



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

April 23, 2026

By ECF

The Honorable Denise L. Cote
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Am. Fed'n of Gov't Emps., AFL-CIO, et al. v. U.S. Office of Personnel Mgmt., et al.*, No. 25 Civ. 1237 (DLC)

Dear Judge Cote:

This Office represents Defendants in the above-referenced action. I write respectfully in further support of Defendants' letter motion for partial reconsideration of the Court's Opinion and Order, dated April 1, 2026, granting Plaintiffs' motion to unredact the names of sixteen DOGE Agents. *See* Dkt. No. 208 (the "Opinion").

As explained in Defendants' letter motion, it would be manifestly unjust to unredact and de-designate the names of OPM-11, OPM-12, OPM-13, OPM-15, OPM-17, and OPM-18 given the facts—which Plaintiffs do not and cannot dispute, *see* Dkt. No. 214 at 1–2—that each of these individuals was granted administrative access to only one OPM system—USA Performance, *see* OPM-000103—and none ever actually logged into this system, *see id.* Contrary to Plaintiffs' contention, Defendants do not disagree with the Court's factual findings with respect to these individuals. Indeed, the Court *itself* found that they had access only to USA Performance, *see* Dkt. No. 121 at 47, but never actually logged into that system, *see* Dkt. No. 177 at 17. Rather, Defendants respectfully submit that the Court "overlooked" these facts, *see Kaplan v. City of New York*, No. 14 Civ. 4945 (RJS), 2018 WL 2084955, at *5 (S.D.N.Y. Mar. 22, 2018) (citation omitted), when it concluded that *all* so-called DOGE agents were not akin to "innocent third parties," *see* Dkt. No. 208 at 13. As Defendants argued in their letter motion, these overlooked facts do render this subset of so-called DOGE Agents more akin to innocent third parties, and as a result, their privacy interests should be accorded more weight than the Court accorded them in its Opinion.

It would likewise be manifestly unjust to subject these individuals to the increased risk of harm that disclosure of their identities would engender given their limited involvement in the alleged Privacy Act violations at issue. Plaintiffs' press release underscores this injustice, identifying these so-called DOGE Agents as having "violated the privacy rights of hard working Americans" and "unlawfully accessed [federal employees'] personal information" when they never even logged into the one OPM system they had access to. *See Democracy Defenders Fund, Judge Orders OPM to Identify DOGE Personnel Behind Unlawful Record Disclosure* (Apr. 2, 2026), https://www.democracydefendersfund.org/prs/04.02.26-pr_2. Even if the statements in

this press release are not threatening in and of themselves—although Defendants submit that they are—they paint with too broad a brush and, in doing so, increase the risk that this subset of so-called DOGE Agents, who again had only limited involvement in the alleged Privacy Act violations at issue, will be subject to threats and harassment.

For the reasons stated above and in Defendants’ letter motion, *see* Dkt. No. 212, Defendants respectfully move the Court to reconsider its Opinion as to OPM-11, OPM-12, OPM-13, OPM-15, OPM-17 and OPM-18.

I thank the Court for its consideration of this letter.

Respectfully submitted,

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