

Summary

The Trump Administration is making a lot of claims about national security and emergencies. This unlocks additional government powers and limits how closely the courts will look at their actions. But they have abused these claims so much that courts are starting to get more skeptical.

National security claims are popping up all over. Pete Hegseth axed protections for endangered species in the Gulf of Mexico, [claiming](#) that any impediment to oil drilling threatens national security. A California oil pipeline gets to operate despite state law because, supposedly, the national defense [requires](#) that oil. The Army Corps has [fast-tracked](#) hundreds of permits because of a so-called energy emergency that endangers national security. Courts must not interfere with Trump's gilded ballroom project because of you guessed it, [national security](#).

A recent [court ruling](#) in a non-environmental case exposed how blatantly the Administration is abusing claims of national security. The case involved the Defense Department's effort to blacklist Anthropic as a "supply chain risk." Anthropic's sin was to publicly demand contract terms prohibiting the use of its AI model Claude for killer robots or mass surveillance of Americans. This incensed the Administration, which either does want to use Claude for killer robots and mass surveillance, or just couldn't tolerate the idea of a company with moral scruples.

Trump jumped into the dispute with one of his signature social media posts: "THE UNITED STATES OF AMERICA WILL NEVER ALLOW A RADICAL LEFT, WOKE COMPANY TO DICTATE HOW OUR GREAT MILITARY FIGHTS AND WINS WARS!" He banned all federal agencies from using Claude. The Defense Department followed up with a four-page memo trying to explain why allowing any defense contractor to use Claude even for non-defense work was a threat to national security.

The memo was apparently based on a misunderstanding of how AI models work, and the government didn't even try to defend the memo in court. (This is a little worrisome in terms of the competence of the high-level official who wrote it.) Instead, the government argued that it found Anthropic untrustworthy. (Those moral scruples!)

The court concluded that the national security claim was a sham to paper over retaliation against Anthropic's free speech. It also concluded that the action was

arbitrary and capricious given its complete lack of any factual basis. There were some other embarrassing glitches: It turned out that they failed to follow Pentagon regulations and used the wrong undersecretary at a key point in the process.

Previous Administrations have no doubt abused claims of national security, but never so blatantly or on such a huge scale. Courts have traditionally been very deferential to these claims and for good reason. But mass-producing national security claims for casual use abuses judicial trust in the government and endangers that deference.

We'll have to see how the environmental cases pan out. Past Administrations would have gotten strong deference for their emergency claims. But this one may be quickly using up its credibility. You can pass a certain number of counterfeit bills, but a flood of counterfeits is hard to hide.