



April 25, 2018

Texas Military, Office of the Adjutant General  
Attn: General Counsel, NGTX-GCF (PIA Coordinator)  
P.O. Box 5218  
Austin, TX 78763-5218

**Via e-mail:** [ng.tx.txarng.mbx.freedom-of-information-act@mail.mil](mailto:ng.tx.txarng.mbx.freedom-of-information-act@mail.mil)

Re: Texas Public Information Act Request

To Whom It May Concern,

We write to request information from the Texas Military Department under the Texas Public Information Act, Chapter 552 of the Texas Government Code concerning the implementation of President Trump's Memorandum for the Secretary of Defense, the Attorney General and the Secretary of Homeland Security issued on April 4, 2018 and titled "Securing the Southern Border of the United States" (the "**Presidential Memorandum**"). The Presidential Memorandum notes that the Secretary of Defense shall request use of National Guard personnel, pursuant to section 502 of title 32, United States Code, to assist in fulfilling a mission of "securing the southern border and taking other necessary actions to stop the flow of deadly drugs and other contraband, gang members and other criminals, and illegal aliens" into the United States.

By this letter, the ACLU Foundation of Texas ("ACLU") seeks information regarding the implementation of the Presidential Memorandum and any request for use of Texas National Guard personnel in response to it, including the terms and conditions on which any use of National Guard personnel is premised and any training or instruction necessary for any military personnel, including National Guard units, to effectively support Department of Homeland Security ("DHS") personnel in securing the border, as referenced in Sec. 3 of the Presidential Memorandum.

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF TEXAS

P.O. BOX 8306  
HOUSTON, TX 77288  
713.942.8146 | [WWW.ACLUTX.ORG](http://WWW.ACLUTX.ORG)  
WITH OFFICES IN AUSTIN, BROWNSVILLE, DALLAS AND EL PASO

## **II. Requested Records**

We seek release of the following public information, recorded in any medium, in the possession or control of the Texas Military Department:<sup>1</sup>

1. Records created on or after April 4, 2018, concerning any request by the Secretary of Defense for use of the National Guard as referred to in Section 1 of the Presidential Memorandum;
2. Records created on or after January 1, 2018, concerning any discussions or negotiations between any personnel of the Texas Military Department and:
  - a. the Secretary of Homeland Security and / or any personnel of DHS; and / or
  - b. the Secretary of Defense and / or any personnel of the Department of Defense; and / or
  - c. any personnel of the State of Texas and / or the Governor of Texas, concerning the use or potential use of the National Guard to support DHS and / or the Department of Defense in any mission to secure the southern border of the United States.
3. Records concerning any training or instruction necessary for any military personnel, including National Guard units, to effectively support DHS personnel in securing the border, as referenced in Section 3 of the Presidential Memorandum.
4. Records recording or concerning the proposal, negotiation, documentation and / or execution of any Memorandum of Agreement between:
  - a. all or any of the Department of Defense and / or the Secretary of Defense and / or DHS and / or the Secretary of Homeland Security on the one hand; and
  - b. all or any of the State of Texas and / or the Texas Military Department and / or the Governor of Texas on the other hand, concerning the use or potential use of the National Guard to support DHS and / or the Department of Defense in any mission to secure the southern border of the United States as referenced in the Presidential Memorandum.
5. Records identifying the number of National Guard troops or personnel requested to assist in fulfilling the mission referenced in the Presidential Memorandum.

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<sup>1</sup> For the purposes of this Request, "Records" are collectively defined as any written or electronically stored document including but not limited to: text communications between phones or other electronic devices (including, but not limited to, communications sent via SMS or other text, Blackberry Messenger, iMessage, WhatsApp, Signal, Gchat, or Twitter direct message); e-mails; images, video, and audio recorded on cell phones; voicemail messages; social-media posts; instructions; directives; guidance documents; formal and informal presentations; training documents; bulletins; alerts; updates; advisories; reports; legal and policy memoranda; memoranda of agreement; contracts or agreements; minutes or notes of meetings and phone calls; and memoranda of understanding.

6. Records identifying the cost of employing National Guard troops or personnel to assist in fulfilling the mission detailed in the Presidential Memorandum.

Except where otherwise noted, the timeframe for this request is January 1, 2018 through the date that searches are conducted for records responsive to this Open Records Request.

In the interest of open government, please be mindful of your duty to make a good-faith effort to relate these requests to any information that you hold. Open Records Dec. No. 561 at 8 (1990). We also ask that, in accordance with the law, you promptly produce the information we have requested. If you expect that fulfilling this request will take longer than ten days, please inform us when we can expect copies of these records.

Please waive the fees for this request, as it is made for public and non-commercial purposes. Tex. Gov't Code § 552.267. The ACLU is a nonprofit organization, and our mission is to defend and preserve the individual rights and liberties guaranteed to every person in this country by the Constitution and laws of the United States. This request is submitted in accordance with that mission, and to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. We request this information for the benefit of the general public.

If you deny any or all part of this request, please cite each specific exemption that you claim justifies your denial and notify us of the appellate procedures available under the law.

We prefer to receive these documents electronically. Please send your response by email to [mmccarthy@aclutx.org](mailto:mmccarthy@aclutx.org) or by post to the ACLU Foundation of Texas, P.O. Box 8306, Houston, Texas 77288-8306. We would be happy to coordinate about the easiest way to transmit your response. You can reach the undersigned by email or at 346-304-8566 if you require any additional information.

Thank you for considering this request.

Respectfully,



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Matthew McCarthy  
ACLU Foundation of Texas  
P.O. Box 8306  
Houston, Texas 77288