *****

EXHIBIT C

Wednesday, March 4, 2026 at 1:22:22 PM Pacific Standard Time

Subject: [External] Portland Oregon Records Center Service Request Updated :: C427560-110425
Date: Friday, December 12, 2025 at 2:57:05 PM Pacific Standard Time
From: Portland Public Records Request Center
To: Troy Brynelson

--- Please respond above this line ---

RE: Public Records Requests of November 04, 2025 Reference #C427560-110425

Dear Troy,

The City of Portland received a Public Records Request from you on November 04, 2025 for the following:

"Hi. I'd like to request copies of all the exhibits the City of Portland collated for the court record in State of Oregon, et. al v. Trump in the recent federal trial overseen by Judge Immergut."

I gave you the City's filed exhibits. At this time, I am unable to release the other exhibits but I am hoping to be able to do so soon. I appreciate your understanding.

Carrie Wilton
Legal Records Supervisor (she/her)
(503) 865-6875

If you are having **technical** difficulties with the website, please contact the website administrator by phone or email. (503) 823-6040 or prrhelpp@portlandoregon.gov

Ability to Appeal:

If you were denied the right to inspect or to receive a copy of any public record of the City of Portland you may seek review of the public body's determination pursuant to ORS 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.

EXHIBIT D

Wednesday, March 4, 2026 at 1:09:29 PM Pacific Standard Time

Subject: [External] Portland Oregon Records Center Service Request Updated :: C431709-120125
Date: Wednesday, January 7, 2026 at 11:32:19 AM Pacific Standard Time
From: Portland Public Records Request Center
To: Troy Brynelson

Attachments:

[Fed Docs - not under po.zip](#)

--- Please respond above this line ---

RE: Public Records Requests of December 01, 2025 - Reference #C431709-120125

Dear Troy,

Sorry, I just sent you a blank message. Please disregard.

Thank you for your patience with us as we worked on this. Attached are the responsive records to your request. These are the documents submitted by the federal government that are not subject to a protective order. Also, I am not sure if you have seen this but the State of Oregon has published the trial exhibits from all parties here: <https://www.doj.state.or.us/oregon-department-of-justice/federal-oversight/public-records-reading-room/>

The City now considers your request fulfilled and it will be closed. Please note, messages sent on closed requests will not be monitored.

Ability to Appeal:

If you were denied the right to inspect or to receive a copy of any public record of the City of Portland you may seek review of the public body's determination pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.

Sincerely,

Carrie Wilton
Legal Records Supervisor (she/her)
(503) 865-6875

If you are having technical difficulties with the website, please contact the website

administrator by email or phone: prrhelpp@portlandoregon.gov or (503) 823-6040.

***Portland Police Records Only: Police records often contain information that is from a Law Enforcement Data Systems (LEDS) query. If that information is present, it has been redacted as required by ORS 192.355(9), incorporating 181A.280 and OAR 257-015-0060.*

EXHIBIT E

From: Portland Public Records Request Center <portlandor@govqa.us>
Date: February 6, 2026 at 9:59:07 AM PST
To: Troy Brynelson <tbrynelson@opb.org>
Subject: [External] Portland Oregon Records Center Service Request Updated :: C431709-120125

--- Please respond above this line ---

RE: Public Records Requests of December 01, 2025 Reference #C431709-120125

Dear Troy,

The City of Portland received a Public Records Request from you on December 01, 2025 for the following:

"I'm requesting copies of federal records that the city attorney's office received that were NOT entered into exhibits in the federal trial between Oregon DOJ/California/Portland vs. The Trump administration related to the Nat'l Guard deployment. Happy to talk on the phone about this if it's easier to trim this down."

This message is in follow-up to Jon Bial's 2/4/26 email to Trevor Byrd.

The City is asserting ORS 192.355(8), incorporating 28 USC sec. 2702-2704 and Federal Rule of Civil Procedure 26(c).

There is, admittedly, a tension between sections 7 and 8. Our office had several conversations with US Attorneys and we both share the opinion that the records are subject to the protective order. Section 8 is unclear as to which court the United States is to file for a protective order in the context of a public records request where there is no pending court proceeding. In any event, we believe our obligations under section 7 prevent us from disclosing records subject to the order. If you would like contact information for the US Attorneys assigned to the case, we are happy to provide that. If this proceeds to a challenge at the District Attorney level, the City Attorneys Office will notify US Attorneys so that they can issue any substantive response.

Carrie Wilton
Legal Records Supervisor (she/her)
(503) 865-6875

If you are having **technical** difficulties with the website, please contact the website administrator by phone or email. (503) 823-6040 or prrhelp@portlandoregon.gov

Ability to Appeal:

If you were denied the right to inspect or to receive a copy of any public record of the City of Portland you may seek review of the public body's determination pursuant to ORS 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.