

**ORAL ARGUMENT NOT YET SCHEDULED****No. 25-5418**

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**DISTRICT OF COLUMBIA, *Plaintiff-Appellee,***

**v.**

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

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On Appeal from the United States District Court  
for the District of Columbia

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**BRIEF FOR *AMICUS CURIAE* AMERICA FIRST LEGAL  
FOUNDATION IN SUPPORT OF DEFENDANTS-APPELLANTS'  
EMERGENCY MOTION FOR A STAY PENDING APPEAL**

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## **CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES**

Pursuant to D.C. Circuit Rule 29, *Amicus* hereby submits this certificate.

### **A. Parties and Amici**

The parties and amici who have appeared before the Court are listed in Defendants-Appellants' D.C. Circuit Rule 28(a)(1) certificate.

### **B. Rulings Under Review**

The ruling under review is an opinion and order granting a preliminary injunction and Section 705 stay. The opinion and order are attached to Defendants-Appellants' motion.

### **C. Related Cases**

There are no related cases.

## DISCLOSURE STATEMENT

Per Federal Rules of Appellate Procedure 26.1 and 29(a), and D.C. Circuit Rule 26.1, *Amicus* states that it has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

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## IDENTITY AND INTEREST OF *AMICUS CURIAE*<sup>1</sup>

*Amicus* America First Legal Foundation (AFL) is a 501(c)(3) non-profit organization headquartered in Washington, D.C. AFL is dedicated to promoting the rule of law in the United States and defending individual rights guaranteed under the Constitution and federal statutes. None of those rights can be enjoyed, however, where citizens lack the basic guarantees of public safety.

*Amicus* provides a useful and unique perspective on the preliminary injunction prongs focusing on the public interest and balance of harms. In the proceedings below, Plaintiff relied heavily on a declaration from someone who has apparently never lived or worked in this City. But *Amicus* and its staff know this City and its residents—indeed, AFL is headquartered here. The improvement in the sense of safety in the City over the last few months has been palpable. Even the Democratic Mayor disagrees with the City Attorney General's claim that the challenged actions here have harmed public safety. The City is significantly safer now than it was a year ago, precisely *because*

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<sup>1</sup> No person other than *amicus curiae* and its counsel assisted with or made a monetary contribution for preparing or submitting this brief. *Amicus* has sought leave to file this brief.

of actions like those challenged in this suit—a suit that the Mayor herself opposed.

For the first time in years, law-abiding citizens feel like they can go walking at night. They don't constantly have to look over their shoulders. They don't have to be accosted by vagrants. They don't have to drive straight into work and straight back home again, fearful of any detour. These are significant public benefits that Plaintiff seeks to upend. The only fear is from a return to the days when public safety—the bedrock obligation of any civilized government—was sacrificed on the altar of politics. The district court's order promises to do just that, however.

The Court should grant Defendants-Appellants' motion.

## SUMMARY OF ARGUMENT

This litigation—brought by the City Attorney General over the Mayor’s objection—has needlessly cast a cloud of legal suspicion over the President’s lawful deployment of National Guardsmen to the District of Columbia.

The City Attorney General’s Complaint falsely claims that the City is being “involuntarily subjected to military occupation,”<sup>2</sup> and his motion for preliminary relief dramatically insisted that “[o]ur constitutional democracy will never be the same if these occupations are permitted to stand.”<sup>3</sup> Following that lead, other politicians have labeled the Guardsmen’s presence as a “fascist takeover” of the City,<sup>4</sup> with local residents predictably berating Guardsmen as “[f]ascists” who must “go

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<sup>2</sup> ECF No. 1 at 4.

<sup>3</sup> ECF No. 3-1 at 12. Page cites are to the Court-stamped ECF numbers at the top of the page.

<sup>4</sup> David Komer, *Rashida Tlaib's 'Fascist' Comment Sparks Wild House Hearing Shouting Match*, Fox 2 Detroit (Sept. 19, 2025), <https://www.fox2detroit.com/news/rashida-tlaibs-fascist-comment-sparks-wild-house-hearing-shouting-match>.

home!”<sup>5</sup> Left-wing organizations have told their followers that the Guardsmen will “intimidate and create fear in the nation’s capital.”<sup>6</sup>

That sort of rhetoric risks serious consequences. Having been falsely painted as invading “occupiers” and “fascists,” the National Guardsmen themselves have now become targets, with some pundits even casting moral blame for the recent murder of U.S. Army Specialist Sarah Beckstrom on the President’s allegedly unlawful deployment order.<sup>7</sup>

Enough. This Court should emphatically reject the baseless and nonsensical claim that the President cannot deploy federal Guardsmen to a federal enclave pursuant to federal law. The National Guardsmen’s presence in the District of Columbia is legal—period.

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<sup>5</sup> Margaret Talbot, *Trump Sends in the National Guard*, THE NEW YORKER (Aug. 17, 2025), <https://www.newyorker.com/magazine/2025/08/25/trump-sends-in-the-national-guard>.

<sup>6</sup> ACLU, *ACLU Statement on Escalating Federal Takeover of D.C.* (Aug. 17, 2025), <https://www.aclu.org/press-releases/aclu-statement-on-escalating-federal-takeover-of-d-c>.

<sup>7</sup> Juliette Kayyem, *A Terrible and Avoidable Tragedy in D.C.*, THE ATLANTIC (Nov. 27, 2025), <https://www.theatlantic.com/ideas/2025/11/national-guard-was-target/685089/>.

Moreover, the Guardsmen have achieved enormous successes for the people of this City. As explained below, crime is down dramatically since the deployment began. The mere presence of Guardsmen in the City has saved countless lives, with similar reductions in other violent crimes.

Accordingly, the public interest weighs heavily in favor of staying the district court's order, which also suffers from numerous serious flaws in its merits analysis, as explained in Defendants-Appellants' emergency motion.

### **ARGUMENT**

The City Attorney General claimed below that the balance of harms and "public interest tip sharply" in favor of a preliminary injunction. ECF No. 3-1 at 53. The argument defies common sense, reality, and statistics. It even defies the City's own Mayor, who has candidly and repeatedly acknowledged the benefits of Defendants' actions in the City over the last few months. As explained below, the public interest and balance of harms strongly favor Defendants, and accordingly this Court should grant their emergency stay motion.

## **I. The Public Interest and Balance of Harms Strongly Favor Defendants-Appellants.**

Ask anyone who lives in this City: How many “gunshots, or fireworks?” messages did you see every week? How many stories of friends mugged or houses burgled? Carjackings just down the road? Police crime-scene tape? Refusals to go out at night, or even during the day in some parts of town? Moved to another Metro car because of someone acting suspiciously?

If you’ve lived or worked here for any period of time, it is essentially guaranteed that you, a family member, or a close friend (or all of the above) has been the victim of a serious crime. But it doesn’t have to be like this. Indeed, it isn’t like this in places just outside the City, and it hasn’t been like this in the City itself during the National Guard deployment.

As *The Hill* columnist T. Becket Adams recently put it: “It’s a great city that has long been a punchline. It very obviously has a crime, mental health, and failed leadership problem. Anyone who claims otherwise or

says the problem is exaggerated is trying to sell you something. *Ignore them.*<sup>8</sup>

**A. People in the City Feel Safer and Are Cooperating with Law Enforcement.**

The City Attorney General claimed below that Defendants' actions “pose[] a high risk of undermining the District’s own law enforcement work” and are “likely to undermine trust in District law enforcement generally.” ECF No. 3-1 at 51-52. The City Attorney General likewise claimed that the challenged actions “have given District residents a ‘palpable sense of fear’ and rendered them ‘afraid to go grocery shopping, show up to work and go about their daily lives.’” *Id.* at 52.

These claims are all false. Trust in law enforcement is increasing. Before the deployment of National Guardsmen, residents regrettably often declined to call police—they felt helpless or feared retaliation. But now people feel they can call to report problems. “[C]ity officials noted that calls for service have increased by 18 percent amid the time of heightened federal law enforcement presence, compared to the same 20-

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<sup>8</sup> T. Becket Adams (@BecketAdams), X (Aug. 11, 2025, 5:32 PM), <https://perma.cc/X6YY-T4J8> (emphasis added).

day period last year.”<sup>9</sup> Mayor Bowser approvingly said, “We don’t know who’s not calling but we do know that a lot of people are calling.”<sup>10</sup> Far from “undermining the District’s own law enforcement work” or “undermin[ing] trust in District law enforcement,” ECF No. 3-1 at 51-52, Defendants’ actions have been encouraging cooperation between residents and law enforcement.

The City Attorney General also claimed that National Guard personnel lack “appropriate training or coordination with MPD, [and thus] they are likely to engage in conduct that ‘could easily result in harm to both civilians and officers.’” *Id.* at 51. But there is no evidence to back up this claim, perhaps because the National Guard routinely works with local law enforcement and government agencies.

The City Attorney General also asserted that people have been “frightened away” by “[t]he unfamiliar presence of armed military patrols.” *Id.* at 52. But the City has long had the largest presence of law

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<sup>9</sup> Olivia George & Rachel Siegel, *D.C. Mayor Praises Federal Surge, Angering Residents and Pleasing Trump*, WASH. POST (Sept. 15, 2025), <https://archive.ph/9ABou#selection-1253.14-1259.95>.

<sup>10</sup> *Id.*

enforcement of any major city in the country.<sup>11</sup> Military vehicles, federal agents, street closures, motorcades, lockdowns for days or even weeks at a time during major events: these are all routine occurrences in the City.

Tourists welcome the presence of those who seek to ensure their safety. The photo below was featured on the front page of the country's third-largest print circulation newspaper, captioned "*Tourists pose with National Guard troops stationed in Washington, DC.*"



<sup>11</sup> E.g., Eliana Block, *VERIFY: Does DC Have More Police Per Capita Than Any Other US City?*, WUSA9 (July 15, 2020), <https://perma.cc/MWA2-F9E2>.

But the City Attorney General claims tourists are terrified.

Further, as explained below, violent crime is dramatically down, and people have noticed. That has a compounding effect. As Mayor Bowser explained, “We know that when carjackings go down, when use of guns goes down, when homicide or robbery go down, neighborhoods feel safer and are safer. So, this surge has been important to us for that reason.”<sup>12</sup> Again, it is Plaintiff, not Defendants-Appellants, who is seeking to disrupt the public’s peace of mind.

### **B. Violent Crime Is Dramatically Down.**

The City Attorney General asserted below that the challenged actions here “pose an immediate risk of serious public safety harms.” ECF No. 3-1 at 52. That is also demonstrably incorrect.

NBC News produced a special report on the number of carjackings in the City, “a particularly brutal crime” that “often causes lasting psychological damage.”<sup>13</sup> As the report explained, this crime is

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<sup>12</sup> Gary Fields, Associated Press, *4 Takeaways from Trump’s Federal Law Enforcement Surge in D.C. as His Emergency Order Expires*, PBS NEWS (Sept. 10, 2025), <https://perma.cc/T5EY-G4MM>.

<sup>13</sup> Rich Schapiro, *Carjacked in the Capital: The ‘Crime of the Pandemic’ Is Still Roiling D.C.*, NBC NEWS (Aug. 24, 2025), <https://perma.cc/F88S-Y4BN?type=image>.

disproportionately committed by juveniles who are often released quickly and reoffend, leaving a trail of victims in their wake. But in the month of August 2025, there were only 10 carjackings in the City, and 6 of those were before federal control.<sup>14</sup> The last time the City had 10 or fewer carjackings in a month was March of 2020—the last month before COVID-19 and summer protests led to a massive surge in certain crimes. To put that in perspective, here are the carjacking numbers from the month of August back to 2020:

August 2020: 43 carjackings  
August 2021: 49 carjackings  
August 2022: 40 carjackings  
August 2023: 88 carjackings  
August 2024: 39 carjackings  
**August 2025: 10 carjackings<sup>15</sup>**

But carjackings tell only one part of the story here. CBS News recently undertook an extensive review and concluded that “[i]n the nearly three weeks since President Trump deployed federal troops and law enforcement agents throughout Washington, D.C., a CBS News

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<sup>14</sup> DC Police Union (@DCPoliceUnion), X (Sept. 1, 2025, 1:13 PM), <https://perma.cc/5NHC-YVW3>.

<sup>15</sup> DC Police Union (@DCPoliceUnion), X (Sept. 1, 2025, 1:13 PM), <https://perma.cc/KDN9-VUFP>.

analysis of crime data shows *violent crime is down in Washington by almost half* when compared to the same 19 days in 2024.”<sup>16</sup>

That same analysis “also shows violent crime *is down in comparison to the five-year average for the same dates*. Beyond violent crime, reported burglaries also are down 48% and car thefts have fallen 36%.”<sup>17</sup>

Contrary to pundits’ false accusations, CBS News reported that federal law enforcement agents were primarily deployed to “areas with higher – and often much higher – rates of crime, violent crime and gun crime than the average neighborhood across the city.”<sup>18</sup> And the statistics prove what happens when federal officials make their presence known in high-crime areas. *Every major category of crime* went down, often dramatically so:

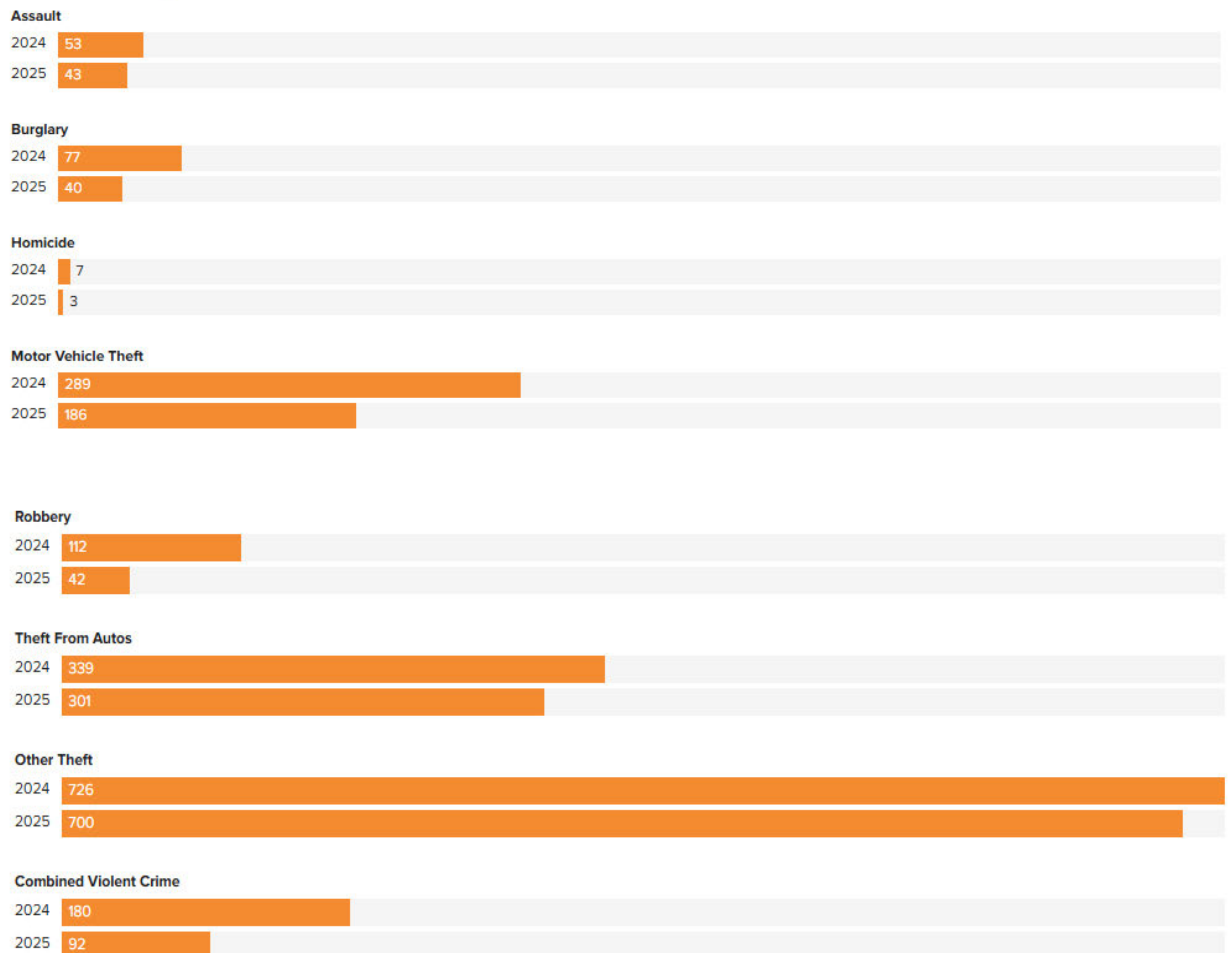
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<sup>16</sup> John Kelly et al., *CBS News Analyzed D.C. Crime Data Amid National Guard Deployments. Here’s What the Numbers Show*, CBS NEWS (Aug. 27, 2025), <https://perma.cc/37UQ-58VT> (emphases added).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

From Aug. 7 through Aug. 25, most major crime categories in Washington fell compared with the same period in 2024. Combined violent crime dropped 49%, from 180 to 92 incidents, while other categories such as robbery and burglary also saw significant declines, according to CBS News analysis of MPD data.



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Every one of those lines represents real people, real victims; and the numbers should still be lower. But these charts confirm the City Attorney General is flat wrong to claim that Defendants' actions are undermining safety. How many people owe their lives and sense of safety to the reduction just from the last few months?

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<sup>19</sup> *Id.*

There is the strongest possible public interest in “preventing the community from being disrupted by violent disorders endangering both persons and property.” *Branzburg v. Hayes*, 408 U.S. 665, 701 (1972). It is the City Attorney General’s actions—not Defendants-Appellants’—that threaten to upend this extraordinary public interest in safety.

**C. Even the Mayor Agrees: Defendants-Appellants’ Actions Have Dramatically Reduced Crime.**

The Court should not lose sight of the fact that despite bringing suit in the name of “The District of Columbia,” the claims here do not reflect those of the entire city, or even the Mayor herself, who has acknowledged that “the increase in federal law enforcement contributed to ‘an extreme reduction in carjackings’ and a decrease in gun crimes and homicides,” adding that because of Defendants’ actions, she “think[s] that there’s more accountability in the system, or at least perceived accountability in the system, that is driving down illegal behavior.”<sup>20</sup>

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<sup>20</sup> Max Rego, *Bowser Says Federal Police Surge Has Reduced Crime in D.C., but ‘North Star’ Is Protecting City’s Autonomy*, CNN (Aug. 28, 2025), <https://archive.ph/owIGo>.

The Mayor signed a new Executive Order to ensure continuing cooperation between the City and federal officials.<sup>21</sup> This shows that the Mayor is willing and capable of working with the White House, and those efforts should not be undermined because the City Attorney General decided to bring this suit, especially given the reports that the Mayor tried to persuade the City Attorney General not to sue.<sup>22</sup> The City Attorney General does not represent the City's best interests or reflect its residents' concerns when he cannot convince even the long-sitting Mayor to join his demands.

Respectfully, this dispute is best handled through the political process, not through judicial action sought by a local politician against the wishes of the City's Mayor.

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The City has been strongly trending in the right direction the last few months during the deployment of National Guardsmen. The

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<sup>21</sup> Mayor's Order 2025-090, *Creation of the Safe and Beautiful Emergency Operations Center* (Sept. 2, 2025), <https://perma.cc/5S6B-9GTN>.

<sup>22</sup> Cuneyt Dil, *Scoop: D.C. Mayor Urged AG Against Raising Tensions With Trump, Swing Over National Guard*, AXIOS D.C. (Sept. 4, 2025), <https://archive.ph/nJW0f>.

President's actions are lawful. This Court should remove all doubt created by critics and the plaintiff here and stay the decision below.

## CONCLUSION

The Court should grant Defendants-Appellants' emergency motion.

November 30, 2025

Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

This brief complies with the typeface and type style requirements of Federal Rules of Appellate Procedure 32(a)(5)–(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Century Schoolbook and 14- point font. There is no word limitation that specifically applies to an amicus brief at the emergency-motion stage. This brief contains 2378 words, excluding the exempt portions. Leave of Court has been sought to file this brief.

/s/ R. Trent McCotter  
R. Trent McCotter

## CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of this Court by using the CM/ECF system, which will serve all parties automatically.

/s/ R. Trent McCotter  
R. Trent McCotter