

# THE IC (WITH AN ASSIST FROM JOURNALISM) LIBERATES THE IC'S DEBUNKING OF TRUMP'S ALIEN ENEMIES ACT

The two NYT journalists who would be targeted in an investigation of the sources of leaks debunking Donald Trump's Tren de Aragua Alien Enemies Act invocation have published a memo that further debunks Donald Trump's Tren de Aragua Alien Enemies Act invocation. Charlie Savage and Julian Barnes published the memo, which Freedom of the Press Foundation liberated via FOIA.

The contents of the memo themselves are newsworthy. Like the initial report from Savage and Barnes and a follow-up about this memo in the WaPo, the memo describes that the Intelligence Community doesn't think that the Maduro regime directs the actions of TdA.

The Maduro regime generally does not impede illegal armed and criminal groups from operating in Venezuela, but it does combat and seek to contain them when it fears they could destabilize the regime or when corrupt dealssour.

Venezuela'ssecurity services lackthe capacity to fully control Venezuelan territory, giving the regime an interest in cooperating with armed groups for insight and control in areas outside the services' traditional areas of operation. Furthermore, combatting such groups often results in personnel losses, probably encouraging the regime to at times cooperate with some groups instead of contesting them.

Some mid- to low-level Venezuelan officials probably profit from TDA's

illicit activities, according to [(b)(1), (b)(3)] and press reporting. For example, local military officials have alerted other armed and criminal groups conducting aerial drugshipments to Venezuelan Air Force patrols and might have alerted TDA leadership of a planned raid in 2023 against the prison that was its base of operations.

Even the FBI – the single agency of 18 that backed a claim that Maduro directs TdA – only claimed that *some* officials directed the migrants, and (as NYT also noted) other agencies think that may be based on fabrications.

While FBI analysts agree with the above assessment, they assess *some* Venezuelan government officials facilitate TDA members' migration from Venezuela to the United States and use members as proxies in Chile, Colombia, Ecuador, Peru, and the United States to advance what they see as the Maduro regime's goal of destabilizing governments and undermining public safety in these countries, based on DHS and FBI reporting as of February 2024.

[snip]

In some cases, reporting warns that these sources could also be motivated to fabricate information.

[snip]

Some reports come from people detained for involvement in criminal activity in the United States or for entering the country illegally, which could motivate them to make false allegations about their ties to the Venezuelan regime in an effort to deflect responsibility for their crimes and to lessen any punishment by providing exculpatory or otherwise "valuable" information to US prosecutors.

But I'm just as interested in the significance of a successful FOIA that undercuts investigations into these leaks (and therefore, into the debunking of the core AEA invocation).

The AEA, which Trump secretly invoked on March 14, was used as justification to deport at least two planeloads of mostly Venezuelans on March 15. The NYT published their first story on March 20, as Judge James Boasberg queried whether the government defied his order not to do so. That same day, the government first moved toward invoking State Secrets to cover up the basis for their rendition flights, followed by a declaration from Todd Blanche. NYT published the story in their dead tree version only after Blanche announced an investigation into what seemed to be that leak. As I noted, in one of his first acts as Deputy Attorney General, Blanche was launching a witch hunt into a leak that exposed his actions.

Days after the WaPo followed up on the NYT story reporting the results of this report, Tulsi Gabbard adopted Dick Cheney's habit of lying about intelligence assessments, accusing those who leaked the true contents of the assessment to be weaponizing intelligence.



**DNI Tulsi Gabbard**   
@DNIGabbard



The weaponization of intelligence to undermine the President's agenda is an assault on democracy. Those behind this illegal leak of classified intelligence, twisted and manipulated to convey the exact opposite finding, will be held accountable under the full force of the law. Rooting out this politicization of intelligence is exactly what President Trump campaigned on and what Americans overwhelmingly voted for. The Office of the Director of National Intelligence fully supports the assessment that the foreign terrorist organization, Tren De Aragua, is acting with the support of the Maduro Regime, and thus subject to arrest, detention and removal as alien enemies of the United States.

I noted that her claims of a classified leak were likely overstated: what WaPo reported went little beyond an answer Gabbard gave to Joaquin Castro in the Global Threats hearing.

Castro: I want to ask about the Alien Enemies Act, real quick, while I have time. The President has used the Alien

Enemies Act, a wartime authority last used to detain German and Japanese nationals during World War II, to summarily deport people accused of being members of the Venezuelan gang, Tren de Aragua. To invoke this law, the President must demonstrate the United States is under invasion by a foreign nation or government. They have alleged that we are under invasion by the Venezuelan government. The idea that we are at war with Venezuela would come as a surprise to most Americans. The unclassified version of the Annual Threat Assessment the Intelligence Community just released makes no mention of any invasion or war that we are fighting with the nation of Venezuela. You would think our nation being at war would merit at least a small reference in this Threat Assessment. Director Ratcliffe, does the Intelligence Community assess that we are currently at war or being invaded by the nation of Venezuela?

Ratcliffe: We have no assessment that says that.

Castro: In invoking the law the President alleged that Venezuela is taking hostile actions at the direction – clandestine or otherwise – of the Maduro regime in Venezuela. Director Gabbard: Does the Intelligence Community assess the Venezuelan government is directing Tren de Aragua's hostile actions against the United States.

Gabbard: There are varied assessments that came from different Intelligence Community elements. I'll defer to Director Patel to speak specifically to the FBI assessment.

[Kash moves to speak.]

Castro: But let me ask you. So you're

saying there are conflicting assessments that have come from the IC?

Gabbard: That's correct.

Castro: Thank you. We'll take it up in closed session.

Nevertheless, days later, Tulsi announced an investigation into the leaks.



**DNI Tulsi Gabbard**    
@DNIGabbard



Politicization of our intelligence and leaking classified information puts our nation's security at risk and must end. Those who leak classified information will be found and held accountable to the fullest extent of the law.

Today, I referred two intelligence community LEAKS to the Department of Justice for criminal referral, with a third criminal referral on its way, which includes the recent illegal leak to the Washington Post.

These deep-state criminals leaked classified information for partisan political purposes to undermine POTUS' agenda. I look forward to working with [@TheJusticeDept](#) and [@FBI](#) to investigate, terminate and prosecute these criminals.

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And just days after that, Pam Bondi reversed Merrick Garland's press protections, describing only the NYT and the WaPo stories to include classified information.

The leaks have not abated since President Trump's second inauguration,<sup>6</sup> including leaks of classified information.<sup>7</sup>

<sup>6</sup> See, e.g., John Hudson & Warren P. Strobel, U.S. intelligence contradicts Trump's justification for mass deportations, Washington Post (Apr. 17, 2025), <https://www.washingtonpost.com/national-security/2025/04/17/us-intelligence-tren-de-araguadeportations-trump/>; Charlie Savage & Julian Barnes, Intelligence Assessment Said to Contradict Trump on Venezuelan Gang, New York Times (Mar. 22, 2025), <https://www.nytimes.com/2025/03/20/us/po>

That created the appearance that, like Blanche before them, Tulsi and Bondi were also ratcheting up attacks on the press *because* the press and its sources called out Trump's corrupt AEA declaration in real time.

These repeated paranoid leak investigations attempted to squelch public debunkings of Trump's efforts to use a false claim about TdA to chip away at due process (a project that Stephen Miller has been pursuing for years).

And at a time when Trump's Administration is falling further behind on FOIA requests, FOPF got near immediate response for its FOIA showing that even if any material in the NYT and WaPo stories was classified, it has since been publicly released. That kind of response only happens when people within an agency want something to be released. And in this case, it means that Tulsi has not sufficiently commandeered ODNI to prevent FOIA professionals to carry out a classification review and release information publicly.

It likely means that the people who leaked these debunkings in the first place have found a way to undercut claims that they committed a crime by doing so. At the very least that will make it hard for the FBI to argue this leak is of sufficient seriousness to obtain warrants and subpoenas targeting journalists. It may even make it impossible for the FBI to claim a crime was committed in the first place, because the FBI will have to prove that the NYT and WaPo stories relied on more than made it into this memo.

And all the while, even as one after another judge – including Trump appointees like Fernando Rodriguez Jr! – rule that the original AEA invocation was unlawful (in Rodriguez' case, because any claimed invasion from Venezuela does not resemble what Congress would have understood

an invasion to be in 1798 when AEA was passed), the IC is finding ways to make clear that Donald Trump knows or should know that the claimed ties between Nicolás Maduro and TdA are false.

Stephen Miller is trying to eliminate due process based on a nesting set of false claims.

And the spooks have, for a third time, exposed the core lie on which that effort builds.

Update: Lauren Harper, who liberated the memo, has posted the letter granting her FOIA. She submitted the FOIA on April 25; she got the memo on May 5.

Update: Judge Alvin Hellerstein also held the AEA invocation to be unlawful, finding there's no war or invasion. But this may be more pertinent to these times:

The third consideration set out by Mathews, the "Government's interest," is more complicated. Drafting complaints with particular allegations against individual aliens, providing aliens with time to contact counsel and file a habeas petition, and preparing for a hearing before a federal judge takes time and manpower. However, it is the nature of due process to cause fiscal and administrative burdens. Rule by the ipse dixit of a President is likely more efficient than the deliberative procedures of a court. But it is what our Constitution, and the rule of law, demand. And due process, once surrendered, is difficult to reinstate.

Update: Citing the memo, Jim Himes and Joaquin Castro call on Tulsi to explain "Director Gabbard should explain why her public descriptions of this intelligence failed to correspond with the IC's findings."

Last month, we jointly wrote a classified letter to Director Gabbard asking her to declassify the April 7,

2025 Statement of the Community  
Memorandum entitled 'Venezuela:  
Examining Regime Ties to Tren de  
Aragua.' We are pleased that the Office  
of the Director of National Intelligence  
released a redacted declassified copy of  
that analysis in response to a Freedom  
of Information Act request. As the now-  
public document makes clear, the  
Intelligence Community assesses that the  
'Maduro regime probably does not have a  
policy of cooperating with TDA and is  
not directing TDA operations in the  
United States.' This assessment  
reinforces the finding of a District  
Court judge last week that the  
Administration's invocation of the Alien  
Enemies Act with respect to Tren de  
Aragua was illegal.

Now that the public can read the  
Intelligence Community's analysis that  
the Maduro regime does not direct Tren  
de Aragua, Director Gabbard should  
explain why her public descriptions of  
this intelligence failed to correspond  
with the IC's findings. The most basic  
responsibility of the Director of  
National Intelligence is to speak truth  
to power and, where possible, the  
American people. Misrepresenting  
intelligence in public causes grave  
damage to the IC and to national  
security."

Update: In another sign that the Spooks are not  
impressed with their new boss, WSJ reveals that  
they're being asked to collect for actions that  
would support regime change in Greenland and  
Denbmark.

Several high-ranking officials under  
Director of National Intelligence Tulsi  
Gabbard issued a "collection emphasis  
message" to intelligence-agency heads  
last week. They were directed to learn  
more about Greenland's independence



movement and attitudes on American resource extraction on the island.

The classified message asked agencies, whose tools include surveillance satellites, communications intercepts and spies on the ground, to identify people in Greenland and Denmark who support U.S. objectives for the island.

The directive is one of the first concrete steps Trump's administration has taken toward fulfilling the president's often-stated desire to acquire Greenland.

Tulsi continues to squeal about the Deep State Actors exposing her actions.

In a statement, Gabbard said: "The Wall Street Journal should be ashamed of aiding deep state actors who seek to undermine the President by politicizing and leaking classified information. They are breaking the law and undermining our nation's security and democracy."