

GAVIN NEWSOM'S TROLL WARS AS A CHECK AGAINST “USURPATION OR WANTON TYRANNY”

The Ninth Circuit – a panel of two Trump judges, Mark Bennett and Eric Miller, and one Biden one, Jennifer Sung – has unanimously overturned Judge Charles Breyer’s order enjoining Trump from using the National Guard to protect Federal personnel and property from anti-ICE protests. The decision affirms the court’s jurisdiction to review Trump’s decision (and holds out the possibility that things may change – for example, in how Trump is using the military or the urgency with which California needs its firefighting Guardsmen – that could change the outcome). But for now, Trump continues his invasion of California with the blessing of the Circuit Court.

The judges had all, including Sung, telegraphed at the hearing earlier this week that they would do so . Moreover, the decision itself is unsurprising; a number of legal commentators warned that Governor Newsom was likely to lose this case.

That’s partly because of an 1827 case, *Martin v. Mott*, that said even if the President abused such decision, the remedy was political. Here’s how the Ninth invoked it for to hold that it must give Trump deference on this decision.

[W]e are not writing on a blank slate. The history of Congress’s statutory delegations of its calling forth power, and a line of cases beginning with *Martin v. Mott*, 25 U.S. (12 Wheat.) 19 (1827), interpreting those delegations, strongly suggest that our review of the President’s determinations

in this context is especially deferential.

[snip]

The Court further explained that although the power delegated to the President under the Militia Act is “susceptible of abuse,” the “remedy for this” is political: “in addition to the high qualities which the Executive must be presumed to possess, of public virtue, and honest devotion to the public interests,” it is “the frequency of elections, and the watchfulness of the representatives of the nation” that “carry with them all the checks which can be useful to guard against usurpation or wanton tyranny.”

Jack Goldsmith has been pointing to the import of that passage all week.

This won't be the end of things. In its assessment of the harm, the court noted that violations of the Posse Comitatus Act were not before it (the state is now arguing it in their motion for a preliminary injunction), nor was an emergency (like a wildfire) for which California could claim it had immediate need of the Guardsmen. Having affirmed its authority to rule, Newsom might fare better at such a time. And in any case the state has added a slew of new facts below in its motion for a preliminary injunction.

But in the meantime, we would do well to take that lesson from *Martin* to heart: Politics remains a remedy. Not just a remedy, a necessary part of winning on this issue and on defeating fascism more generally.

And, increasingly, it's a winning issue. Polls show – even a Fox News poll that has Trump screaming – that Trump is losing the battle to make this dragnet popular.

Certainly Newsom has been focused on that.

There's been so much else going on, I've seen no focused commentary on the media campaign Newsom has been pursuing, even as he attempted to block the invasion in courts. Newsom has been conducting the kind of media campaign that the most realistic assessments of last year's election loss say Democrats need to learn to do (admittedly, Newsom already took steps in this direction when he started a podcast).

Newsom's prime time speech last week – widely applauded by those whining about so much else – has drawn a lot of attention.

Newsom repeated much of that same content in a column published at Fox, taking his argument to Trump's base.

Over the past two weeks, federal agents conducted large-scale workplace raids around Southern California. They jumped out of unmarked vans, indiscriminately grabbing people off the street, chasing people in agricultural fields. A woman, 9 months pregnant, was arrested in LA; she had to be hospitalized after being released. A family with three children, including a three-year-old, was held for two days in an office basement without sufficient food or water.

Several people taken in the raids were deported the same day they were arrested, raising serious due process concerns. U.S. citizens have been harassed and detained. And we know that ICE is increasingly detaining thousands of people with no other criminal charges or convictions: Those arrested with no other criminal charges or convictions rose from about 860 in January to 7,800 this month – a more than 800% increase. Meanwhile, those arrested and detained with criminal charges or convictions rose at the much lower rate of 91%. Trump is lying about focusing on “the

worst of the worst.”

While California is no stranger to immigration enforcement, what we’re seeing is a dangerous ploy for headlines by an administration that believes in cruelty and intimidation. Instead of focusing on undocumented immigrants with serious criminal records and border security – a strategy both parties have long supported – the Trump administration is pushing mass deportations, targeting hardworking immigrant families, regardless of their roots or risk, in order to meet quotas.

He started a Substack the other day, describing it as an effort to “flood the zone and continue to cut through the right wing disinformation machine.”

He has done interviews with (best as I can tell, all male) influencers in his emergency response room over and over.

But the response by which I’ve been most fascinated is his trolling on Xitter – the import of which I discussed with LOLGOP earlier this week.

Between his personal account and a press account, Newsom has been supplementing more serious messaging with both important political points and trolling.

The former focuses on the stature of California’s economy, the role migrants play in it, and the likely risk of Trump stealing California’s full-time Guard firefighters. In the likely event something will go catastrophically wrong – whether via economic collapse or natural disaster – thanks to Trump’s jihad against migrants, Newsom has made the case that Trump is responsible, in advance.

Some of that includes building pressure against Republicans applauding Trump’s invasion.

Governor Newsom Press Office @GovPressOffice · Jun 18
FYI: The [#BonzanzaFire](#) is burning just 10 miles south of Rep. Kiley's district.

[@TheCalGuard](#) fire crews are currently short-staffed — because Trump pulled these heroes off wildfire duty and sent them to Los Angeles to be mall cops for a federal building.

We need them back on the
[Show more](#)

Kevin Kiley @KevinKileyCA · Jun 18
Politico reports the 9th Circuit is poised to reject Newsom's lawsuit to remove the National Guard from LA. Even a Biden judge was "openly skeptical" of his position.

Newsom's decision to go after our Guard members rather than the ...



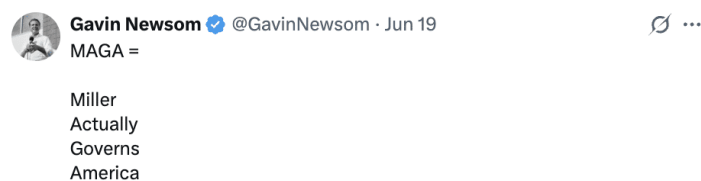
Newsom has long called out the higher crime rates under right wingers. He has called out Mike Johnson, Jason Smith, Tommy Tuberville, Markwayne Mullin, and Sarah Huckabee Sanders for their states' higher murder rate than California.

The trolling mocks Trump's aides, including Kristi Noem, Pete Hegeseth, Steven Cheung, and Karoline Leavitt, as when he contrasted how the Guard were left without a place to stay when while Whiskey Pete boasted about going to a ballgame.



But Newsom has focused his closest attention
Stephen Miller.

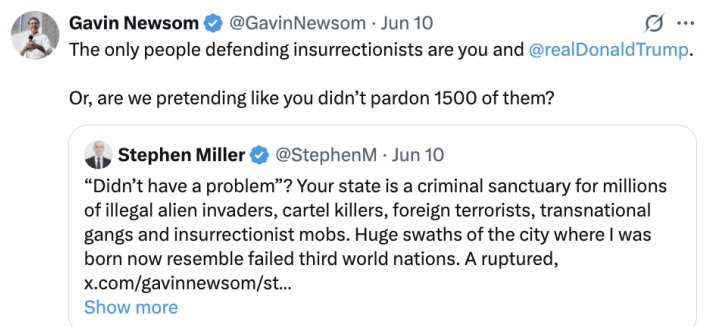
Newsom has been mocking Stephen Miller's total
control over the Administration.



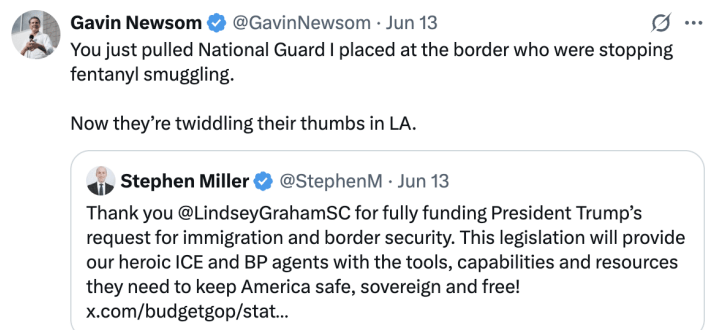
Relentlessly.



That builds on a number of personal spats with Miller directly, as when Newsom raised Trump's pardon of Jan6ers to debunk claims anyone but him supports insurrectionists.



And when he called out how Miller is undermining efforts to disrupt fentanyl trafficking.



The personal focus on Miller extends to Newsom's Press Office account, which has been calling out Miller's bullshit.



Correcting Miller on the legal posture of sanctuary cities.



Pushing back on Miller's complaints about Sanctuary cities.



Newsom's Press Office has pushed other peoples' memes.



And pushing a TikTok video of Miller's early racism.



But the trolling from the Press Office itself gets more creative. I've already mentioned the sustained play on Star Wars.

And pop culture references, like Lord of the Rings.

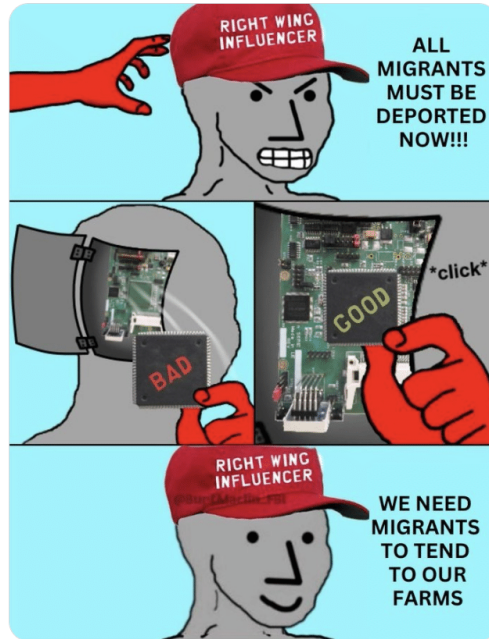


The Press Office has found many ways to call Miller Voldemort.



Amid Trump's flip flops on whether to exclude farmworkers from the raids, the Press Office account has adopted right wing styled memes.

Governor Newsom Press Office @GovPressOffice · Jun 18
And 1 day later ... Trump changes his mind (again)



Governor Newsom Press Office @GovPressOffice · Jun 17



And we're back x.com/GovPressOffice...

And as Newsom also is, the Press Office account is mocking Trump's capitulation to Miller on targeting farmworkers.

Governor Newsom Press Office @GovPressOffice · Jun 18
Is Trump not in charge? Does he not know what his own Admin's policy is?

"The head-spinning series of decisions reflects the ongoing battle between Rollins and Stephen Miller, the White House deputy chief of staff who has a strident anti-immigrant stance."

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Governor Newsom Press Office @GovPressOffice · Jun 18



Trump's flip-flops over ag workers are a new threat for California farmers | Opin...
From fresnobee.com

Also tracking Miller's ability to override Donny.



As I discussed with LOLGOP, this trolling is structured in a productive way. Not only does it play on Trump's own weakness (in recent days, rebranding Trump's MAGA with that weakness), but it sets Miller up as the easy fall guy when shit starts hitting the fan. It does a lot of fact-checking, but frames this battle as much about ego and dick-wagging – the currency of the far right – as rational persuasion.

Stephen Miller's gulag *is not even backed by everyone in the Trump Administration*. And that's before the full effects of it – in higher housing costs, empty produce sections, and restaurant closures – are being felt. And Newsom has been making this about him, an easy target in the same way Musk is.

There are two ways to get the Guard restored to California: A legal win. Or making it a big enough political liability that Trump relents. Newsom is actually pursuing both.

There are problems with Newsom's efforts. As mentioned, his outreach has been a veritable sausage fest, with a focus almost exclusively on outreach to male influencers. Sure. Trump won with the young male vote and young men are the ones pushing the disinformation. But there has to be a role for outreach to women.

I really wish Newsom had picked some other platform than Substack, which platforms Nazis.

And obviously, Newsom needs to replicate some of this on Bluesky, which Newsom has ignored since he got a personal account; his official account is staid. Newsom *just* got a Bluesky Press account, which replicates some of the trolling from Xitter, but thus far the trolling of Miller – which would be most important to go viral – has not shown up there.



Governor Newsom Press Office @cagovpress.bsky.social · 5d
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But everyone needs to approach these battles using all three tools we have: legal, legislative, and political.

You don't have to like Newsom to recognize that this trolling attempts the kind of messaging Democrats need to do more of. Indeed, his dickish personality and the long-standing bad blood with Trump may make this more effective.