

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DISTRICT OF COLUMBIA,

Plaintiff,

v.

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

Defendants.

No.: 1:25-cv-3005 (JMC)

**BRIEF OF AMICI CURIAE STATES OF SOUTH CAROLINA, WEST
VIRGINIA, AND 21 ADDITIONAL STATES IN SUPPORT OF DEFENDANTS’
OPPOSITION TO PLAINTIFF’S MOTION FOR A PRELIMINARY
INJUNCTION**

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INTRODUCTION & INTEREST OF *AMICI CURIAE*

The District of Columbia is the Seat of America’s National Government and the house of all three of its branches. U.S. CONST. art. I, § 8, cl. 17. Safety, security, and domestic tranquility in D.C. are therefore critical, not only to the good people of the District, but to the functioning of the entire United States. The American People rely on the effective operation of their federal government, which in turn depends on the safety of elected representatives and officials who carry out the popular will. The American People also travel from all over the country to Washington, every day, to visit its historic sites and exercise their First Amendment right to petition the Government. *See* U.S. CONST. amend. I. In short, the District belongs to “the People” as a whole, and its safety is critical to our constitutional republic. The *Amici* States have a profound interest in this case to ensure that President Trump can continue to protect our Nation’s capital.

The Founders recognized the grave importance of this District to the entire Nation, so much so that they vested authority over it in the federal government and not in any one State or locality. *See* U.S. CONST. art. I, § 8, cl. 17. Exercising its legislative prerogative, Congress has repeatedly vested Presidents with law enforcement authority over the District—giving the Executive power to appoint mayors, councilmembers, and justices of the peace. *See, e.g.,* An Act to incorporate the inhabitants of the City of Washington, in the District of Columbia, 7th Cong., sess. I, ch. LIII, 2 Stat. 195 (1802). And Presidents throughout history have deemed it one of their utmost constitutional duties to defend the capital. After the War of 1812, and the British attack on D.C. and burning of the Presidential Mansion, President James Madison issued a rousing proclamation, commanding the military to protect D.C., which, as he explained, is our highest patriotic duty. *See* Presidential Proclamation (Sept. 1, 1814), *reprinted in The Writings of James*

Madison, Vol. VIII (1808–1819), at 224 (Gaillard Hunt ed., G.P. Putnam’s Sons 1908).¹ During the Civil War, President Lincoln directed the Union Army to make D.C. the most fortified city in the Country, protecting it from Confederate invasion.² If the capital fell, so would the Union. And, today, President Trump has acted valiantly to protect D.C. from crime that imperils our government servants and therefore our entire country.

Contrary to Plaintiff’s Complaint and Preliminary Injunction Motion (*see* ECF No. 1 ¶¶ 6, 53–70; ECF No. 3-1 at 18–27, 41, 44), President Trump’s use of the National Guard to protect Washington, D.C. from rampant violence does not infringe on D.C. “Home Rule” or local “sovereignty.” Instead, his action accords with over two centuries of constitutional tradition that the federal government has responsibility for our capital. America cannot succeed and thrive when the Seat of Government is not safe, and so protecting D.C. is one of President Trump’s most important duties under Article II. Plaintiff asks this Court to interfere with that exercise of authority by stepping into the President’s shoes, jumping the chain of command, and ordering the National Guard to stand down.

Beyond being constitutionally and statutorily permissible, President Trump’s actions are necessary and wise. For years, but especially since 2020, the District has been mired in crime and tumult. Robberies, assaults, carjackings, rape, and murder plague the

¹ <https://oll.libertyfund.org/titles/madison-the-writings-vol-8-1808-1819> (last visited Sep. 16, 2025).

² *See Civil War Defensive Fortifications of Washington, DC*, US Army Corps of Engineers, <https://www.usace.army.mil/About/History/Historical-Vignettes/250th-Anniversary-Vignettes/25009-Civil-War-Defenses-of-Washington/#:~:text=By%20April%201865%20the%20Corps,attack%20deep%20into%20Confederate%20territory> (last visited Sep. 11, 2025).

District but also directly impede the Government's operations. Several victims of these heinous crimes have been members of Congress and their staffers, as well as administration officials, all of whom must be safe to carry out their constitutionally assigned duties. All of this could have been prevented or mitigated but for D.C. officials playing politics with Americans' safety and indulging a misguided defund-the-police movement. Indeed, in the few weeks since President Trump has mobilized the National Guard, D.C. has become a markedly safer city. Notwithstanding the D.C. Attorney General filing this lawsuit, the Mayor of D.C., other officials, and residents have welcomed these developments.

The *Amici* States also welcome President Trump's efforts to make D.C. safe. In addition to sending numerous Senators, Representatives, and administration officials—and in addition to their Citizens frequently traveling to D.C.—some of *Amici* States have sent their own National Guard troops to the District. These *Amici* and their brave National Guards troops have been proud to stand with President Trump. While a handful of politicians in D.C. have decided to file this lawsuit as a means of political resistance against President Trump, and have tried to make this about "Home Rule," the great weight of American State and Popular sovereignty welcomes his successful efforts. For those reasons, and those raised in Defendants' Opposition, this Court should deny Plaintiff's Motion for a Preliminary Injunction.

ARGUMENT

I. CRIME IN THE DISTRICT OF COLUMBIA THREATENS THE EFFECTIVE OPERATION OF THE NATIONAL GOVERNMENT AND THE SAFETY OF THE STATES’ REPRESENTATIVES AND CITIZENS

A. The Founders Recognized the Importance of the Safety and Security of the District of Columbia, Not Only for Residents but also for the Federal Government in Service of All American Citizens

The Founders recognized the need to designate a special District as “the Seat of the Government of the United States.” U.S. CONST. art. I, § 8, cl. 17. In July 1790, Congress passed “An Act for establishing the temporary and permanent seat of the Government of the United States,” 1st Cong., sess. II, ch. XXVIII, 1 Stat. 130 (1790), setting the “permanent seat” of the Nation’s government “on the river Potomac at some place between the mouths of the Eastern Branch and Connogochegue.” *Id.* at § 1. Washington, D.C. is now not only our Nation’s capital, but the “very heart [] of the Union itself,” *O’Donoghue v. United States*, 289 U.S. 516, 539 (1933), and the abiding home of all three branches of our federal government. Without a safe and secure capital, our Nation cannot function or thrive. The District’s safety and well-being is both a practical necessity for good governance but also a symbol of our Nation’s strength.

For those reasons, the Constitution places authority over the District, not into the hands of a small group of residents, but into the federal government, which represents all the American People. Congress “exercise[s] exclusive Legislation in all Cases whatsoever, over such District.” U.S. CONST. art. I, § 8, cl. 17. As James Madison explained in *The Federalist* 43, the responsibility for the safety and security of the District was “too great a public pledge to be left in the hands of a single State.” THE FEDERALIST NO. 43 (James Madison) (Project Gutenberg ed. 2021).

In the Organic Act of 1801, Congress first formed the County of Washington, which would be governed by a court consisting of seven to eleven Justices of the Peace, all appointed by the President. An Act concerning the District of Columbia, 6th Cong., sess. II, ch. XV, 2 Stat. 103 (1801). In 1802, Congress incorporated a new city of Washington within the district, with an elected city council and a presidentially appointed mayor. An Act to incorporate the inhabitants of the City of Washington, in the District of Columbia, 7th Cong., sess. I, ch. LIII, 2 Stat. 195 (1802). The House of Representatives and Senate formed standing committees focused on the affairs of the District of Columbia in 1808 and 1816, respectively.³

In the decades after the Founding, the importance of the capital, as the soul of the entire Nation, continued to grow. During the War of 1812, the British targeted Washington, D.C. burning both the White House and the Capitol as both a retaliatory strike and a symbolic attack against the United States.⁴ When President James Madison returned, he called upon the American people to protect the capital and commanding his military officers “to be vigilant and alert in providing for the defense” for the District. Presidential Proclamation (Sept. 1, 1814), *reprinted in The Writings of James Madison*, Vol. VIII (1808–1819), at 224 (Gaillard Hunt ed., G.P. Putnam’s Sons 1908). No other goal, he wrote, “appeals so forcibly to the proud feelings and patriotic devotion of the

³ Cong. Rsch. Serv., IF12577, *Governing the District of Columbia: Overview and Timeline* (Jan. 29, 2024), https://www.dcd.uscourts.gov/sites/dcd/files/local_rules/Local%20Rules%20Jan_2024.pdf.

⁴ Nat’l Const. Center Staff, *On this day, the British set fire to Washington, D.C.*, Nat’l Const. Center (Aug. 24, 2023), <https://constitutioncenter.org/blog/on-this-day-the-british-set-fire-to-washington-d-c>.

American people.” *Id.* at 225. During the Civil War, the Union Army built an elaborate system of battlements and barricades to protect Washington, D.C., making it one of the most heavily fortified cities in the world.⁵

For over 200 years after the Founding, all legislative and executive control over Washington, D.C. remained in the hands of the federal government. Although the details changed, legislation related to D.C. recognized congressional and presidential control over the District. The Organic Act of 1871, for example, mandated a presidentially appointed governor and an eleven-member council, all of whom were presidential appointees, while voters elected the 22 members of the house of delegates. An Act to provide a Government for the District of Columbia, 41st Cong., sess. III, ch. LXII, 16 Stat. 419 (1871). In 1874, Congress replaced that structure with a three-member commission appointed by the President. An act for the government of the District of Columbia, and for other purposes, 43d Cong., sess. I, ch. 337, 18 Stat. 116 (1874). This system remained relatively unchanged for almost a century. In 1967, Congress reorganized the district government to create a nine-member council and a single commissioner—but, again, all appointed by the President. Reorganization Plan No. 3 of 1967, 81 Stat. 948 (1967). In 1968, Congress created an elected school board, (District of Columbia Elected Board of Education Act, 82 Stat. 101 (1968)), and in 1970 reestablished the elected position of Delegate to the U.S. House, (District of Columbia Delegate Act, Pub. L. 91–405, § 202, 84 Stat. 848 (1970), codified at 2 U.S.C. § 25a (1988)).

⁵ *Civil War Defenses of Washington*, National Park Service <https://www.nps.gov/cwdw/learn/photosmultimedia/then-and-now-pictures-of-the-civil-war-defenses-of-washington.htm> (last visited Sep. 11, 2025).

Not until 1973 did Congress cede a small portion of its legislative authority over to the District. In the District of Columbia Home Rule Act (“Home Rule Act”), Pub. L. No. 93-198, 87 Stat. 774 (1973) (codified, as amended, at D.C. Code §§ 1-201.01 *et seq.*), Congress “delegate[d] certain legislative powers to the government of the District of Columbia”; but it retained “the ultimate legislative authority over the nation’s capital granted by article I, § 8, of the Constitution.” D.C. Code § 1-201.02; *see id.* § 1-206.01 (“Notwithstanding any other provision of this chapter, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District”). Further, the Home Rule Act itself “contains several limitations on the power of the Council.” *Brizill v. D.C. Bd. of Elections & Ethics*, 911 A.2d 1212, 1214 (D.C. 2006). In other words, the delegation in the Home Rule Act was strictly limited, such that Congress would continue to “wield[] plenary power over the nation’s capital.” *Sanchez v. Off. of the State Superintendent of Educ.*, 45 F.4th 388, 400 (D.C. Cir. 2022) (citing U.S. CONST. art I, § 8, cl. 17; *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 109 (1953); *Metro. R.R. Co. v. District of Columbia*, 132 U.S. 1, 9 (1889)).

Notably, while ceding some limited legislative authority to the District, the Home Rule Act explicitly empowers the President to make “use of the Metropolitan Police force for federal purposes . . . as the President may deem necessary and appropriate.” D.C. Code § 1-207.40(a). And, as discussed below, Congress made the President commander-in-chief of the District of Columbia National Guard. D.C. Code § 49-409; *see also* D.C. Code § 1-206.02(b) (stressing that nothing in the Home Rule Act was to be “construed as vesting in the District government any greater authority over . . . the National Guard of the District of Columbia” than the limited powers held by the District Commissioner before January 2, 1975).

The Home Rule Act struck a balance between self-governance of the citizens of the District and the substantial interest that all Americans have in the District as the seat of the federal government. *See Banner v. United States*, 303 F. Supp. 2d 1, 5 (D.D.C. 2004); *see also* H. Comm. on the Dist. Of Columbia, *Home Rule for the District of Columbia, 1973–1974: Background and Legislative History of H.R. 9056, H.R. 9682, and Related Bills Culminating in the District of Columbia Self-Government and Governmental Reorganization Act*, at 3052 (1974) (statement of Rep. Diggs, reprinted from the Cong. Rec., Oct. 9, 1973) (describing the Home Rule Act as “a reasonable and rational accommodation between the interests of all Americans in their Nation’s Capital and the basic principle that government should be responsible to the [people]”). As this Court recently explained, “[t]he Home Rule Act granted ‘the people of the District of Columbia an opportunity in exercising their rights once more and yet with adequate safeguards for the Federal interest component.’ *Feldman v. Bowser*, 315 F. Supp. 3d 299, 303 (D.D.C. 2018) (citation omitted)).

The District alleges in its Complaint that this case is about the District’s “sovereignty and right to self-governance.” ECF No. 1 ¶¶ 6, 53–70, 125; *see also* ECF No. 3-1 at 3, 41–44. But these claims fly in the face of clear constitutional text and two hundred years of American history, as well as ignore the strict limitations of the Home Rule Act, which was never intended to, and did not, override federal responsibility over the District. *See Sanchez*, 45 F.4th at 400 (discussing Congress’ “plenary power” over the District) (citation omitted). From President James Madison to President Donald Trump, it has always been the President’s duty to protect and defend Washington, D.C.

B. Because of the Ineffective and Often Counterproductive Responses of D.C. Officials to Crime in the District, Crime Has Exploded in Our Capital, Hurting Residents and Hindering the Federal Government

For decades, but especially in the last few years, politicians in Washington, D.C. have disregarded their duty to the District's residents and to the American People. Rather than help the federal government strengthen and secure our Nation's capital, they have preferred soft-on-crime politics. In the face of growing and dangerous crime waves, they have not only stood by idly but have also exacerbated the problem. They have enacted policies that fail to protect D.C. residents and the Nation. Indeed, this lawsuit does not serve the safety or interests of any Americans but is instead part of an aggressive, misguided political resistance to President Trump. *See Myerson v. United States*, 98 A.3d 192, 197 (D.C. Cir. 2014) (construing D.C. Code § 1-206.02(a)(3) to prevent the District from implementing policies that "impact the federal government's ability to operate").

Although Washington, D.C. has had substantial crime waves in the past, the most recent problems can be traced back to the defund-the-police movement, which ignited in the summer of 2020. In 2020, notwithstanding high crime and murder rates, the District's Council "sanctioned a \$15 million cut in police funding."⁶ Indeed, the District's Deputy Mayor for Public Safety and Justice, Kevin Donahue, strongly advised against that policy, making clear that those budget cuts would "not make D.C. safer or stronger."⁷ The

⁶ Konner McIntire & Janae Bowens, *Fact Check Team: Cities that called to 'defund police' grappling with crime surge boost police funding amid staffing shortfalls*, abc 33/40 NEWS (Aug. 15, 2023, at 7:02 PM), <https://abc3340.com/news/nation-world/fact-check-team-cities-that-called-to-defund-police-grappling-with-crime-surge-boost-police-funding-amid-staffing-shortfalls-washington-dc-baltimore-los-angeles-new-york-george-floyd-police-reform-public-safety-mental-health-social-services> (last visited Sep. 11, 2025).

⁷ Fenit Nirappil & Peter Hermann, *D.C. activists and lawmakers confront challenges of 'defund police' movement*, The Wash. Post (June 25, 2020),

Council cut the police budget anyway. Moreover, the D.C. U.S. Attorney's office—with support of some segments of the local government—prosecuted more police officers during Biden's presidency than it had for the prior thirty years combined, often under novel legal theories.⁸ Predictably, the budget cuts and prosecutions deflated police morale and dissuaded them from doing their jobs.

The disastrous results of these policies were inevitable. Crime immediately surged in the District, and by 2023 violent crime had risen thirty-seven percent over the previous year, while homicides had risen twenty-five percent since compared to 2022. *See McIntire & Bowens, supra* n.7. This crime wave has not only harmed residents who live and work in the District, but also the government officials, congresspeople, staffers, and foreign embassy workers, who have endured assault and robberies at gunpoint, battery, and even murder. Every violent attack against those people is not only a tragedy for them and their families but also for the functioning of the federal government.

Crime against government officials has occurred regularly. In March of this year, a pro-Hamas and anti-Israel protestor murdered an innocent Israeli embassy staffer and his bride-to-be, right outside the Capital Jewish Museum.⁹ In July, a 21-year-old congressional intern named Eric Tarpinian-Jachym was murdered near the intersection

https://www.washingtonpost.com/local/dc-politics/dc-police-cuts/2020/06/25/dacffoe2-b6f2-11ea-a510-55bf26485c93_story.html (last visited Sep. 11, 2025).

⁸ Spencer S. Hsu, *D.C. officer's murder case stokes debate over U.S. police prosecutions*, The Wash. Post (Sep. 9, 2024), <https://www.washingtonpost.com/dc-md-va/2024/09/09/dc-police-prosecutions-us-attorney/> (last visited Sep. 11, 2025).

⁹ Pierre Thomas et al., *2 Israeli Embassy staffers killed in 'act of terror' in Washington, DC*, abcNEWS (May 22, 2025, at 5:45 PM), <https://abcnews.go.com/US/2-shot-fbi-field-office-washington-dc/story?id=122059162> (last visited Sep. 11, 2025).

of 7th and M Street NW.¹⁰ In August, a well-known Trump administration staffer named Edward Coristine was assaulted and severely beaten during a carjacking less than one mile from the White House.¹¹ In 2024, a congressional legislative director was robbed at gunpoint during a spate of robberies, as were eleven others in the Capitol Hill area, and several others were targeted in a Naval Yard robbery spree.¹² In 2023, a man attacked Representative Angie Craig in her D.C. apartment, after he followed her into an elevator and trapped her.¹³ After the attack, Craig received death threats and was forced to move to protect her safety.¹⁴ Craig's attacker was sentenced to only 27 months in prison.¹⁵

¹⁰ Doc Louallen, *Congressional intern killed in Washington, DC shooting: Officials*, abcNEWS (July 3, 2025, at 2:20 PM), <https://abcnews.go.com/US/umass-student-house-intern-dies-washington-dc-shooting/story?id=123429541> (last visited Sep. 11, 2025).

¹¹ Isabel van Brugen, *Photos Show POI Over Attack on DOGE Worker 'Big Balls'*, Newsweek (Aug. 11, 2025, at 7:50 AM EDT), <https://www.newsweek.com/photos-show-poi-big-balls-attack-doge-worker-dc-police-2111587> (last visited Sep. 11, 2025).

¹² Peter Hermann, *Congressional staffer among victims targeted in spate of D.C. robberies*, The Wash. Post (Dec. 5, 2024), <https://www.washingtonpost.com/dc-md-va/2024/12/04/robberies-dc-capitol-hill/>; Christopher Harris, *Congressmen condemn DC crime after staffers targeted in Navy Yard robbery spree*, FOX5 (June 11, 2024, at 10:23 PM EDT), <https://www.fox5dc.com/news/congressmen-condemn-dc-crime-after-staffers-targeted-navy-yard-robbery-sprees> (last visited Sep. 11, 2025).

¹³ Holmes Lybrand, *Man who attacked Rep. Angie Craig in DC apartment building sentenced to 27 months in prison*, CNN (Nov. 16, 2023, at 2:41 PM EST), <https://www.cnn.com/2023/11/16/politics/angie-craig-attacker-sentenced> (discussing the attack of U.S. Rep. Angie Craig) (last visited Sep. 11, 2025).

¹⁴ *Id.*

¹⁵ *Id.*

Representative Henry Cuellar was also carjacked that year,¹⁶ and another staffer was robbed at gunpoint.¹⁷

The crime had gotten so bad that as of 2023, the District’s Democratic Mayor, Muriel Bowser, had “advocated for increased police presence.” McIntire & Bowens, *supra* n.7. District Councilmember Trayon White, also a Democrat, “even called for National Guard assistance.” *Id.*

C. In the Few Weeks Since the Executive Orders, President Trump and the National Guard Troops Have Already Made the Capital Safer for Government Officials and Citizens Alike

“[D]espite initial skepticism” from some D.C. residents, President Trump’s deployment of National Guard troops in the District has caused crime rates to drop substantially.¹⁸ As of August 20, 2025, only nine days after National Guard troops were first deployed, D.C. went seven days without a homicide, for the first time “in a long time.”¹⁹ Carjackings decreased by eighty-three percent, robberies by forty-six percent, car thefts by twenty-one percent, and overall violent crime by twenty-two percent. *Id.* Federal law enforcement in the District has resulted in the arrest of twenty suspected gang

¹⁶ Edgar Sandoval & Campbell Robertson, *Congressman Becomes Latest Carjacking Victim as D.C. Crime Continues to Rise*, N.Y. Times (Oct. 3, 2023), <https://www.nytimes.com/2023/10/03/us/politics/cuellar-car-theft.html> (last visited Sep. 11, 2025).

¹⁷ Andrea Swalec, *Congressional staffer assaulted in DC gunpoint robbery attempt: police*, NBC Washington (June 17, 2023, at 9:44 AM), <https://www.nbcwashington.com/news/local/congressional-staffer-assaulted-in-dc-gunpoint-robbery-attempt-police/3368812/> (last visited Sep. 11, 2025).

¹⁸ Jeff Abell, *National Guard’s presence slashes D.C. crime rates, with seven days homicide-free*, FOX45 NEWS (Aug. 20, 2025, at 11:10 PM), <https://foxbaltimore.com/newsletter-daily/national-guards-presence-slashes-dc-crime-rates-with-seven-days-homicide-free> (last visited Sep. 11, 2025).

¹⁹ *Id.*

members, including members of the notably dangerous gangs MS-13 and Tren De Aragua.²⁰ In addition, more than two hundred illegal firearms have been taken off the streets. *Id.* National Guard troops have made the District safer in other ways as well; troops have stopped at least one fight near the metro, helped provide first aid to elderly residents of the district, and aided in the successful search for a missing child.²¹

Just one week later, on August 27th, even the District’s Democratic Mayor, Muriel Bowser, acknowledged the sharp decline in crime since the deployment of National Guard troops in the District and expressed her appreciation for “the surge of officers that enhance what [the Metropolitan Police Department] has been able to do in this city.”²² According to the D.C. Mayor’s recent order, “violent crime in the District has noticeably decreased.” Mayor’s Order 2025-090, “Creation of the Safe and Beautiful Emergency Operations Center” (Sept. 2, 2025), at 2.

Mayor Bowser’s comments and mayoral order refute the Plaintiff’s claim that the National Guard troops are undermining local law enforcement. *See* ECF No. 1 ¶ 126. The President’s policy does not supplant but instead *supports* the existing law enforcement

²⁰ Gary Fields, *4 takeaways from Trump’s federal law enforcement surge in D.C. as his emergency order expires*, PBS News (Sep. 10, 2025, at 11:46 AM EDT), <https://www.pbs.org/newshour/politics/takeaways-from-trumps-federal-law-enforcement-surge-in-dc-as-his-emergency-order-is-set-to-expire> (last visited Sep. 11, 2025).

²¹ Helene Cooper and Eric Schmitt, *For National Guard Troops in D.C., It’s Trash Pickup and Metro Patrols*, The N.Y. Times (Sept. 11, 2025, at 2:33 PM ET), <https://www.nytimes.com/2025/09/11/us/politics/trump-national-guard-troops-dc.html> (last visited Sep. 11, 2025).

²² Rebecca Shabad, *Mayor Muriel Bowser says Trump’s Surge of federal law enforcement has lowered crime in D.C.*, NBC NEWS (Aug. 27, 2025, at 3:57 PM EST), <https://www.nbcnews.com/politics/politics-news/bowser-trump-police-takeover-lower-dc-crime-national-guard-ice-rcna227582> (last visited Sep. 11, 2025).

framework. As the Plaintiff concedes, when Louisiana announced that it was deploying National Guard troops to the District, it stated that the deployment was only meant “to support the Metropolitan Police Department . . .” *Id.* ¶ 90.

The results of the temporary deployment of National Guard troops in support of the Metropolitan Police Department will be long-lasting. On September 2, 2025, just two days before the District filed this lawsuit, Mayor Bowser issued Mayor’s Order 2025-090. The Mayor’s Order formally acknowledged the positive impact of the National Guard troops on reduction of crime in the District. Mayor’s Order 2025-090 at 2 (“[V]iolent crime in the District has noticeably decreased.”). The Mayor’s Order also establishes a Safe and Beautiful Emergency Operations Center “to manage the District’s response to the Task Force, the Presidential declaration of emergency and on a continuing basis.” *Id.* Thanks to the President’s decision-making during exigent circumstances to get the acute crime problem in the District under control, the National Guard troops have created a sustainable situation that can be turned over to the District to manage in the long-term.

II. THE PRESIDENT’S AUTHORITY IS AT ITS HIGHEST EBB BECAUSE HE IS LAWFULLY EXERCISING STATUTORY AND CONSTITUTIONAL POWER

“When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J., concurring). Given the federal government’s constitutional power over D.C., the President’s Article II power to take care that the laws are faithfully executed, and the President’s statutory authority over D.C. and its National Guard, President Trump’s actions fall squarely within *Youngstown* category 1.

A. The President Is Properly Exercising Article II Power to Ensure the Faithful Execution of Federal Law in the Nation’s Capital

The Constitution vests the Executive power in one President and requires him to “take Care that the Laws be faithfully executed.” U.S. CONST. art. II, § 1, cl. 1. Because the Executive branch and its 15 Cabinet departments, 50 independent federal commissions, numerous agencies,²³ and 150,000+ of its officers are housed in Washington D.C., the President simply cannot carry out his constitutional obligations if his officials are imperiled or are intimidated from serving in the federal government in the first place. As President George Washington observed in 1792, “it is my duty to see the Laws executed: to permit them to be trampled upon with impunity would be repugnant to” that duty. Letter from George Washington to Alexander Hamilton (Sep. 7, 1792).²⁴

The Supreme Court has recognized that because of the President’s sole authority and solemn duty to faithfully execute federal law under the Constitution, the “Executive is appropriately vested with the discretion to determine whether an exigency requiring military aid for that purpose has arisen. His decision to that effect is conclusive.” *Sterling v. Constantin*, 287 U.S. 378, 399 (1932). Thus, these types of decisions by the Executive are considered non-justiciable controversies by the courts. *See, e.g., Ctr. for Biological Diversity v. Trump*, 453 F. Supp. 3d 11, 31 (D.D.C. 2020) (“Although presidential declarations of emergencies . . . have been at issue in many cases, *no* court has ever

²³ *The Executive Branch, The White House*, <https://bidenwhitehouse.archives.gov/about-the-white-house/our-government/the-executive-branch/#:~:text=Under%20Article%20II%20of%20the,full%20authority%20of%20the%20President> (last visited Sep. 11, 2025).

²⁴ <https://founders.archives.gov/documents/Washington/05-11-02-0040> (last visited Sept. 11, 2025).

reviewed the merits of such a declaration. (emphasis in original)). As the Court recognized, the power to enforce laws during exigent conditions “may be vital to the existence of the Union.” *Sterling*, 287 U.S. at 399; *Martin v. Mott*, 25 U.S. (12 Wheat.) 19, 30 (1827) (“We are all of opinion, that the authority to decide whether the exigency has arisen, belongs exclusively to the President, and that his decision is conclusive upon all other persons.”); see also *Stewart v. Kahn*, 78 U.S. (11 Wall.) 493, 506 (1870) (“The measures to be taken . . . to suppress insurrection are not defined. The decision of all such questions rests wholly in the discretion of those to whom the substantial powers involved are confided by the Constitution.”).

Beyond broadly enforcing federal law, the President has other, more specific constitutional duties that occur in the Nation’s capital and that therefore depend on a safe and secure D.C. For example, the President must provide information on the “State of the Union” from “time to time,” U.S. CONST. art. II, § 3, cl. 1, which has traditionally been done by traveling down Pennsylvania Avenue to the United States Capitol Building to address Congress. The President also “shall receive Ambassadors and other public Ministers” within the District to carry out his critical power over foreign policy and military affairs. *Id.* Both of those textual and historical powers would be hindered if the President could not ensure a safe and secure capital.

Because of the rising violent crime in D.C., the President made the executive decision and finding that the functioning of the federal government was at risk. In August, he issued a Presidential Memoranda and two Executive Orders, setting forth the problems and predicates for his exercise of Article II power:

The local government of the District of Columbia has lost control of public order and safety in the city, as evidenced by the two embassy staffers who were murdered in May, the

Congressional intern who was fatally shot a short distance from the White House in June, and the Administration staffer who was mercilessly beaten by a violent mob days ago. Citizens, tourists, and staff alike are unable to live peacefully in the Nation's capital, which is under siege from violent crime.

Presidential Memoranda, *Restoring Law and Order in the District of Columbia*, § 1 (Aug. 11, 2025). Specifically, President Trump concluded that the “rising violence in the capital now urgently endangers public servants, citizens, and tourists, disrupts safe and secure transportation and the proper functioning of the Federal Government, and forces the diversion of critical public resources toward emergency response and security measures.” Exec. Order No. 14,333, 90 Fed. Reg. 39301, § 1 (Aug. 11, 2025). In his view, “the city government’s failure to maintain public order and safety has had a dire impact on the Federal Government’s ability to operate efficiently to address the Nation’s broader interests without fear of our workers being subjected to rampant violence.” *Id.*; *see also* Exec. Order No. 14,339, 90 Fed. Reg. 42121 (Aug. 25, 2025) (finding that crime and violence have “undermined the proper and safe functioning of the Federal Government, and therefore, the Nation, and that have led to disgraceful conditions in our Nation’s capital”). Indeed, President Trump specifically concluded that the crime has interfered with his ability to carry out his Article II Take Care obligations:

As President, I have a solemn duty to take care that our laws are faithfully executed, and a sacred responsibility to protect the safety and security of United States citizens who live in and visit our Nation’s capital, including Federal workers who live or commute into the District of Columbia.

Exec. Order No. 14,333, 90 Fed. Reg. 39301, § 1 (Aug. 11, 2025).

This decision under Article II and the factual predicate upon which it is based are not justiciable—they are “conclusive.” *Sterling*, 287 U.S. at 399; *Martin*, 25 U.S. (12

Wheat.) at 30; *see also Zivotofsky v. Clinton*, 556 U.S. 189, 195 (2012) (stating “a controversy ‘involves a political question . . . where there is a textually demonstrable constitutional commitment of the issue to a coordinate political department[.]’” (quoting *Nixon v. United States*, 506 U.S. 224, 228 (1993))). Federal courts lack both the constitutional authority and institutional competence to evaluate President Trump’s well-supported findings. The President determined that the only way to take care that the laws are faithfully executed was to call up the National Guard to support the D.C. police in quelling the crime wave. That decision is squarely within the Article II power.

B. The President Is Properly Exercising Statutory Power Because Congress Specifically Made the President Commander-in-Chief of the D.C. National Guard

In addition to exercising core Article II power, the President is acting pursuant to express statutory authority provided by Congress. In support of the Founders’ goal of ensuring domestic tranquility in the Nation’s capital, Congress created a standing militia in the District and designated the President as Commander-in-Chief of that militia. *E.g.*, An Act, more effectually to provide for the organization of the Militia of the District of Columbia, 7th Cong., sess. II, ch. XX, 2 Stat. 215 (1803); An act to provide for the organization of the militia of the District of Columbia, 50th Cong., sess. II, ch. 328, 25 Stat. 772 (1889); D.C. Code § 49-409.

Congress specifically provided that the President could call up the D.C. National Guard to aid civil authorities in the execution of law when (a) there is a “tumult, riot, mob, or a body of men acting together by force with attempt to commit a felony or to offer violence to persons or property, or by force or violence to break and resist the laws, or when such tumult, riot, or mob is threatened,” and (b) and the Mayor, the U.S. Marshal for the District, or the National Capital Service Director requests aid. D.C. Code § 49-103.

As to the first prong, the terms “tumult, riot, mob” are not further defined in the D.C. Code. *See* An act to provide for the organization of the militia of the District of Columbia, 50th Cong., sess. II, ch. 328, 25 Stat. 772 (1889). Accordingly, this Court should turn to the plain meaning of those words in 1889, the time the original statute was drafted. *Ogden v. Saunders*, 25 U.S. (12 Wheat.) 213, 332 (1827) (explaining that a statute’s “words are to be understood in that sense in which they are generally used by those for whom the instrument was intended”). In Anderson’s Law Dictionary (1889), the entry for “tumult” directs to “brawl,” which is defined as “a noisy quarrel; uproar” and is characterized as a “disturbance of the peace.”²⁵ The same dictionary defines “riot,” in part, as an event in which “three or more actually do an unlawful act of violence, either with or without a common cause or quarrel.”²⁶ *Brawl, Riot*, Anderson’s Law Dictionary (1889). Webster’s Dictionary defines “tumult” as a “disorderly agitation or milling about of a crowd usually with uproar and confusion of voices.” *Tumult*, Webster’s Dictionary (2025).²⁷

Before the President activated the D.C. National Guard and called for assistance from the States, the District had experienced murders and violent assaults on members of our government and their staff. *Infra* § I.B. To call those attacks merely a “tumult” would be an understatement. Regardless, as discussed above, the determination by the President that a tumult existed and necessitated the actions he took is a non-justiciable

²⁵ <https://archive.org/details/cu31924022836534/page/134/mode/2up?q=brawl>.

²⁶ <https://archive.org/details/cu31924022836534/page/906/mode/2up?q=riot>.

²⁷ <https://www.merriam-webster.com/dictionary/tumult>.

controversy, which should not be second guessed by this Court. *Sterling*, 287 U.S. at 399; *Martin*, 25 U.S. (12 Wheat.) at 30; *Ctr. for Biological Diversity*, 453 F. Supp. 3d at 31.

As to the second prong of section 49-103 of the D.C. Code (a request for aid by the Mayor, the U.S. Marshal for the District, or the National Capital Service Director), elected officials in the District had been publicly calling for assistance from National Guard troops for some time. In the Mayor’s Order 2025-090, Mayor Bowser officially supports the President’s request for National Guard assistance in the District. *See* Mayor’s Order 2025-090, at 2 (“[P]ursuant to Section 740 of the Home Rule Act, I directed the Deputy Mayor for Public Safety and Justice to coordinate federal requests for MPD services to effectuate the shared goals of reducing crime and increasing a sense of security for residents and visitors . . .”; “Federal law enforcement teams have accompanied MPD to augment the force . . .”).

The President also acted within his authority when he requested assistance from the States’ National Guard units. In the Complaint, Plaintiff tries to confound the legality of the President’s (and Governors’) actions by questioning whether the National Guard troops from the States were deployed under so-called Title 10 status or Title 32 status. National Guard troops from States can be activated under two different statutory authorities, Title 10 of the U.S. Code (“Title 10 status”)²⁸ or Title 32 of the U.S. Code (“Title

²⁸ “Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.” 10 U.S.C. § 251.

32 status”).²⁹ When troops are called up under Title 10, the Posse Comitatus Act applies and limits the presidential authority and the ability to deploy troops for law enforcement purposes. *E.g.*, *Black Lives Matter D.C. v. Trump*, 544 F. Supp. 3d 15, 41 (D.D.C. 2021), *aff’d sub nom. Buchanan v. Barr*, 71 F.4th 1003 (D.C. Cir. 2023). But when National Guard troops are deployed under Title 32 status, those troops can be deployed to support domestic law enforcement activities. *Id.* (“The Posse Comitatus Act . . . only bars the Army and Air Force [and Navy, Marine Corps, and Space Force] from domestic law enforcement, but does not apply to Title 32 National Guard duty.” (quoting *Mueller v. City of Joliet*, 943 F.3d 834, 837 (7th Cir. 2019))).

The National Guard troops deployed to the District from the States are plainly deployed under Title 32 status, meaning the Posse Comitatus Act and its limitations do not apply. The President requested assistance from the States to protect the capital—a request which the Governors of the States did not have to yield to—meaning they are Title 32 status; some *Amici* are among those States who responded and whose Governors willingly and voluntarily deployed their State’s National Guard troops under Title 32. The Plaintiff does not and cannot directly claim otherwise. *Compare* ECF No. 1 ¶ 103 (“Governor Lee granted the Administration’s request to provide Tennessee National Guardsmen *under Title 32 Status* to assist the District of Columbia National Guard on a security mission in our nation’s capital” (emphasis added)), *with id.* ¶ 79–95 (arguing to the contrary). In any event, *Amici* States—particularly those who deployed their National Guard troops—are in the best position to speak to the actions and intentions behind the

²⁹ State National Guard troops can also be activated under a third “State Active Duty status,” but that status is not at issue here.

deployment; the troops were deployed pursuant to their Governors' orders under Title 32 status. The National Guard troops are acting lawfully and helping the President secure and protect our Nation's capital.

CONCLUSION

For the foregoing reasons, this Court should deny Plaintiff's Motion for a Preliminary Injunction.

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