

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOHN AND JANE DOES 1-9, et al.,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,

Defendant.

Civil Action No. 25-0325 (JMC)

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION, et al.,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE, et al.,

Defendants.

Civil Action No. 25-0328 (JMC)

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

NOW COMES the consolidated Plaintiffs, by and through their undersigned counsel, pursuant to Rule 65 of the Federal Rules of Civil Procedure to hereby respectfully move for a preliminary injunction against the Defendants.

To the extent the Local Rules required the Plaintiffs to consult with the Defendants concerning the non-dispositive portions of this Motion, the Defendants have signified their opposition and a briefing schedule is already in place.

A Memorandum of Law and proposed Order are attached.

Dated: February 24, 2025

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

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INTRODUCTION

Applying an electroshock weapon to an officer's neck.¹ Crushing a cop with his own shield.² Reaching over riot gear to spray chemical irritants into police's eyes.³ Ripping off an officer's gas mask.⁴ Dragging a policeman by the neck and shouting, "Hey! I got one!"⁵ Leading "Heave! Ho!" chants to break law enforcement's riot control line.⁶ "If you have a weapon, you need to get your weapon!"⁷ "F—you b—ass cops."⁸ "Yes, I'm calling for violence! And I will be violent!"⁹

These are the actions and voices of January 6 rioters against law enforcement. These individuals and others were investigated by the FBI, afforded due process rights, brought to justice,

¹ United States Attorney's Office, District of Columbia ("USAO-DC"), Press Release, *California Man Sentenced to Prison for Felony Charges, Including Conspiracy and Assault Police Officer During Capitol Breach*, June 21, 2023, <https://www.justice.gov/usao-dc/pr/california-man-sentenced-prison-felony-charges-including-conspiracy-and-assaulting-police>.

² Department of Justice, Office of Public Affairs, Press Release, *Connecticut Man Charged with Assaulting an Officer During U.S. Capitol Breach*, (Jan. 20, 2021), <https://www.justice.gov/archives/opa/pr/connecticut-man-charged-assaulting-officer-during-us-capitol-breach>.

³ USAO-DC, Press Release, *New Jersey Man Sentenced to 12 Years In Prison for Assaulting Law Enforcement and Other Charges During Jan. 6 Capitol Riot*, (May 24, 2024), <https://www.justice.gov/usao-dc/pr/new-jersey-man-sentenced-12-years-prison-assaulting-law-enforcement-and-other-charges>.

⁴ See *supra* note 2.

⁵ USAO-DC, Press Release, *Virginia man Sentenced to More Than Five Years in Prison for Assaulting Law Enforcement During Jan. 6 Capitol Breach*, (Jan. 17, 2025), <https://www.justice.gov/usao-dc/pr/virginia-man-sentenced-more-five-years-prison-assaulting-law-enforcement-during-jan-6>.

⁶ USAO-DC, Press Release, *Texas Man Sentenced to Prison for Assaulting Law Enforcement During Jan. 7 Capitol Breach*, May 2, 2024, <https://www.justice.gov/usao-dc/pr/texas-man-sentenced-prison-assaulting-law-enforcement-during-jan-6-capitol-breach-1>.

⁷ *Id.*

⁸ USAO-DC, Press Release, *California Man Sentenced for Assaulting Law Enforcement with a Dangerous Weapon During Jan. 6 Capitol Breach*, (Aug. 9, 2024), <https://www.justice.gov/usao-dc/pr/california-man-sentenced-assaulting-law-enforcement-dangerous-weapon-during-jan-6>

⁹ See *supra* note 6.

and sentenced to prison. All of them have now been released from their sentences. None of them are subject to supervised release.

The excerpts above are taken from Department of Justice (“DOJ”) press releases. It is all the more stunning, then, that in response to this lawsuit DOJ has refused to safeguard the names of FBI employees that it collected pursuant to the unprecedented January 6 “Survey.” Through its opposition to this Motion and its remarks at the February 6, 2025 hearing, DOJ refuses to confirm that it will never release the Survey results to the public. DOJ refuses to commit to safeguarding the men and women of the FBI from harm’s way. DOJ does this notwithstanding that disclosure would violate the Privacy Act, the constitutional rights of FBI personnel, and the federal criminal code.

Instead, DOJ does not recognize any limitation on its power to use this sensitive data, and continues to preserve its option to release it to third parties in other agencies, to the public, and potentially to the pardoned January 6 rioters. When DOJ embarked on its unprecedented mission of marshaling the names of any FBI employee who worked on a January 6 case, its leadership kept its intentions deliberately opaque. DOJ leadership provided FBI personnel and the public with little information on why the Survey had any lawful, legitimate purpose. The Government has not taken any steps to assure Plaintiffs or the public that its actions—compiling a list of FBI personnel who worked on the January 6 cases, investigating them, and subjecting them to review—are not rooted in any improper purpose or a desire for some type of political vengeance. The Government has relied on a series of rhetoric-laced, conclusory orders, memos, and communications that signal to Plaintiffs and those similarly situated that their fates will be decided by the Government’s own, unilateral determination that rank-and-file FBI agents and employees harbored “partisan intent.”

By and through their attorneys, Plaintiffs the Federal Bureau of Investigation Agents Association (“FBIAA”), John Does 1, 3, and 4 and Jane Does 1 through 3 (the “Doe Plaintiffs”), John and Jane Does 1-9, et al., individually and on behalf of the putative class (the “Doe Class Plaintiffs”), collectively, the “Plaintiffs” or the “consolidated Plaintiffs,” seek to vindicate their statutory and constitutional rights under the Privacy Act, the First Amendment, and the Fifth Amendment. They move this Court to issue preliminary injunctive relief against the Government to prevent the disclosure of the Plaintiffs’ identities, along with the identities of those similarly situated, by DOJ, either directly or indirectly, to any third parties. They further seek to enjoin the Defendants from taking any additional action which would infringe on Plaintiffs’ Constitutional rights, as the Court determines.

The Court should not countenance an outcome that results in the suppression of Plaintiffs’ statutory and fundamental constitutional rights. The Court should grant preliminary injunctive relief for the reasons below.

FACTUAL BACKGROUND

A. The January 6, 2021 Riot at the United States Capitol.

The events of January 6, 2021 are well documented before this Court. They are further documented in the Plaintiffs’ First Amended Complaint. FAC ¶¶ 20-26. The violent attack on the Capitol injured more than 140 people, inflicted millions of dollars of damage, and left five people dead. *Id.* Over 1,500 people were arrested in connection with the attack, resulting in over 1,200 convictions, with many cases still pending at the time of the 2025 inauguration.

B. January 20, 2025 Inauguration and Executive Actions.

On January 20, 2025, President Donald J. Trump was sworn in as the 47th President of the United States. That same day, he took several Presidential actions.

He issued Proclamation 10887 titled “Granting Pardons and Commutations of Sentences for Certain Offenses Relating to the Events at or Near the United States Capitol on January 6, 2021 (the “January 6 Pardons Proclamation”). Exhibit (“Ex.”) . The January 6 Pardons EO referenced, without further elaboration, a “grave national injustice that has been perpetrated upon the American people over the last four years.” It commuted the sentences of several high-profile January 6 convicts. It further granted a “full, complete and unconditional pardon to all other individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021.” Ex. 1. As a result, anybody serving prison time for a January 6 offense was immediately released from their sentence, regardless of whether or not a court had found them to be a threat to public safety.

That same day, the President released an Executive Order 14147 titled “Ending the Weaponization of the Federal Government” (the “Weaponization EO”). Ex. 2. In relevant part, the Weaponization EO’s “Purpose” section asserted that the “previous administration engage[d] in a systemic campaign against its perceived political opponents, weaponizing the legal force of numerous Federal law enforcement agencies . . . against those perceived political opponents in the form of investigations, prosecution, civil enforcement actions, and other related actions.” *Id.* The Weaponization EO went on to describe that such actions “appear oriented more toward inflicting political pain than toward pursuing actual justice of legitimate government objectives.” *Id.* The “Purpose” section also referenced the “weaponization of prosecutorial power to upend the democratic process” and the “target[ing of] individuals who voiced opposition to the prior administration’s policies.” *Id.* The “Purpose” section expressly noted that the “Department of Justice has ruthlessly prosecuted more than 1,500 individuals associated with January 6, and simultaneously dropped nearly all cases against BLM rioters.” *Id.*

The “Policy” section of the Weaponization EO stated, in relevant part, that the United States would “identify and take appropriate action to correct past misconduct by the Federal Government related to the weaponization of law enforcement.” *Id.* Finally, it directed the United States Attorney General to review “the activities of . . . the Department of Justice . . . over the last 4 years and identify any instances where a department’s or agency’s conduct appears to have been contrary to the purposes and policies of this order, and prepare a report to be submitted to the President . . . with recommendations for appropriate remedial actions to be taken.” *Id.* The Weaponization EO notes that when acting in furtherance of the order, “departments and agencies are directed to comply with applicable document-retention policies and legal obligations” and that noncompliance with these requirements “will be referred to the Attorney General.” *Id.*

C. DOJ Activity Following the January 6 Pardons Proclamation, Weaponization EO.

1. The January 27, 2025 Firings of Federal Prosecutors.

One week after the inauguration, on January 27, 2025, interim DOJ leadership issued a memorandum firing over a dozen federal prosecutors who had been affiliated with either of the two federal criminal investigations into President Trump. According to news reports, the firings were not based on any investigation or finding that the prosecutors demonstrated poor performance or improper conduct, but instead the firings were executed under an asserted Article II constitutional authority to fire career staff members. The memo, reportedly signed by then-Acting Attorney General James McHenry, stated: “Given your significant role in prosecuting the president, I do not believe that the leadership of the department can trust you to assist in implementing the president’s agenda faithfully.” See Glenn Thrush, et al., *Justice Dept. Fires Prosecutors Who Worked on Trump Investigations*, NY Times (Jan. 27, 2025); Sarah N. Lynch & Andrew Goudsward, *Trump’s Justice Department Launches Sweeping Cuts Targeting Jan. 6*

Prosecutors, FBI Agents, Reuters (Jan. 31, 2025), <https://www.reuters.com/world/us/fbi-launches-wide-ranging-round-cuts-sources-say-2025-01-31/>.

2. The January 31, 2025 Terminations Memorandum.

On January 31, 2025, Acting Deputy Attorney General (“A/DAG”) Emil Bove III issued a memorandum to the then-Acting Director of the FBI titled “Terminations” (the “Terminations Memo”) Ex. 3. The memo fired eight senior leaders within the FBI. A/DAG Bove began the memo by quoting the Weaponization EO’s language about the “previous administration[‘s] . . . systemic campaign against its perceived political opponents, weaponizing the legal force of numerous Federal law enforcement agencies. . . .” A/DAG Bove went on to conclude, in his own words, “This includes the FBI. For example, the FBI—including the Bureau’s prior leadership—actively participated in what President Trump appropriately described as a ‘grave national injustice’” with respect to conducting January 6 investigations. Ex. 3. A/DAG Bove did not provide any reasoning for why or how he reached the conclusion that the FBI was implicated by the Weaponization EO, other than the lone reference to the FBI having been involved with the response to the January 6 attack.

A/DAG Bove wrote that he “d[id] not believe that the current leadership of the Justice Department could trust these FBI employees to assist in implementing the President’s agenda faithfully.” Ex. 3. He then “deem[ed] the[] termination necessary” pursuant the Weaponization EO. Again, A/DAG provided no context as to how he concluded these individuals had been “weaponized,” other than to reference his own belief that they lacked “faithful[ness]” and “responsiveness” to the President.

The next section of the Terminations Memo included a heading, “Employees To Be Terminated Pursuant to the Foregoing.” Under the heading were seven names. Beneath those names was a reference to an eighth individual, who was then the assistant director in charge of the

Washington Field Office (“WFO”). WFO was the lead field office for January 6 investigations. Ex. 3.

In the very next paragraph of the Terminations Memo, A/DAG Bove directed the Acting Director of the FBI to identify by noon on February 4, 2025 “all current and/or former FBI personnel assigned at any time to investigations and/or prosecutions related to (1) [January 6 investigations]; and (2) *United States v. Haniyeh, et al.*, 24 Mag. 438 (S.D.N.Y.)” Ex. 3. The “Terminations” memo asserted that A/DAG Bove would commence a “review process” to determine if any “*additional* personnel actions are necessary” (emphasis added). *Id.* The *Haniyeh* case does not appear to have anything to do with the Weaponization EO, and instead relates to a turf war between the FBI’s New York and Washington Field Offices over a prosecution connected to the October 7 Hamas attack on Israel. *See, e.g.*, Adam Goldman, *Tensions Over F.B.I.’s Work on Hamas Case Spill Into the Open*, NY Times (Feb. 14, 2025), <https://www.nytimes.com/2025/02/14/us/politics/fbi-justice-dept-hamas.html>.

3. The February 2, 2025 Survey.

On Sunday, February 2, 2025, DOJ ordered FBI agents and other personnel, including Plaintiffs, to answer a questionnaire about their work on cases related to the events of January 6 (the “Survey”). DOJ directed that FBI employees complete the Survey by 3:00 p.m. on the following day. The survey was titled “A/DAG Memo Response: Events that Occurred at or Near the US Capitol on January 6, 2021.” The Survey included a number of questions, all marked “required.” A copy of these questions and the available dropdown menus of answers is detailed in the First Amended Complaint (“FAC”). FAC ¶ 68; *see also* Decl. Frank Figliuzzi, Ex. 2.

In sum, the Survey asked no questions to suss out whether an employee had “weaponized” his/her role, which, of course, was assigned by DOJ itself. It asked no questions about the cases themselves, the allegations of misconduct or weaponization, whether any agent wished to report

misconduct or weaponization, whether any complaints had been made as to the Special Agents' conduct during the prosecution of the cases, or the process by which Special Agents were assigned to these cases. The questions appeared to serve no other purpose than to compile a list of agents who were involved in January 6 investigations without any apparent reason.

To the best of Plaintiffs' knowledge, there is no precedent in either FBI or DOJ history for compiling such an expansive, sensitive list.

Apparently aware of the incendiary nature of the list, on or about February 4, then-Acting FBI Director transmitted the list to A/DAG Bove using only employee identification numbers. FAC ¶ 79. Realizing that the DOJ was just one step away from either publicly disclosing the list or providing the list to third parties who might then disclose the data, *see* FAC ¶ 72, Plaintiffs filed this lawsuit to protect themselves.

4. DOJ Actions Taken After the Filing of this Lawsuit.

On February 5, 2025, one day after the public announcement of the lawsuit, A/DAG Bove sent another email to all FBI personnel. Ex. 4. In it, he stated that he had “additional information regarding the [Terminations] [M]emo.” In sum and substance, A/DAG Bove blamed “insubordination” by acting FBI leadership who had refused to identify a “core team” whose conduct he could “review” for weaponization. *Id.* A/DAG Bove then insisted that it was the FBI's own fault that led him to issue the Terminations memo, since “the written directive was intended to obtain a complete data set that the Justice Department can reliably pare down to the core team that will be the focus of the weaponization review pursuant to the Executive Order.” *Id.* A/DAG Bove provided no explanation for how and why the summary firings of the eight individuals listed in the Terminations Memo could have been justified if he had not yet even begun his “weaponization review.” *Id.*

A/DAG Bove again reiterated, this time with emphasis, that “the information was intended to ‘commence a review process’ that will be used to ‘determine whether any additional personnel actions are necessary.” *Id.* (emphasis in original). A/DAG Bove asserted in the February 5 message: “Let me be clear: No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties.” *Id.* A/DAG Bove did not provide any explanation as to how the Survey would have indicated whether Plaintiffs were “simply following orders” or acting “in an ethical manner.”

A/DAG Bove advised that “[t]he only individuals who should be concerned about the process initiated by my January 31, 2025 memo are those who acted with corrupt or partisan intent, who blatantly defied orders from Department leadership, or who exercised discretion in weaponizing the FBI.” *Id.* Again, A/DAG Bove did not provide any explanation as to how the Survey would have indicated whether Plaintiffs acted “with a partisan intent,” whether they “defied orders,” or whether they “exercised discretion in weaponizing the FBI.”

Despite presumable knowledge this lawsuit which details the concrete concerns of FBI agents and staff, A/DAG Bove’s message to FBI employees on February 5, 2025, did not make any promises that the FBI would not release their names to the public.

Also on February 5, 2025, newly sworn in Attorney General Pam Bondi issued a memorandum, “Restoring the Integrity and Credibility of the Department of Justice” (the “Restoring Integrity Memo”). Ex. 5. The memo requires “immediate” action by the DOJ to “ensure that the Department’s personnel are ready and willing to faithfully implement the policy agenda of the duly elected President of the United States.” *Id.* The memo then quoted the conclusory language from the Weaponization EO about the “prior administration” and its “systemic campaign against perceived political opponents.” *Id.*

The Restoring Integrity Memo included the following peculiar language about how the DOJ would determine whether or not someone had participated in “weaponization,” stating that “[n]o one who has acted with a righteous spirit and just intentions has any cause for concern” about the DOJ’s “efforts to root out” weaponization. *Id.* The Restoring Integrity Memo provided no other details about what might determine whether someone acted “with a righteous spirit and just intentions.” *Id.*

The Restoring Integrity Memo did, however, establish a Weaponization Working Group charged with examining various items that the DOJ had already deemed “weaponized,” notwithstanding that working group to establish such a finding did not exist yet. FAC ¶ 77.

The Restoring Integrity Memo also directed the Weaponization Working Group to examine “[t]he pursuit of improper investigative tactics and unethical prosecutions relating to events at or near the United States Capitol on January 6, 2021—as **distinct from good faith actions by federal employees simply following orders from superiors**—which diverted resources from combatting violent and serious crime and thus, were pursued at the expense of the safety of residents of the District of Columbia.” Ex. 5 (emphasis in original). Contrary to proper investigative procedure, the Restoring Integrity Memo presumes the fact of “improper investigative tactics and unethical prosecutions” before any review process has even begun in order to adduce that fact.

D. Threats and other Events Since the Filing of this Lawsuit.

The First Amended Complaint provides several examples of threats to agents made by January 6 vigilantes. See FAC ¶¶ 43-56. It also provides numerous instances where January 6 rioters have demanded to learn the names of FBI agents assigned to the cases. *See, e.g.*, FAC ¶ 55-56. Just days before this filing, Enrique Tarrío—one of the most notorious January 6 convictions who has openly targeted the agent who testified against him—was arrested for assault outside the Capitol. FAC ¶ 47.

The Acting United States Attorney for the District of Columbia, Ed Martin, has also published troubling communications. On February 7, Mr. Martin publicized via his X page, @EagleEdMartin, a letter he wrote to Mr. Elon Musk and DOGE claiming that he would use his office to investigate people criminally not only if they have broken the law, but if he has decided that they “acted simply unethically.” Ex. 6; *see also* FAC ¶ 82. In other words, in plain language, United States Attorney Martin, who is supervising the defense of this lawsuit, publicly announced that he would use federal law enforcement to investigate people who have not committed a crime, but who, in his own determination “acted simply unethically.”

ARGUMENT

I. PLAINTIFFS HAVE STANDING TO BRING THEIR CLAIMS.

To establish standing under Article III of the Constitution, a plaintiff must allege “(1) an injury-in-fact, which is (a) concrete and particularized and (b) actual and imminent, not conjectural or hypothetical; (2) a causal connection between the injury and the conduct complained of; and (3) that it is likely the injury will be redressed by a favorable decision.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (cleaned up); *see also Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180–81 (2000).

Each set of Plaintiffs can establish standing to bring this suit.

A. The Individual Doe Plaintiffs Have Standing.

The Plaintiffs have suffered an invasion of concrete and particularized legally protectible interests, and the injury is actual and imminent. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). The bases of the Doe Plaintiffs claims are both statutory and constitutional.

The statutory basis for this injury is the potential disclosure of the Doe Plaintiffs’ personal information to members of the public. This would violate their legally protected interest in anonymity as warranted by Section 552a(b) of the Privacy Act which places restrictions on the

collection, maintenance, and release of agency records.¹⁰ This harm is one step away from coming to fruition. The DOJ amassed the sensitive data in its unprecedented creation of this list. FAC ¶¶ 68-70. Although having the names of the employees would have served no purpose to effectuate the Government’s purported goal of detecting weaponization, A/DAG Bove insisted on obtaining names nonetheless. Those pardoned for their January 6 convictions have called for retaliatory violence against the FBI for years, and sprang to life on social media to demand the release of the list. FAC ¶¶ 55-56. They did so while appealing to a leader who has indicated their past violence against law enforcement was acceptable, condoned, and justified, and who has pandered to their requests. FAC ¶ 42. Meanwhile, others in Government have made threats of “radical transparency” with a history of doxxing civil servants. FAC ¶ 58.

If any of the names are unlawfully publicly released, then Plaintiffs have little to no means of safeguarding their privacy and anonymity. As the saying goes, “that genie can never be put back into the bottle.”

The First Amendment also protects non-political, career-level employees from adverse employment actions and hiring decisions—such as the disclosure of employees’ identities, demotions, changes in security clearances, or termination—taken because of their political affiliation. *Rutan v. Republican Party of Ill.*, 497 U.S. 62, 75 (1990). Indeed, by virtue of their participation in the January 6 investigations and cases, the Government has branded Plaintiffs as disloyal to the current administration regardless of what their actual political views are. The survey and ongoing “review” for “additional” personnel actions have had immediate negative impacts on the assignments that Plaintiffs can currently take and has further placed Plaintiffs at a distinct

¹⁰ The Plaintiffs also allege in the First Amended Complaint a violation of 5 U.S.C. § 552a(e)(6), but are not moving on it in this Motion. That count is not the basis of this motion.

disadvantage as to their future employment. Moreover, the Plaintiffs have now improperly been grouped into a sub-category across FBI personnel as participating in “weaponization,” whereas those employees who, for whatever reason, did not receive the Survey, are not part of this “weaponized” group. *See, e.g.*, Decl. John Doe #1 (328) ¶ 16; Decl. John Doe #3 (328) ¶ 16; Decl. John Doe #4 (328) ¶ 16; Jane Doe #1 (325) Decl. ¶ 19; Jane Doe #2 (325) Decl. ¶ 20.

Moreover, Plaintiffs have a cognizable claim that the Government’s crackdown on their work in particular—combined with the Government’s statements on weaponization, a proxy for politicization—has impermissibly chilled their free speech as protected under the First Amendment. *Rutan*, 497 U.S. at 79; *see Ams. For Prosperity Found. v. Bonta*, 594 U.S. 595 (2021) (disclosure of anonymous donors’ identities to government “creates an unnecessary risk of chilling in violation of the First Amendment”). For example, as political targets of the current administration, Plaintiffs have significantly curtailed their private political speech and are hesitant to express their political views in their private lives. *See Jane Doe #3 (325) Decl. ¶¶ 25–27.*

Plaintiffs also have a legally cognizable interest in their right to privacy, *e.g.*, protecting their bodily integrity from harm, under the Due Process Clause. *Kallstrom v. City of Columbus*, 136 F.3d 1055, 1062-63 (6th Cir. 1998) (collecting cases); *see also Love v. Johnson*, 146 F. Supp. 3d 848, 853 (E.D. Mich. 2015). Plaintiffs reasonably fear the disclosure of their identities to members of the public. Their fears are substantiated by the fact members of the current Administration has shown a propensity for doxxing civil servants, FAC ¶¶ 40-41; that January 6 rioters are specifically calling for this relief and the Administration’s track record of answering their prayers is a strong one, FAC ¶¶ 48-56, that the Government’s collection focused specifically on names and not anything that might support a justification under the Weaponization EO, FAC ¶ 65, 73; and that the Government has refused to commit to nondisclosure. Indeed, even the current

consent order contemplates a scenario where the Government will release the list it has created. ECF No. 22, para. 2. Were Plaintiffs' identities to become public knowledge, they would be subject to retaliation by violent actors. *See, e.g.*, Jane Doe #1 (328) Decl. ¶ 21, Jane Doe #2 (328) Decl. 21, Jane Doe #3 (328) Decl. ¶ 23, John Doe #1 (328) Decl. ¶ 23, Jane Doe #2 (325) Decl. ¶ 2, Jane Doe #1 (325) Decl. ¶ 25, Jane Doe #3 (325) ¶ 23, Decl. FAC ¶¶ 48-55.

The harm suffered by Plaintiffs is both "actual" and "imminent." *Lujan*, 504 U.S. at 560. Indeed, the "chilling" harm created by the list has already manifested. *See, e.g.*, Decl. Jane Doe #1 (328) ¶¶ 18-19, 21, Jane Doe #2 (328) ¶¶ 18-19, 21, John Doe #1 (328) ¶¶ 21, 23, John Doe #3 (328) ¶¶ 21, 23, Jane Doe #3 (325) Decl. ¶ 25-27. As for any future harm that would be caused by the disclosure of Plaintiffs' identities to the public or even intra-agency, Plaintiffs have valid concerns that such an outcome is imminent where other sensitive information related to January 6 investigations has become public knowledge. Given the exceptional nature of this case, even the slightest possibility of the Survey's disclosure poses an unacceptable risk. The Plaintiffs have well-founded concerns that they will become targets of violent individuals involved in the January 6 riots. These individuals have demonstrated a personal vendetta against law enforcement personnel who investigated and prosecuted them. Consequently, any chance of disclosure, no matter how great or small, could have severe consequences for the Plaintiffs' safety and well-being. *See In re U.S. Office of Pers. Mgmt. Data Sec. Data Breach Litig. v. Office of Pers. Mgmt.*, 928 F.3d 42 (D.D.Cir. 2019) (finding government worker plaintiffs had standing to bring claim of future harm where past events of cyber breaches substantiated the heightened risk of future identity theft). Here, the substantial risk of future adverse employment action provides a basis for standing. *Branti v. Finkle*, 445 U.S. 507 (1980) (assistant public defenders had standing to bring a claim where they were "selected for termination" because they were Republicans); *see also Pennell v. City of San*

Jose, 485 U.S. 1 (1988) (in the context of city ordinance, landlords demonstrated “likelihood of enforcement . . . is a sufficient threat of actual injury to satisfy Art. III’s requirement” even though they had not alleged which properties or how many tenants would be impacted).

Plaintiffs easily meet the remaining requirements for establishing standing. First, there is no doubt that the Government’s actions have given rise to Plaintiffs’ alleged injuries. Second, Plaintiffs’ injuries are redressable through the declaratory and injunctive relief requested here.

B. FBIAA Has Associational Standing.

An organization may assert standing on behalf of its individual members when: (1) “its members would otherwise have standing to sue in their own right;” (2) “the interests it seeks to protect are germane to the organization’s purpose;” and (3) “neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Ctr. for Sustainable Econ. v. Jewell*, 779 F.3d 588, 596 (D.C. Cir. 2015) (quoting *Hunt v. Wash. State Apple Adver. Comm’n*, 432 U.S. 333, 343 (1977)).

The FBI has around 13,800 Special Agents; approximately 12,000 are members of FBIAA. FBIAA Decl. ¶ 10. FBIAA has 14,000 members in total, a number larger than the total number of FBI Special Agents because FBIAA members are both current and former Special Agents. *Id.* Thousands of FBIAA members investigated the violent attack on the Capitol on January 6, 2021, and were compelled to respond to the survey detailing the nature of their involvement. *Id.* ¶ 24. Other members were assigned to other criminal investigations that involved then-former-President Trump. *Id.* ¶ 35. The impacted FBIAA members, therefore, have been the targets of the Government. *Id.* ¶¶ 51-59. The disclosure of their identities and the associated hiring decisions that will follow implicate their statutory and constitutional rights as alleged in the First Amended Complaint.

The harm to FBIAA members is ongoing. Their placement on the Survey list is itself stigmatizing, particularly in view of the fact that DOJ leadership is reviewing their conduct under the baseless guise of an anti-weaponization initiative. The Government's actions have also chilled their political speech. This present and ongoing harm is both independent of and compounded by the risk they face due to the imminent public disclosure of their identities. *Id.* ¶¶ 46-59. FBIAA members thus would have standing to sue in their own right for the same reasons that the 325 and 328 Doe Plaintiffs have standing. *See* Argument I.A.

The interests that FBIAA seeks to protect are germane to its purpose. Indeed, FBIAA's mission is to advocate for the careers, economic interests, conditions of employment, and welfare of its members. FBIAA Decl. ¶ 4. It is self-evident that FBIAA members have an interest in (1) preventing the public disclosure of their participation in the January 6 investigations and the resulting security risk to their personal safety, (2) being subjected to employment decisions that are undertaken based on their perceived "partisan intent", and (3) protecting their core political speech. All of these interests are at the heart of FBIAA's mission—advocating for its members' job, digital, and personal security—which requires FBIAA to represent its members who suffer precisely the types of harm challenged here. *Id.* ¶¶ 5-7, 12-14. DOJ leadership's public statements and conduct targeting FBI employees who worked on the January 6 investigations have impaired FBIAA members' ability to perform their jobs and subjected them to a work environment in which they are suspect. Helping these individuals navigate their conditions of employment and promoting their welfare thus falls squarely within FBIAA's mission. *See id.*

The relief sought here—declaratory and injunctive as to all FBIAA members who participated in the January 6 investigations and any criminal investigations involving President Trump—does not make the individual participation of each injured FBIAA member

“indispensable to the proper resolution of the case” and therefore, the association is “an appropriate representative of its members, entitled to involve the court’s jurisdiction.” *Hunt v. Washington State Apple Advert. Comm’n*, 432 U.S. 333, 342 (1977).

C. FBIAA Has Organizational Standing.

Organizations may have standing “to sue on their own behalf for injuries they have sustained.” *Havens Realty Corp. v. Coleman*, 455 U. S. 363, 379, n.19 (1982). This Circuit employs a two-part approach, (1) “whether the agency’s action or omission . . . injured the [organization’s] interest and (2) whether the organization used its resources to counteract the harm.” *Food Water Watch, Inc. v. Vilsack*, 808 F.3d 905, 919 (D.C. Cir. 2015). Furthermore, recent Supreme Court precedent instructs that an organizational plaintiff must show “far more than simply a setback to the organization’s abstract social interests,” *id.*, and a setback in the organization’s financial and business interests. *FDA v. All. for Hippocratic Medicine*, 602 U.S. 367, 395–96 (2024).

An injury to interest requires a defendant’s conduct have “perceptibly impaired the organization’s ability to provide services,” *id.* (quoting *Turlock Irrigation Dist. v. FERC*, 786 F.3d 18, 24 (D.C. Cir. 2015), such as “daily operations” and the ability to provide regular services.” *Id.* (quoting *PETA v. Dep’t of Agriculture*, 797 F.3d 1087, 1094 (D.C. Cir. 2015)). Injuries to interest do not include injuries to *mission*. *See id.* These expenditures do not typically include costs arising from “litigation, investigation . . . or advocacy,” *id.* or “resources to educate its members” about the challenged action. *Id.* (quoting *Nat’l Taxpayers Union, Inc.*, 68 F.3d 1428, 1434 (D.C. Cir. 1995)). However, further expenditure on advocacy and education may be considered injuries to interest if they subject “the organization to operational costs beyond those normally expended” for this work. *Food Water Watch*, 808 F.3d at 919 (quoting *Nat’l Taxpayers Union*, 68 F.3d at 1434).

The focus is not “voluntariness,” but whether the expenditures were “in response to” the challenged action, not “in anticipation of litigation.” *Id.*

Here, the FBIAA’s core mission is internal and external advocacy for its members in the interest of their professional, personal, and digital security. The Government’s actions squarely injured the FBIAA in two distinct ways. First, the Government has impaired the mission of the FBIAA by straining FBIAA’s resources to provide its continuing services. FBIAA Dec. ¶¶ 50-52. This Circuit has found standing where agency action has hindered an organization’s ability to “accomplish[] its mission” through its typical means. *PETA v. U.S. Dep’t of Agric.*, 797 F.3d 1087, 1094 (D.C. Cir. 2015). In other words, the requisite burden did not relate to responding to the agency action, but to the organization’s continuing to undertake its prior pursuits. Here, FBIAA has experienced an overwhelming number of requests for assistance in the wake of the Terminations Memo and the Survey collection. *Id.* ¶ 50. But providing that assistance has come at the expense of FBIAA’s other activities. For example, FBIAA has had to restructure its administrative inquiry system. *Id.* ¶¶ 11-12, 41-42. The volume and nature of these requests for assistance have forced the FBIAA to restructure its daily operations, re-train staff, retain counsel, and defer and/or abandon other initiatives that are vital to FBIAA’s mission. *Id.* ¶ 52. Therefore, as in *Havens* where the defendant gave the employees of plaintiff false information about apartment availability which in turn “perceptibly impaired” the plaintiff’s ability to provide counseling and referral services for their constituents, the FBIAA has had to change its internal structure to accommodate the influx of calls from impacted members. *Id.* And this has interfered with its “core” structure and activities.

Second, FBIAA has established that the Government’s actions chill its protected speech. As for lobbying in particular, the Court has recognized that lobbying itself is speech which may

be regulated but may not be banned altogether. *United States v. Harriss*, 347 U.S. 612, 625 (1954) (noting Congress “has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose”); *F.T.C. v. Superior Court Trial Lawyers Ass’n*, 493 U.S. 411, 426 (1990). FBIAA engages in external advocacy, including lobbying, within the parameters of its non-profit status and that lobbying advances the needs of its members. FBIAA Decl. ¶¶ 38-42 The Government’s actions have imposed on the FBIAA a constitutionally abhorrent choice: (1) risk being perceived as a “weaponized” instrument of its members by continuing to engage in zealous bi-partisan external advocacy, or (2) curtail its external advocacy to avoid being held in political disfavor by the Administration. *Id.* ¶¶ 43-45. The FBIAA has standing to challenge this unconstitutional state of affairs.

II. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS.

“A plaintiff seeking a preliminary injunction must establish (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in the plaintiff’s favor, and (4) that an injunction is in the public interest.” *Sherley v. Sebelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

While there exists an “open question” in this Circuit, which employs the “sliding scale” approach, as to the weight to be accorded to each of these factors, a failure to show a substantial likelihood of success on the merits has been deemed sufficient to defeat a motion for a preliminary injunction. *Ark. Dairy Coop. Ass’n, Inc. v. U.S. Dep’t of Agric.*, 573 F.3d 815, 832 (D.C. Cir. 2009); *Apotex, Inc. v. FDA*, 449 F.3d 1249, 1253–54 (D.C. Cir. 2006); *see also League of Women Voters v. Newby*, 838 F.3d 1, 6-8 (D.C. Cir. 2016). Courts in this Circuit have also held that demonstrating irreparable harm is equally important and may provide grounds to refuse issuing an

injunction “even if the other three factors entering the calculus merit such relief.” *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006).

Plaintiffs satisfy all four factors required for seeking a preliminary injunction.

A. Plaintiffs Are Likely to Succeed on the Merits of Their Privacy Act Claim Under Section 552a(b) and Their Administrative Procedure Claim Under 5 U.S.C. § 706.

At its core, the Plaintiffs’ Privacy Act claim in Count II (in conjunction with their Administrative Procedure Act claim in Count III) seeks to enjoin the Government from disseminating outside of DOJ the information contained in the Survey without written consent from the individual FBI personnel. The scope of this claim is not limited to ensuring the Survey remain confidential only from the public and/or non-governmental third parties. Rather, Plaintiffs’ request for relief is that the Survey itself stay within DOJ as the agency conducts the internal review of personnel, and that the prohibition on dissemination extend to the White House (including the Executive Office of the President) writ large

The Privacy Act “safeguards the public from unwarranted collection, maintenance, use and dissemination of personal information contained in agency records.” *Henke v. Dep’t of Com.*, 83 F.3d 1453, 1456 (D.C. Cir. 1996). The statute “supports ‘the principle that an individual should to the greatest extent possible be in control of information about him which is given to the government.’” *Waters v. Thornburgh*, 888 F.2d 870, 875 (D.C. Cir. 1989).

Section 552a(b) specifically prohibits an agency from “disclos[sing] any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.” 5 U.S.C. § 552a(b); see *Ames v. Dep’t of Homeland Sec.*, 861 F.3d 238, 240 (D.C. Cir. 2017). The legislative history of the Privacy Act makes expressly clear the

importance Congress attributed to the limitation on the disclosure of records outside of the agency in which it is stored. *See Pilon v. Dep't of Justice*, 73 F.3d 1111, 1121 (D.C. Cir. 1996) (quoting legislative history from both House Report and Senate Report focusing upon consent requirement and its importance); *see also id.* at 1122 (“This section is designed to prevent the office gossip, interoffice and interbureau leaks of information about persons of interest in the agency or community, or such actions as the publicizing of information of a *sensational and salacious nature or of that detrimental to character or reputation.*”) (emphasis added), *quoting* S. REP. NO. 93-1183, *Protecting Individual Privacy in Federal Gathering, Use and Disclosure of Information*, 93d Cong., 2d Sess. 51-52 (Sept. 26, 1974). Because the Privacy Act does not specifically authorize injunctive relief for violations of 5 U.S.C. § 552a(b), the courts have concluded that relief can only be secured in coordination with another statute, such as the APA. *See Doe v. Stephens*, 851 F.2d 1457, 1466 (D.C. Cir. 1988); *see also American Fed'n of Teachers, et al. v. Scott Bessent, et al.*, Civil Action No. 25-0430 (DLB) (D. Md.), Dkt. 38 at *18 (Memorandum Opinion and Temporary Restraining Order) (issued February 24, 2025) (making clear Privacy Act injunctive relief for unauthorized disclosure is appropriate through the APA) (citing *Doe v. Chao*, 435 F.3d 492, 504 (4th Cir. 2006)).

The sole relevant exception to this statutory restriction in the Privacy Act is a circumstance in which the disclosure qualifies as a “routine use.” *Ames*, 861 F.3d at 240; 5 U.S.C. §552a(b)(3). To constitute a “routine use” disclosure that is exempt from the Privacy Act’s dissemination prohibition, the agency’s disclosure of a record must be both “(i) ‘for a purpose which is compatible with the purpose for which it was collected’ and (ii) within the scope of a routine use notice published by the agency.” *See Ashbourne v. Hansberry*, No. 17-752 (LLA), 2024 WL 3443324, *6 (D.D.C. July 17, 2024) (*quoting* 5 U.S.C. § 552a(a)(7), § 552(e)(4)(D)); *Townsend v.*

United States, 236 F. Supp. 3d 280, 318 (D.D.C. 2017); *Doe v. Stephens*, 851 F.2d 1457, 1466 (D.C. Cir. 1988) (“It is by now well-established that agencies covered by the Privacy Act may not utilize the ‘routine use’ exception to circumvent the mandates of the Privacy Act.”).

The Executive Order requests information from DOJ, specifically that DOJ “identify any instances where a department’s or agency’s conduct appears to have been contrary to the purposes and policies of this order” and “prepare a report to be submitted to the President” with “recommendations for appropriate remedial actions.” Ex. 2. Separately, the Executive Order outlines that the “purpose and policies” at issue are to “identify and take appropriate action to correct past misconduct by the Federal Government related to the weaponization of law enforcement and the weaponization of the Intelligence Community.” *Id.* Given this clear verbiage, and the language in the Terminations and Restoring Integrity Memos (Exhs. 3 and 5, respectively) the Survey data, in its raw form, if disseminated outside of DOJ (even to the White House) could *not* be for any purpose compatible with the purpose for which it was originally collected.

That is because the information contained in the Survey exceeds the parameters of the Executive Order. The information contained in the Survey, provided in response to the twelve questions delineated in the Questionnaire, does not identify any determinations or findings of misconduct by agency personnel. It does not memorialize any determinations or findings related to the “weaponization of law enforcement” by agency personnel, but, rather, broadly contains a compilation of names, position titles, and descriptions of the work performed by the individual personnel with respect to investigations and prosecutions into January 6.

The Government may take the position that it can lawfully disseminate the information to the White House as a part of its written report with recommendations for remedial action against individual personnel deemed to have engaged in misconduct. That information, however, is not

contained anywhere within the four corners of the Survey, and that question is not presently before this Court. A review has yet to be conducted, no findings have been made, and no instances of misconduct have been delineated in a written report. Without any long-term assurance from DOJ that will keep the Survey confidential, including away from the White House, Plaintiffs fear that they may be publicly doxxed, shamed and threatened.

To permit the Government to avoid any commitment to keeping the Survey within DOJ (including sharing it with the White House) runs in direct conflict to the Privacy Act's clear statutory prohibition, as set forth in Section 552(a)(b). The plain language of the statutory provision does not contain an exception or "carve out" for the White House. *See Pilon*, 73 F.3d at 1119 ("We start with 'the fundamental canon that statutory interpretation begins with the language of the statute itself.'"), *quoting Penn. Dep't of Public Welfare v. Davenport*, 495 U.S. 552, 557-58 (1990). If Congress had intended to include an exception along those lines, it certainly was capable of crafting one, as evidenced by the thirteen different exceptions to the provision that it did include in the Privacy Act. *See* 5 U.S.C. § 552a(b)(1)-(13). Congress did not, and this Court should construe the language as such.

The need to adhere to the clear language of the statutory prohibition is more pronounced given that the Privacy Act is not applicable to the White House itself, including the Executive Office of the President or the Office of the Vice President. *See Wilson v. Libby*, 498 F. Supp. 2d 74, 89 (D.D.C. 2007) (collecting cases noting that courts have concluded Offices of President and Vice President do not qualify as "agency" for purposes of Privacy Act). If this Court were to read an unwritten exception into the restriction of Section 552a(b) allowing an agency to disseminate to the White House information that it would not otherwise be permitted to disseminate to any other part of the U.S. Government, it would constitute a perverse circumvention of the very

purpose of the Privacy Act’s protections. In such a circumstance, DOJ would have the unfettered discretion to disseminate the Survey to the White House, and the Plaintiffs would lack any legal recourse under the Privacy Act (or the APA) to prevent the White House—and particularly the President from making that information public for all to see.

Accordingly, Plaintiffs will likely succeed in establishing that the public disclosure of the information at issue is a clear violation of the Privacy Act and can be enjoined pursuant to the Privacy Act or the APA.

B. Plaintiffs Are Likely to Succeed on the Merits of Their First Amendment Claim Based on Perceived Political Affiliation.

In Count V, Plaintiffs allege that the Government’s actions against them stem from a misguided perception about their political beliefs, expression, or affiliation—particularly their loyalty to the current administration. The new Administration, from the very beginning, has acted on the false premise that involvement in the January 6 investigations and cases indicated disloyalty to its leadership. *See* Part A of Factual Background. The Government’s unsupported claims about the FBI being “weaponized” and their exclusive focus on FBI personnel involved in the January 6 cases, rather than all personnel, further betrays the Government’s false premise that these individuals are disloyal. This targeted approach by the Government reveals a bias against anyone who participated in the January 6 cases, erroneously linking that participation to political allegiance. *Wieman v. Updegraff*, 344 U.S. 183, 184–86 (1952) (invalidating as unconstitutional state law requiring state-level public employees to take “loyalty oaths” disavowing membership in “communist front or subversive organization” as a condition of continued employment with the government).

The Supreme Court has made clear that, with one exception, the Government is prohibited under the First Amendment from making employment decisions based on an employee’s actual or

perceived political allegiance. *Elrod v. Burns*, 427 U.S. 347, 373 (1976). The exception applies to employees who hold positions with significant policymaking responsibilities. *Heffernan v. City of Paterson*, 578 U.S. 266, 273 (2016). In *Branti*, the Court found that the First Amendment prohibits the Government from attempting to discharge employees based on the employees' political views, when political affiliation itself was not a job requirement. *Branti v. Finkel*, 445 U.S. at 507, 519–20 (1980) (generally observing “[i]f First Amendment protects a public employee from discharge based on what has said, it must also protect him from discharge based on what he believes”). The Court extended *Branti*'s holding in *Rutan*, ruling that employment decisions—such as promotions, transfers, and recalls—based on an employees' political belief and association violates the First Amendment unless the Government has a “vital interest” in its decision making. *Rutan*, 497 U.S. at 68, 78. And in *Heffernan*, the Court held that a hiring decision (in that case, a demotion of an employee) based on a mistaken assumption of the employee's political beliefs supported a First Amendment claim. 578 U.S. at 273.

The *Rutan* Court observed that “even an act of retaliation as trivial as failing to hold a birthday party...when intended to punish her for exercising her free speech rights,” was an adverse employment decision and supported a claim under the First Amendment. In fact, this Circuit applied the principles set forth in *Rutan* and found that requiring an employee to work an additional twenty-seven hours to be considered for promotion was an adverse action for First Amendment purposes. *Tao v. Freeh*, 27 F.3d 635, 639 (D.C. Cir. 1994); see also *Manhattan Beach Police Officers Ass'n, Inc. v. City of Manhattan Beach*, 881 F.2d 816, 819 (9th Cir. 1989) (if police officers could establish they were denied promotion because government “acted in order to quell public criticism and not because of plaintiffs' actual qualifications for the job, or the nature of the assignment itself,” then they could clearly establish violation of First Amendment rights).

The Constitution’s robust First Amendment protections, as reflected in these precedents, extend to Plaintiffs here. Individual Does and the members of FBIAA are career FBI personnel who are not in the types political or policymaking positions that may call for political loyalty to the prevailing party. *See, e.g.*, Jane Doe #1 (328) Decl. ¶ 3, Jane Doe #2 (328) Decl. ¶ 3, Jane Doe #3 (328) Decl. ¶ 3, Jane Doe #1 (325) Decl., ¶ 2; Jane Doe #2 (325) Decl. ¶ 2, Jane Doe #3 (325) Decl. ¶ 2. They were assigned to the January 6 cases, and they faithfully discharged their duties in accordance with the law. *See, e.g.*, Jane Doe #3 Decl. ¶¶ 4, 6-7, John Doe #4 (328) Decl., ¶¶ 4, 6-7, Jane Doe #3 (325) Decl. ¶ 5-8, Jane Doe #1 (325) Decl., ¶¶ 20-21; Jane Doe #2 (325) Decl. ¶ 22-23. Yet, the Government has taken the position that these individuals harbored “partisan intent,” and therefore subjected only them to internal review. By collecting Plaintiffs’ names and the details of their work related to January 6 for review, the Government has taken an adverse employment action based on political affiliation. Indeed, the Government has betrayed its true intentions—to target Plaintiffs as political enemies of the administration because they investigated and prosecuted the supporters of President Trump. These actions—undertaken *because* of Plaintiffs’ perceived political loyalty to the current administration (of which there is ample evidence)—are sufficient to trigger First Amendment protections.

Apart from Plaintiffs’ involvement in the January 6 investigations, the Government has provided no other governmental interest, let alone a “vital interest,” for targeting Plaintiffs alone. There is no evidence indicating that Plaintiffs, themselves, engaged in any misconduct or that their performance has been unsatisfactory that would justify compiling their names into a “database” for further “review” by leadership. *See generally* Decls. For these reasons, Plaintiffs have demonstrated a likelihood of success on the merits of their First Amendment retaliation claim based on perceived political affiliation.

C. Plaintiffs Are Likely to Succeed on the Merits of Their First Amendment Claim Regarding the Chilling of Their Free Speech.

In Count VIII, Plaintiffs allege that the Government’s branding of them as disloyal to the new administration because of their work on the January 6 cases has had the effect of chilling the private political speech of the Individual Plaintiffs and the members of FBIAA and of FBIAA as an organization.

Under the Supreme Court’s precedents, when the Government, without sufficient justification, “pressure[s] employees to discontinue the free exercise of their First Amendment rights, those governmental actions are impermissible and must be halted.” *Rutan*, 497 U.S. at 79. After being placed under “review” as one of the agents who worked on the January 6 cases, Jane Doe 3 has started avoiding political conversations in her private life because she fears she may be targeted if she asserts any “political views with friends or family.” *See Jane Doe #3 (325) Decl.* ¶ 25. She has continued to censor her political speech in private emails and text messages, and she has taken extraordinary steps to ask her county election supervisor whether her voter registration information can be made private. *Id.* ¶¶ 25–27. The same is true for FBIAA’s members who have curtailed their private political speech for fear that their political views, if contrary to the current administration’s, will be discovered. *FBIAA Decl.* ¶¶ 46-49.

Thus the Government’s actions targeting Individual Plaintiffs and the members of FBIAA have had the effect of chilling their private political speech or otherwise protected speech. There is no question that speech of this kind is entitled to the highest constitutional protection. “Interactive communication concerning political change” is “core political speech.” *Meyer v. Grant*, 486 U.S. 414, 421 (1988). When governmental action has the effect of curtailing that speech, resulting in the “limit[ing] the number of voices” and “reduc[ing] the total quantum of speech,” *id.* at 423, the Supreme Court has made clear that First Amendment “protection is at its

zenith,” *id.* at 425. The Government’s actions—namely, collecting Plaintiffs’ information for a database, subjecting them to a survey questionnaire, and requiring them to undergo internal “review” solely because they worked on January 6—have quelled Plaintiffs’ private speech and have had a broader ripple effect beyond the parties in this case.

First Amendment protections also apply when governmental action “may have the effect of curtailing the freedom to associate.” *Ams. for Prosperity Found.*, 594 U.S. at 616. In *AFPF*, the Court struck down a state law—requiring the anonymous donors’ of an organization to reveal their identities in public tax disclosures—on First Amendment grounds. *Id.* The Court concluded that such disclosure “may have a deterrent effect” on the organization’s donors’ freedom to associate. *Id.* Under the Court’s precedents, the freedom of association may be violated in a number of instances, including “where individuals are punished for their political affiliation.” *Id.* at 606 (quoting *Elrod v. Burns*, 427 U.S. 347, 355 (1976) (plurality opinion)). Plaintiffs have demonstrated that not only are they the political targets of the Government, but that the Government’s actions, including its failure to commit to maintaining the confidentiality of the List, the results of the survey, and the outcomes of any investigation, have had a deterrent effect on their right to associate. *See Jane Doe #3* (325) Decl. ¶¶ 25–27; *FBIAA Decl.* ¶ 49.

Moreover, *FBIAA* as an organization has become keenly aware that any impression that they are cooperating with the political adversaries of this Administration—even in instances where such cooperation has nothing to do with the instance case, such as the organization’s typical lobbying activities—risks that the perceived affiliation will contribute to the Defendants’ misguided conclusion that its members are “weaponized.” *FBIAA Decl.* ¶¶ 43-45.

Furthermore, the Government’s statements and actions have chilled *FBIAA*’s core political speech. In *Citizens United v. Federal Election Commission*, the Court held that corporations,

including nonprofits, had free speech rights under the First Amendment and particularly that political spending was a form of protected speech. 558 U.S. 310, 364 (2010). The Court observed, that “the First Amendment underwrites the freedom to experiment and to create in the realm of thought and speech,” *id.* at 372, and expressly concluded that the First Amendment does not permit Congress to make “categorical distinctions” based on the identity of the speaker and the content of the political speech, *id.* at 364. As for lobbying in particular, the Court has recognized that lobbying itself is speech which may be regulated but may not be banned altogether. *Harriss*, 347 U.S. at 625 (noting Congress “has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose”). The Court’s precedents would cover Governmental action that has the effect of chilling the lobbying speech and other political speech of an organization like the FBIAA.

Moreover, FBIAA as an organization has become keenly aware that any impression that they are cooperating with the political adversaries of this Administration—even in instances where such cooperation has nothing to do with the instance case, such as the organization’s typical lobbying activities—risks that the perceived affiliation will contribute to the Defendants’ misguided conclusion that its members are “weaponized.” FBIAA Decl. ¶¶ 43-45. FBIAA engages in external advocacy and lobbying within the parameters of its non-profit status and that the lobbying is directly responsive to advocating for the needs of its members. *Id.* ¶¶ 38-42. The Government’s partisan targeting of FBI agents for their work on the January 6 incident has led FBIAA to cull its lobbying and political speech, for risk of being used as an indicator of “partisan intent’ of its members.” FBIAA Decl. ¶ 45.

In each of these cases, the Court has applied the exacting scrutiny standard, requiring the Government to show that its “significant encroachment[s],” *Buckley v. Valeo*, 424 U.S. 1, 49

(1976), serves a legitimate governmental purpose. In other words, the Government must clear the high bar of demonstrating that there is a “substantial relation” between its intrusion and a “sufficiently important” governmental interest. The Government cannot meet this test. The Government has impermissibly burdened Plaintiffs’ First Amendment right to speech and association, failing to demonstrate that there is a substantial relation between its actions and a governmental interest that would support its unwarranted intrusion.

D. Plaintiffs Are Likely to Succeed on the Merits of Their Privacy Claim Under the Due Process Clause of the Fifth Amendment.

Count VI alleges that the Government’s actions—failing to maintain in the long-term the confidentiality of Plaintiffs’ identities and the outcomes of any investigations—violate Plaintiffs’ right to privacy, particularly of their bodily integrity, under the Due Process Clause. *Whalen v. Roe*, 429 U.S. 589, 599–600 (1977) (noting constitutional right to privacy protects a person’s interest in avoiding the disclosure of personal information which would be harmful if disclosed); *Nixon v. Admin. of Gen. Servs.*, 433 U.S. 425, 457 (1977) (“One element of privacy has been characterized as ‘the individual interest in avoiding disclosure of personal matters’”) (*quoting Whalen*, 429 U.S. at 599).

The Sixth Circuit considered a similar situation in *Kallstrom v. City of Columbus*, 136 F.3d 1055 (6th Cir. 1998), where undercover officers sought injunctive relief to prevent disclosure of their personnel files to the public for fear that a violent gang they were investigating would use the information to “seek revenge.” *Id.* at 1063. In *Kallstrom*, the relevant issue the court confronted was whether disclosure of the identities of the police officers to the “defense counsel” of the violent gang violated the officers’ Due Process rights to bodily integrity. *Id.* at 1063. Applying a balancing test weighing the imminent harm to the police officers against the benefits of public disclosure, even though it was made to defense counsel and to the public generally, the court reasoned that

the officers' right to their privacy far outweighed any limited public interest in disclosure. *Id.* at 1070. Because the harmful disclosure had already occurred, the court did not issue injunctive relief but remanded to the district court for consideration of damages. *Id.* at 1068–69. *Cf. John Doe No. 1 v. Reed*, 561 U.S. 186, 200 (2010).

Given the circumstances, any chance of the Survey data becoming public, no matter how great or small, poses a grave danger. The sensitive nature of the List demands absolute confidentiality and clear assurance from the Government that they will not disseminate the List outside of DOJ, not even to the White House. Plaintiffs' fears about disclosure are not unfounded considering the propensity of members of this Administration to publicly doxx civil servants on the social media platforms controlled by the President and Mr. Musk. Furthermore, the outstanding demands of the pardoned rioters for the names of FBI personnel, this Administration's track record of acquiescing to the rioters' claimed causes, its apparent refusal to acknowledge that the rioters are violent as demonstrated by the blanket pardons, its clumsy handling of classified data, and its insistence on reserving the right to disclose the risk notwithstanding that it would be in violation of federal criminal law, are not particularly reassuring. *See generally* FAC. As in *Kallstrom*, where the court found that the disclosure of the officers' identities to defense counsel endangered the officers' privacy, here, any disclosure even to another agency or to the White House has the potential to endanger Plaintiffs' privacy. *Id.* at 1064–65.

The consequences to Plaintiffs, if the information is made public, would be detrimental. Their fears—anxiety and concern about their personal safety and the safety of their families—are reflected in detail in their declarations. *See, e.g.,* Jane Doe #1 (328) Decl. ¶ 21, Jane Doe #2 (328) Decl. 21, Jane Doe #3 (328) Decl. ¶ 23, John Doe #1 (328) Decl. ¶ 23; FAC ¶¶ 48-55. It was therefore unsurprising that at the February 6 TRO hearing, the Government did not dispute that

Plaintiffs would suffer harm from the disclosure of their identities. *See* Feb. 6, 2025 Hearing Tr. at 41-42. And although the Government agreed “not disseminate the list at issue in these consolidated cases . . . to the public, directly or indirectly, before the Court rules on Plaintiffs’ motions for a preliminary injunction,” its failure to make any permanent commitment casts doubt on its future plans.

Plaintiffs have established a likelihood of success on the merits of their Privacy Act claim, and this Court should not wait until FBI personnel have been seriously harmed before granting the relief requested by Plaintiffs.

III. PLAINTIFFS WILL SUFFER IRREPARABLE HARM ABSENT PRELIMINARY INJUNCTIVE RELIEF.

Plaintiffs’ irreparable injury is “both certain and great” and “actual and not theoretical,” and the injury is “beyond remediation.” *Chaplaincy of Full Gospel Churches*, 454 F.3d at 297. Absent preliminary injunctive relief, Plaintiffs will suffer severe and irreparable harm because of the Government’s unlawful actions.

First, any risk that the List may be shared outside DOJ with other agencies or to the public would be detrimental to the safety of the Plaintiffs and FBIAA’s members. Second, the Government’s actions have resulted in irreparable harm to Plaintiffs because its investigation into those FBI personnel who worked on the January 6 cases has had the effect of falsely branding Plaintiffs disloyal, partisan actors. Third, the Government’s selection of these individuals for investigation has chilled the core political speech of Individual Does and the members of FBIAA, and of FBIAA as an organization.

For these reasons, Plaintiffs have established that they will suffer irreparable harm unless this Court issues a preliminary injunction.

IV. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST FAVOR GRANTING PLAINTIFFS' INJUNCTIVE RELIEF.

When preliminary injunctive relief is sought against the government, the balance of the equities and the public interest “merge.” *See Nken v. Holder*, 556 U.S. 418, 435 (2009). The balance of harms and the public interest weigh strongly in favor of granting a preliminary injunction. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008) (explaining court “must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief”).

In contrast to the irreparable injury facing Plaintiffs, Defendants have presented no evidence of harm resulting from an injunction, or of any “adverse impact on the public interest” resulting from the injunction. *Winter*, 555 U.S. at 24. The Government’s targeting of FBI agents undermines the morale, integrity, and work of law enforcement. *See Open Cmty. All. v. Carson*, 286 F. Supp. 3d 148, 179 (D.D.C. 2017) (“There is generally no public interest in the perpetuation of unlawful agency action.”). *See also* Decl. Lewis Schiliro; Decl. Frank Figliuzzi. The public interest thus favors granting Plaintiffs’ requested relief.

CONCLUSION

For the foregoing reasons, Plaintiffs request that the Court grant their Motion for Preliminary Injunctive Relief.

Dated: February 24, 2025

Respectfully submitted,

LAW OFFICE OF MARK S. ZAID, P.C.

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOHN AND JANE DOES 1-9, et al.,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,

Defendant.

Civil Action No. 25-0325 (JMC)

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION, et al.,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE, et al.,

Defendants.

Civil Action No. 25-0328 (JMC)

[PROPOSED] ORDER

Upon consideration of Plaintiffs' Motion for Preliminary Injunction, and the entire record herein, it is this _____ day of _____ 2025, hereby,

ORDERED that the Motion is **GRANTED**; it is further

ORDERED that the United States Department of Justice and the United States of America are **ENJOINED** from publicly disclosing the Plaintiffs' identities, along with the identities of those similarly situated, either directly or indirectly, to any third parties.

ORDERED that the United States Department of Justice and the United States of America are **ENJOINED** from taking any additional action which would infringe on Plaintiffs' Constitutional rights, as the Court determines.

Hon. Jia M. Cobb
United States District Judge

EXHIBIT 1

Presidential Documents

Proclamation 10887 of January 20, 2025

Granting Pardons and Commutation of Sentences for Certain Offenses Relating to the Events at or Near the United States Capitol on January 6, 2021

By the President of the United States of America

A Proclamation

This proclamation ends a grave national injustice that has been perpetrated upon the American people over the last four years and begins a process of national reconciliation.

Acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I do hereby:

(a) commute the sentences of the following individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021, to time served as of January 20, 2025:

- Stewart Rhodes
- Kelly Meggs
- Kenneth Harrelson
- Thomas Caldwell
- Jessica Watkins
- Roberto Minuta
- Edward Vallejo
- David Moerschel
- Joseph Hackett
- Ethan Nordean
- Joseph Biggs
- Zachary Rehl
- Dominic Pezzola
- Jeremy Bertino

(b) grant a full, complete and unconditional pardon to all other individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021;

The Attorney General shall administer and effectuate the immediate issuance of certificates of pardon to all individuals described in section (b) above, and shall ensure that all individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021, who are currently held in prison are released immediately. The Bureau of Prisons shall immediately implement all instructions from the Department of Justice regarding this directive.

I further direct the Attorney General to pursue dismissal with prejudice to the government of all pending indictments against individuals for their conduct related to the events at or near the United States Capitol on January 6, 2021. The Bureau of Prisons shall immediately implement all instructions from the Department of Justice regarding this directive.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January, in the year of our Lord two thousand twenty-five, and of the Independence of the United States of America the two hundred and forty-ninth.

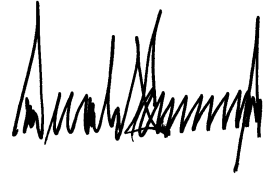
A handwritten signature in black ink, appearing to be a stylized name, possibly "Donald Trump", written in a cursive script.

EXHIBIT 2

Presidential Documents

Executive Order 14147 of January 20, 2025

Ending the Weaponization of the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Purpose. The American people have witnessed the previous administration engage in a systematic campaign against its perceived political opponents, weaponizing the legal force of numerous Federal law enforcement agencies and the Intelligence Community against those perceived political opponents in the form of investigations, prosecutions, civil enforcement actions, and other related actions. These actions appear oriented more toward inflicting political pain than toward pursuing actual justice or legitimate governmental objectives. Many of these activities appear to be inconsistent with the Constitution and/or the laws of the United States, including those activities directed at parents protesting at school board meetings, Americans who spoke out against the previous administration's actions, and other Americans who were simply exercising constitutionally protected rights.

The prior administration and allies throughout the country engaged in an unprecedented, third-world weaponization of prosecutorial power to upend the democratic process. It targeted individuals who voiced opposition to the prior administration's policies with numerous Federal investigations and politically motivated funding revocations, which cost Americans access to needed services. The Department of Justice even jailed an individual for posting a political meme. And while the Department of Justice has ruthlessly prosecuted more than 1,500 individuals associated with January 6, and simultaneously dropped nearly all cases against BLM rioters.

Therefore, this order sets forth a process to ensure accountability for the previous administration's weaponization of the Federal Government against the American people.

Sec. 2. Policy. It is the policy of the United States to identify and take appropriate action to correct past misconduct by the Federal Government related to the weaponization of law enforcement and the weaponization of the Intelligence Community.

Sec. 3. Ending the Weaponization of the Federal Government. (a) The Attorney General, in consultation with the heads of all departments and agencies of the United States, shall take appropriate action to review the activities of all departments and agencies exercising civil or criminal enforcement authority of the United States, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, and the Federal Trade Commission, over the last 4 years and identify any instances where a department's or agency's conduct appears to have been contrary to the purposes and policies of this order, and prepare a report to be submitted to the President, through the Deputy Chief of Staff for Policy and the Counsel to the President, with recommendations for appropriate remedial actions to be taken to fulfill the purposes and policies of this order.

(b) The Director of National Intelligence, in consultation with the heads of the appropriate departments and agencies within the Intelligence Community, shall take all appropriate action to review the activities of the Intelligence Community over the last 4 years and identify any instances where the Intelligence Community's conduct appears to have been contrary to the purposes and policies of this order, and prepare a report to be submitted

to the President, through the Deputy Chief of Staff for Policy and the National Security Advisor, with recommendations for appropriate remedial actions to be taken to fulfill the purposes and policies of this order. The term “Intelligence Community” has the meaning given the term in section 3003 of title 50, United States Code.

(c) In furtherance of these policies, departments and agencies are directed to comply with applicable document-retention policies and legal obligations. Instances of noncompliance with document-retention policies or legal obligations will be referred to the Attorney General.

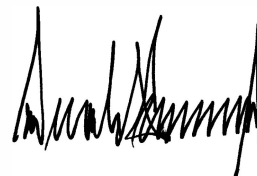
Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be a stylized name, located in the lower right quadrant of the page.

THE WHITE HOUSE,
January 20, 2025.

EXHIBIT 3



Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

January 31, 2025

MEMORANDUM FOR ACTING DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

FROM: THE ACTING DEPUTY ATTORNEY GENERAL *EBB 1/31/25*

SUBJECT: Terminations

This memorandum sets forth a series of directives, authorized by the Acting Attorney General, regarding personnel matters to be addressed at the Federal Bureau of Investigation.

Pursuant to the Constitution and laws of the United States, you are directed to take all steps necessary to effectuate the termination of the seven FBI employees identified below, effective 5:30 p.m. on February 3, 2025, to the extent those employees have not retired beforehand. As President Trump declared on his first day back in Office, “[t]he American people have witnessed the previous administration engage in a systematic campaign against its perceived political opponents, weaponizing the legal force of numerous Federal law enforcement agencies and the Intelligence Community against those perceived political opponents in the form of investigations, prosecutions, civil enforcement actions, and other related actions.” This includes the FBI. For example, the FBI—including the Bureau’s prior leadership—actively participated in what President Trump appropriately described as “a grave national injustice that has been perpetrated upon the American people over the last four years” with respect to events that occurred at or near the United States Capitol on January 6, 2021. The weaponization of the FBI’s security clearance process is similarly troubling. So too are issues relating to the FBI’s reticence to address instructions and requests from, among other places, the Justice Department.

These problems are symptomatic of deficiencies in previous leadership that must now be addressed. I do not believe that the current leadership of the Justice Department can trust these FBI employees to assist in implementing the President’s agenda faithfully. Furthermore, I deem these terminations necessary, pursuant to President Trump’s January 20, 2025 Executive Order entitled, “Ending The Weaponization Of The Federal Government,” in order to continue the process of restoring a culture of integrity, credibility, accountability, and responsiveness to the leadership and directives of President Trump and the Justice Department.

Memorandum from the Acting Deputy Attorney General
Subject: Terminations

Page 2

Employees To Be Terminated Pursuant To The Foregoing:

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-
-
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For the same reasons, you are directed to take all steps necessary to effectuate the termination of [REDACTED] effective 5:30 p.m. on February 10, 2025, to the extent [REDACTED] [REDACTED] has not retired beforehand.

You are also directed to identify to the Office of the Deputy Attorney General, by noon on February 4, 2025, all current and former FBI personnel assigned at any time to investigations and/or prosecutions relating to (1) events that occurred at or near the United States Capitol on January 6, 2021; and (2) *United States v. Haniyeh, et al.*, 24 Mag. 438 (S.D.N.Y.). These lists should include relevant supervisory personnel in FBI regional offices and field divisions, as well as at FBI headquarters. For each employee included in the list, provide the current title, office to which the person is assigned, role in the investigation or prosecution, and date of last activity relating to the investigation or prosecution. Upon timely receipt of the requested information, the Office of the Deputy Attorney General will commence a review process to determine whether any additional personnel actions are necessary.

EXHIBIT 4

From: FBI_COMMUNICATIONS <FBI_COMMUNICATIONS@FBI.GOV>
Sent: Wednesday, February 5, 2025 11:47:20 AM
To: FBI-ALL <FBI-ALL@IC.FBI.GOV>
Subject: Message from the Acting Deputy Attorney General

Banner image with FBI seal and text: "Office of the Director"



Acting Deputy Attorney General Emil Bove asked that we send the below email out to you.

Thank you for your continued commitment to our mission. I continue to be humbled by the incredible work you do every day to keep the American people safe, and I am honored to serve alongside you.

Stay safe,
Brian J. Driscoll, Jr.
Acting Director

From: The Deputy Attorney General <The.Deputy.Attorney.General@usdoj.gov>

Subject: Follow-Up to 1/31/2025 Memo to FBI Acting Director

Colleagues:

I write with additional information regarding the memo that I sent to the FBI's acting director on January 31, 2025.

Multiple times during the week of January 27, 2025, I asked the FBI's acting leadership to identify the core team in Washington, D.C. responsible for the investigation relating to events on January 6, 2021. The purpose of the requests was to permit the Justice Department to conduct a review of those particular agents' conduct pursuant to President Trump's Executive Order concerning weaponization in the prior administration. FBI acting leadership refused to comply. That insubordination necessitated, among other things, the directive in my January 31, 2025 memo to identify all agents assigned to investigations relating to January 6, 2021. In light of acting leadership's refusal to comply with the narrower request, the written directive was intended to obtain a complete data set that the Justice Department can reliably pare down to the core team that will be the focus of the weaponization review pursuant to the Executive Order. The memo stated unambiguously, and I stand by these words, that the information requested was intended to "commence a review process" that will be used to "determine whether any additional personnel actions are necessary."

Let me be clear: No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties. The only individuals who should be concerned about the process initiated by my January 31, 2025 memo are those who acted with corrupt or partisan intent, who blatantly defied orders from Department leadership, or who exercised discretion in weaponizing the FBI. There is no honor in the ongoing efforts to distort that simple truth or protect culpable actors from scrutiny on these issues, which have politicized the Bureau, harmed its credibility, and distracted the public from the excellent work being done every day. If you have witnessed such behavior, I encourage you to report it through appropriate channels.

In closing, I am extremely grateful for the service and sacrifices of those in the FBI's ranks who have done the right thing for the right reasons. You will be empowered to do justice as we work together to make America safe again. I very much look forward to continuing that work with you.

Thanks,
Emil

Bcc: All FBI Federal Employees

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

EXHIBIT 5



Office of the Attorney General
Washington, D. C. 20530

February 5, 2025

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ATTORNEY GENERAL 

SUBJECT: RESTORING THE INTEGRITY AND CREDIBILITY OF THE
DEPARTMENT OF JUSTICE¹

The Department of Justice must take immediate and overdue steps to restore integrity and credibility with the public that we are charged with protecting, and to ensure that the Department's personnel are ready and willing to faithfully implement the policy agenda of the duly elected President of the United States. These steps are required because, as President Trump pointed out following his second inauguration, "[t]he prior administration and allies throughout the country engaged in an unprecedented, third-world weaponization of prosecutorial power to upend the democratic process." Executive Order, *Ending the Weaponization of The Federal Government* (Jan. 20, 2025). Thus, "[t]he American people have witnessed the previous administration engage in a systematic campaign against its perceived political opponents, weaponizing the legal force of numerous Federal law enforcement agencies and the Intelligence Community against those perceived political opponents in the form of investigations, prosecutions, civil enforcement actions, and other related actions." *Id.*

The reconciliation and restoration of the Department of Justice's core values can only be accomplished through review and accountability. The Department has already started this process but much more work is required. No one who has acted with a righteous spirit and just intentions has any cause for concern about efforts to root out corruption and weaponization. On the other hand, the Department of Justice will not tolerate abuses of the criminal justice process, coercive behavior, or other forms of misconduct.

I hereby establish the Weaponization Working Group, which will be led by the Office of the Attorney General and supported by the Office of the Deputy Attorney General, the Office of Legal Policy, the Civil Rights Division, the U.S. Attorney's Office for the District of Columbia, and other personnel as necessary to achieve the objectives set forth herein. The Weaponization Working Group will conduct a review the activities of all departments and agencies exercising

¹ This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Memorandum for all Department Employees
Subject: Restoring the Integrity and Credibility of the Department of Justice

Page 2

civil or criminal enforcement authority of the United States over the last four years, in consultation with the heads of such departments and agencies and consistent with applicable law, to identify instances where a department's or agency's conduct appears to have been designed to achieve political objectives or other improper aims rather than pursuing justice or legitimate governmental objectives. The Department of Justice will provide quarterly reports to the White House regarding the progress of the review.

During this review, the Weaponization Working Group will examine, among other things:

- Weaponization by Special Counsel Jack Smith and his staff, who spent more than \$50 million targeting President Trump, and the prosecutors and law enforcement personnel who participated in the unprecedented raid on President Trump's home.
- Federal cooperation with the weaponization by the Manhattan District Attorney Alvin Bragg, New York Attorney General Letitia James, their respective staffs, and other New York officials to target President Trump, his family, and his businesses.
- The pursuit of improper investigative tactics and unethical prosecutions relating to events at or near the United States Capitol on January 6, 2021—as **distinct from good-faith actions by federal employees simply following orders from superiors**—which diverted resources from combatting violent and serious crime and thus, were pursued at the expense of the safety of residents of the District of Columbia.
- The January 23, 2023, memorandum in which the Federal Bureau of Investigation suggested that certain Catholic religious practices were affiliated with violent extremism and criminal activity.
- Prior Justice Department guidance, policy memoranda, and practices concerning the investigation of parents of school children who expressed sincere, good-faith concerns at local government meetings, including the October 4, 2021 memorandum of former Attorney General Merrick Garland regarding these issues.²
- Criminal prosecutions under the Freedom of Access to Clinic Entrances Act for non-violent protest activity.
- The retaliatory targeting, and in some instances criminal prosecution, of legitimate whistleblowers.

² For the avoidance of doubt, former Attorney General Garland's October 4, 2021, Memorandum is hereby rescinded.

EXHIBIT 6



U.S. Department of Justice

Edward R. Martin, Jr.
United States Attorney

District of Columbia

*Patrick Henry Building
601 D Street, N.W.
Washington, D.C. 20530*

February 7, 2025

Mr. Elon Musk
Mr. Steve Davis
DOGE
Sent via X only: @elonmusk

Dear ~~Steve~~ and Elon,

Steve & Elon,

Thank you for the referral of individuals and networks who appear to be stealing government property and/or threatening government employees. After your referral, as is my practice, I will begin an inquiry.

Please let me reiterate again: if people are discovered to have broken the law or even acted simply unethically, we will investigate them and we will chase them to the end of the Earth to hold them accountable. We will not rest or cease in this. No one should abuse American taxpayer dollars nor American taxpayer workers. No one is above the law.

I am proud that we have been able to assist local law-enforcement in protecting the DOGE workers and others over the past week or so. A safe DC is a priority for President Trump and all of us.

Please keep in touch and continue to refer matters to me as soon as possible.

All the best.

A handwritten signature in blue ink that reads "Edward R. Martin, Jr." with a stylized flourish at the end.

Edward R. Martin, Jr

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOHN AND JANE DOES 1-9, et al.,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,

Defendant.

Civil Action No. 25-0325 (JMC)

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION, et al.,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE, et al.,

Defendants.

Civil Action No. 25-0328 (JMC)

DECLARATION OF [REDACTION]

I, [REDACTION], pursuant to the provisions of 28 U.S.C. § 1746, declare, under penalty of perjury, as follows:

1. I make these statements based on personal knowledge and knowledge obtained in the course of my official duties with the Federal Bureau of Investigation Agents Association (“FBIAA”).

2. I am the Executive Director of FBIAA. I have been so employed since December 9, 2024. Prior to holding this position, I was a Special Agent with the Federal Bureau of Investigation (“FBI”) for 21 years. My assignments included working as a Special Agent at the

Los Angeles Field Office, FBI Headquarters, the Washington Field Office, and the FBI's Training Division. As an agent, my focus was primarily on violent gang crime, transnational organized crime, and drug trafficking. I served as a case agent for investigations into violent, Mexican-based drug cartels and other international drug trafficking operations. I later served as [REDACTION] [REDACTION], focused specifically on the transnational gang, MS-13.

3. Before I became the Executive Director, I was a member of FBIAA for 21 years of my active FBI service.

The FBIAA

4. FBIAA is a not-for-profit professional organization established under 501(c)(6) dedicated to the service of FBI agents. Founded in 1981, its mission is to advance and safeguard the careers, economic interests, conditions of employment and welfare of FBI Special Agents, both active and retired. We fulfill this mission by providing support and advocacy for our more than 14,000 members. We are the only organization specifically dedicated to the service of active FBI Special Agents. As a 501(c)(6) organization, we are authorized to participate in certain forms of political or lobbying activities while maintaining our not-for-profit status.

5. One of our core functions is to advocate for our members' interests within the FBI. This work focuses on a range of issues, including agent safety and wellness, education, enforcement, and financial security. For example, FBIAA has recently advocated for internal FBI improvements concerning the following: (1) supplying every Agent with covert body armor; (2) equipping overt body armor with ballistic plates; (3) expanding mental health services; (4) easing eligibility requirements for hardship transfers and office of preference transfers; (5) improving the process for addressing payroll and benefits errors; (6) expanding on-the-job training benefits for veterans; (7) opening the Warrior Program to Agents who deploy to agent involved shooting

situations; (8) increasing resources to fight violent crime against children; (9) expanding access to workman's compensation funds, 9/11 illness funds, and burn pit exposure funds; (10) policies to address the high cost of living; (11) impact of Covid-19 restrictions on workplace freedom; and (12) revisions to the FBI's deadly force policy.

6. Another core function is to provide legal services and advice to Special Agents for internal FBI employment-related actions.

7. Another core function is to advocate for our members' interests on issues of importance to Special Agents with audiences external to the FBI, including U.S. Congress, Executive Branch officials, and the public. This advocacy is non-partisan and issue-driven and includes lobbying, strategic engagement, and communications ("External Advocacy").

8. We have a central office in Virginia. Much of our workforce is comprised of remote or hybrid employees. For example, the attorneys who do much of the internal FBI advocacy for our members are located throughout the country. These attorneys are available to travel to the various FBI field offices where the Special Agents are assigned in order to provide services.

9. We also contract with counsel in Washington, D.C. and elsewhere who advise and assist on External Advocacy issues including engagement with policymakers in Congress and the Executive Branch, the public, and the media to advance our members' interests. Naturally, much of the External Advocacy work done by the organization takes place in and around Washington, D.C..

10. Our membership is comprised of active and retired FBI Special Agents. Of our 14,000 members, approximately 12,000 of them are active agents. By comparison, there are approximately 13,800 active FBI agents. Thus, FBI AA's membership represents approximately

85% of today's active FBI Special Agents. Over the past two years, nearly all new Special Agents have become members of FBIAA.

11. FBIAA is funded by membership dues, charitable donations, and grants. In general, membership dues are used for operating expenses and the salaries of staff and legal counsel for the agents and the organization. FBIAA's annual expenditures are comprised primarily of: (1) salary and benefits for FBIAA's attorneys who are responsible for representing individual FBI Special Agents for adverse employment actions brought by the FBI and the United States Department of Justice ("DOJ"); (2) salary and benefits of FBIAA staff; (3) operating expenses like workspace, office supplies, and communications equipment; (4) management of FBIAA's 501(c)(3) funds (Memorial College Fund and Membership Assistance Fund); (5) external advocacy and lobbying; and (6) other miscellaneous expenses.

12. On average, our staff of attorneys who represent Special Agents handle over 300 such matters on an annual basis. These attorneys are responsible for advocacy on behalf of individual FBI Special Agents from inception of an internal inquiry through appeal. They also provide counsel to Special Agents when there is an investigation into an agent-involved shooting. They may also provide assistance if a Special Agent feels he or she has been unfairly discriminated against, or conversely if a Special Agent has been accused of unfairly discriminating against someone. Another example of internal advocacy may be assisting an agent with navigating a demotion in rank or a locational reassignment. Internal advocacy is also provided to Agents who are facing ethical complaints.

13. Separately, our External Advocacy is active year-round. As described in further detail below, our External Advocacy activities are directly responsive to the needs and requests of

our members, and are directly supervised by the FBIAA's National Executive Board (NEB) and Executive Director.

14. In addition to the FBIAA's legal and External Advocacy services, it provides other membership benefits and resources, including professional liability and accidental death and dismemberment policy, charitable funds, and digital security services. The FBIAA's digital security service is a resource facilitated by the FBIAA, where the FBIAA has negotiated a member price for this service. The service is designed to assist FBIAA members in protecting their identity, money and assets, family and reputation, and privacy.

15. FBIAA's Membership Assistance Fund ("MAF") was established to help FBIAA members and families cope with emergencies and unforeseen tragedies. The FBIAA MAF provides assistance to FBIAA members and their families who have been affected by a sudden, unforeseen tragedy. The FBIAA MAF has helped members' families make emergency travel, afford treatments for grave illnesses and injuries, purchase necessary medical equipment and pay for funeral expenses.

16. FBIAA's Memorial College Fund ("MCF") aims to help the children of deceased FBI agents achieve their college dreams. The FBIAA MCF provides college scholarships to the children and spouses of FBI Agents who have passed away while actively employed by the FBI or within one year of retiring from active service.

17. The Special Agent Jeffrey Drubner Legacy Fund (the "Drubner Fund") works in conjunction with the FBIAA MAF to provide financial assistance to families of fallen Special Agents who have been killed in the line of duty. The Drubner Fund also pays assistance to Special Agents who are shot in the line of duty during an adversarial action (e.g., an engagement with an investigative target) and face a financial hardship. The Drubner Fund assists grieving family

members with costs that might not otherwise be covered by the fallen agent's worker compensation, like childcare and other out-of-pocket expenses.

Recent Events Affecting the FBIAA and its Members

18. Beginning in early 2025, FBIAA members and FBIAA as an organization have had to grapple with the effects of an unexpected, unprecedented development initiated by the Department of Justice. Two relevant Executive Orders predated this development.

19. First, on January 20, 2025, President Donald J. Trump issued a Proclamation titled "Granting Pardons and Commutations of Sentences for Certain Offenses Relating to the Events at or Near the United States Capitol on January 6, 2021 (the "January 6 Pardons Procl.>"). The January 6 Pardons Procl. referenced, without further elaboration, a "grave national injustice." It granted a "full, complete and unconditional pardon to all other individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021," while also commuting the sentences of others who were similarly convicted.

20. Second, also on January 20, 2025, the President released an Executive Order titled "Ending the Weaponization of the Federal Government" (the "Weaponization EO"). The Weaponization EO's "Purpose" section referenced the "previous administration[']s" actions against its "perceived political opponents" and infliction of "political pain." The "Purpose" section also referenced the "weaponization of prosecutorial power" and the "target[ing of] individuals who voiced opposition to the prior administration's policies." It expressly noted within the "Purpose" section that the "Department of Justice has ruthlessly prosecuted more than 1,500 individuals associated with January 6, and simultaneously dropped nearly all cases against BLM rioters." The "Policy" section of the Weaponization EO stated, in relevant part, that the United States would "identify and take appropriate action to correct past misconduct by the Federal

Government related to the weaponization of law enforcement.” Finally, it directed the United States Attorney General to review “the activities of . . . the Department of Justice . . . over the last 4 years and identify any instances where a department’s or agency’s conduct appears to have been contrary to the purposes and policies” of the Weaponization EO.

21. The effect of the January 6 Pardons Procl. was wide-ranging. On one hand, certain lower-level, non-violent offenders who had been convicted of misdemeanors as a result of their participation in the January 6 attack on the United States Capitol were pardoned of their convictions. On the other hand, multiple violent offenders who had assaulted police officers with weapons, chemical spray, and police shields, had lengthy criminal histories, or had threatened retaliation against specific FBIAA members, were released from prison or otherwise pardoned. The result has been an apparent empowerment of this latter group who now seem to believe that their past violent actions, and by extension their threats of future violent actions, are justified.

22. The effect of the Weaponization EO has been similarly off kilter. Notwithstanding any potential good faith intentions, interim Department of Justice leadership appear to be relying on the Weaponization EO in order to unfairly target FBIAA members as potential perpetrators of alleged misconduct. The DOJ is doing so in an arbitrary way, without any evidentiary, rational, or historical basis for making such an accusation. The arbitrary nature of DOJ’s approach is laid bare by the fact that FBI personnel who participated in the January 6 investigations were *assigned* that responsibility and lacked discretion or authority to choose otherwise.

23. On January 31, 2025, the Acting Deputy Attorney General (“A/DAG”) Emil Bove III issued a memorandum to the then-Acting Director of the FBI titled “Terminations.” The “Terminations” memo referenced eight individuals whose jobs were to be terminated pursuant to the Weaponization EO. It further directed the Acting Director to identify by noon on February 4,

2025 “all current and/or former FBI personnel assigned at any time to investigations and/or prosecutions related to [January 6 investigations].” The “Terminations” memo asserted that A/DAG Bove would commence a “review process” to determine if any “**additional** personnel actions” (emphasis added) are necessary. In my opinion, a fair reading of this last point would imply that some sort of “personnel action” had already taken place by the mere creation of this list.

24. On February 2, 2025, A/DAG Bove directed FBI personnel to complete a survey requesting, inter alia, their name, title, and role in the investigations or prosecutions arising from the January 6, 2021 attacks on the United States Capitol (the “Survey”). Approximately 5,100 FBI employees completed the survey, many of whom are FBIAA members.

25. Based on my conversations with FBIAA members, and my review of publicly available information related to the Survey, I know that the Survey asked no questions about the cases themselves, no questions about allegations of misconduct or “weaponization,” no questions about whether any agent wished to report misconduct or “weaponization,” no questions about whether any legal challenges were raised as to Special Agents’ conduct during the prosecution of the cases, and no questions about the process by which FBIAA members were assigned these cases.

26. Based on my understanding of the questions of the Survey, and based on my past experience as an FBI Supervisor, and based on my experiences as the Executive Director of FBIAA, it appears that the Survey that DOJ sent to FBIAA members serves no other purpose but to compile a list of agents who were involved in January 6 investigations without any further context. In other words, it does nothing to identify misconduct or otherwise advance the purported goals of the Weaponization EO.

27. On February 4, 2025, I learned that the results of the Survey were transmitted from the FBI to the DOJ. FBIAA members were identified within these results.

28. On February 5, 2025, I learned that A/DAG Bove sent a message via forwarded email to all FBI employees with the Subject Line: Message from the Acting Deputy Attorney General. In the message, A/DAG Bove wrote with “additional information” regarding the “Terminations” memo.

29. In relevant part, A/DAG Bove wrote: “Let me be clear: No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties. The only individuals who should be concerned about the process initiated by my January 31, 2025 memo are those who acted with corrupt or partisan intent, who blatantly defied orders from Department leadership, or who exercised discretion in weaponizing the FBI.”

30. A/DAG Bove’s February 5 message referenced Special Agents who acted in an “ethical manner.” To my knowledge, since January 6, 2021, FBIAA has received no requests for internal advocacy assistance related to ethical complaints lodged against Agents in connection with their investigative work on the January 6 investigations. I infer from this that there were few, if any, internal ethical complaints lodged against Special Agents generally.

31. I understand from speaking with my organization’s legal counsel in this case that the DOJ has objected to providing any information about what factors it will be considering when determining whether FBIAA members engaged in “weaponization,” “partisan intent,” or “exercis[ing] discretion.”

32. I further understand from speaking with my organization’s legal counsel in this case that the DOJ has objected to providing any information about what it intends to do with the data collected from the Survey, its process behind creating and distributing the Survey, and the

identification of who currently possesses, or has previously possessed, the information contained within the Survey.

33. I further understand that the DOJ has opposed a request by FBIAA in this litigation to explain the purpose of the Survey, how the information will be used, whether it constitutes the initiation of an investigation into the thousands of Survey respondents.

34. FBIAA filed this suit on behalf of its members that have been impacted by this collection of data via the Survey. For example, FBIAA members have reached out for guidance as to whether or not the Survey constitutes, in substance, an adverse action, an allegation of misconduct, or any other instance where FBIAA might step in to assist its members with internal FBI actions.

35. FBIAA further anticipates that its members who participated in the Mar-a-Lago search warrant in 2022 or were otherwise assigned to investigations related to then-former-President Trump will face unlawful adverse actions because they fulfilled their assigned duties.

36. In sum, FBIAA initiated this suit on behalf of its members who, according to the DOJ, have now been unfairly placed onto a list of suspected perpetrators of “weaponization.” This is particularly concerning for FBIAA when considering that its members were performing their assigned duties *as overseen by the Department of Justice itself* throughout the years’ worth of January 6 investigations and prosecutions.

Harm Related To FBIAA’s Protected Speech

37. Both the organization and its members are currently suffering harm from such characterization.

38. Prior to the events of the last few weeks, the FBIAA's usual course of business included External Advocacy on behalf of its members on policy matters and issues of public interest.

39. The FBIAA's sole motivator for External Advocacy is the service needs of its members.

40. The organization has advocated and provided public commentary on wide range of important public policy matters—issues ranging from ensuring that support is available to federal employees suffering health problems related to the investigation of the 9/11 attacks to the need to ensure that law enforcement can lawfully access electronically stored evidence.

41. FBIAA's External Advocacy activities have extended over decades and have been consistently focused on advancing the careers and welfare of its members. For example, in 1990 the organization worked to pass the Federal Employees Pay Comparability Act, in 1994 it helped lead the effort to create Law Enforcement Availability Pay ("LEAP Pay" or "AVP"), in 1997 FBIAA advocated for the restructuring of the FBI's administrative inquiry system, and allowing basic due process rights for its members for the first time. In 2010 the organization helped lead External Advocacy efforts related to the enactment of the *Special Agent Smauel Hicks Families of Fallen Heroes Act*. FBIAA's External Advocacy on a range of issues concerning the health, safety, and employment conditions of its members has spanned the entirety of its existence.

42. FBIAA frequently engages with policymakers in Congress and the Executive Branch and provides private and public commentary on matters of public interest. Moreover, the success of the organization's advocacy and communications efforts are consistently dependent on the organization remaining, and being perceived as remaining, nonpartisan and focused on the issue areas of interest of its members.

43. Since the implementation of the January 6 Pardons Procl., the Weaponization EO, the Terminations Memo, the Survey, the February 5 email from A/DAG Bove, and the DOJ's refusal to explain how it is evaluating "partisan intent," there has been a palpable chilling effect as to how FBIAA conducts its business.

44. For example, even in its efforts to advocate for the harm its members are suffering as a result of the Survey, FBIAA understands that any partnership that appears to align with policymakers, groups, or public officials affiliated with the "previous administration" will risk the organization being seen as running afoul of the current administration's efforts against "weaponization." Similarly, any attempts at engaging in advocacy or communications activities with policymakers, groups, or public officials who hold the view that the January 6 investigations and prosecutions were not a "grave national injustice" may be viewed by the DOJ as an act demonstrating unacceptable "partisan intent." The risk of DOJ coming to such a conclusion chills FBIAA advocacy and communications in a manner that could jeopardize FBIAA's mission.

45. In other words, if FBIAA is seen as engaging in External Advocacy—which it is entitled to do as a 501(c)(6)—it now risks such activity being portrayed as evidence of the "partisan intent" of its members.

Harm Related to FBIAA's Members' Protected Speech

46. Since February 2, 2025, the FBIAA has received many communications from FBIAA members expressing fear and concern that they are being targeted by DOJ due to a misperception that their participation in the January 6 investigations - as ordered by the DOJ itself -was motivated by partisan political biases and that they are, therefore, untrustworthy, unreliable, and unsuitable for FBI employment.

47. In many cases, an individual's mere presence on the list itself has given rise to a concern that his/her legitimate personal activities and affiliations will be unfairly scrutinized to support a false inference that political bias played a role in his/her work on the January 6 investigations.

48. This concern has been fueled by public statements made by DOJ and White House officials. It has contributed to a belief among Survey respondents that their continued employment at the FBI is contingent on the extent to which their legitimate personal activities and affiliations are perceived by DOJ and the White House as politically acceptable.

49. Recently, FBIAA employees have reached out to me saying that they want to resign, because they feel their exercise of First Amendment speech is going to put the FBIAA's mission at risk. FBIAA employees would otherwise want to continue working, but they feel they cannot participate in democracy in their personal lives without bringing some form of backlash against the organization.

Harm Related To FBIAA's Daily Operations and Members' Daily Lives

50. Since the administration of the survey, the collection of responsive data, and the resulting specter of public disclosure of FBI personnel who responded to the survey, the FBIAA has suffered a direct and ongoing impact on its daily business operations. Our office has received a substantial increase in calls for assistance from FBI personnel and their family members. In short, staff has reported to me that the increase in calls and emails has been overwhelming. Most frequently, these communications have involved (1) requests for legal representation in connection with any disclosure or other related adverse employment action; (2) requests for security assistance; (3) requests for post-FBI employment concerns and questions; (4) expressions of fear and concern that they will be targeted because of DOJ's perception of their political

associations/beliefs due to their participation in the January 6 investigations; and (5) questions concerning whether they can continue to perform their duties.

51. FBIAA members have faced threats from January 6 rioters for years. January 6 rioters frequently publicly name the FBIAA members who investigated them on social media platforms like “X” and “Truth Social,” in an attempt to garner support for retaliation against those members. Since the onset of the January 6 Pardons Procl., the Weaponization EO, and the Survey collection, FBIAA has created a process for assisting its members to report these threats to the FBI’s Threat Management Unit.

52. The volume and nature of these requests for assistance have forced the FBIAA to restructure its daily operations, re-train staff, retain counsel, and defer and/or abandon other initiatives that are vital to FBIAA’s mission, including, *inter alia*, enhancing opportunities for MCF beneficiaries, upgrading technology, applying for grant funding. In addition, FBIAA has experienced an increase in threats to its members, which I believe is attributable to DOJ’s collection of the Survey data and the heightened expectations of January 6 participants who believe the current leadership within the DOJ will respond to the rioters’ calls to release FBI personnel identifying information. It is substantially for this reason that the FBIAA is currently conducting a security assessment of its own physical offices, which online actors have recently sought to identify.

53. In addition to the foregoing direct and ongoing impacts on FBIAA’s business operations, the FBIAA and its members will suffer direct harm if survey data is released publicly because such disclosure would immediately put its member Special Agents in physical danger from individuals who feel emboldened to seek what they believe is justified retribution that will be condoned by the Department of Justice.

54. FBIAA is responsible for assisting FBI agents who are the victims of harassment, threats of physical violence, and violence itself. The harassment, threats of violence, and violence that will be directed at FBIAA members if survey data is publicly disclosed will substantially undermine FBIAA operations, deplete FBIAA resources, and result in a reduction in FBIAA membership. If FBI agents are killed, which is the expressed desire of many individuals who survey respondents investigated, the FBIAA will be responsible for providing funding and support to surviving family members, including through various charitable funds the FBIAA oversees.

55. Of course, the foreseeable tragedies in the above paragraph also constitute a direct threat of physical harm to FBIAA members. Disclosure of the list will immediately and irreparably harm our member Special Agents. The violent actors now freed and pardoned from their acts on January 6 have openly expressed that they are seeking violent, vigilante-style revenge on those who investigated them. Disclosure would overwhelm the digital security services that we facilitate to our members.

56. In addition to physical harm, the collection and likely dissemination of survey data is an adverse employment action that is likely to precede other adverse employment actions. Agents, as a result of the survey, are subject to arbitrary and capricious adverse actions, such as revocation of security clearances, demotions, or pretextual locational reassignments, this will create an immense strain on FBIAA's ability to provide legal assistance. The sheer volume of requests for legal assistance that would come in as a result of challenges to mass, suspected unlawful adverse actions would rapidly deplete FBIAA's legal resources. This would leave many of FBIAA's members without effective counsel while also gutting all other member services provided by FBIAA.

57. In the event of a mass termination, the FBIAA would incur massive costs that far outstrip its available resources. In the near term, the FBIAA will be required to provide legal counsel to thousands of FBIAA members who have been subjected to the unlawful termination. In the long term, the mass exodus of unemployed agents from FBIAA's membership might place FBIAA's own existence at risk, since it could no longer rely on membership dues as a significant portion of its income.

58. FBIAA members have also expressed concern that their mere presence on the list of survey respondents will impede their ability to perform important job functions of the unfair perception among some that an agent's participation in the January 6 investigations is itself a cause for suspicion.

59. In sum, FBIAA members' daily lives have been, and will continue to be, disrupted by the actions of the DOJ in the creation and collection of the Survey data and its blunderbuss attempts at implementation of the Weaponization EO. FBIAA also now faces the prospect of culling back its own core activities, like External Advocacy, which includes lobbying, for risk of it being used as an indicator of "partisan intent" of its members. Finally, FBIAA's daily operations have been significantly disrupted by the DOJ's disorderly and intentionally non-transparent actions.

Dated: Fairfax County, VA
February 24, 2025

[REDACTION]

[REDACTION]

Executive Director
Federal Bureau of Investigation Agents Association

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION et al.

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE et al.

Defendants.

Case Nos. 25-0325-JMC (Consolidated
Case) & 25-328-JMC (Lead case)

DECLARATION OF JANE DOE #1 (25-328)

The undersigned hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this Declaration on personal knowledge and in support of the Plaintiffs Motion for Preliminary Injunction.

2. I am currently employed by the Federal Bureau of Investigation (“FBI”). Pursuant to the Court’s Minute Order issued February 6, 2025, my identity and other identifying information as to my employment is being protected under seal and *ex parte* so I will refrain from providing any details here that could identify me. Of course, my true name, and relevant background information is contained in my legal counsel’s sealed declaration. (25-328, Dkt. 4). I am more than willing to supplement that information under seal as requested by the Court.

3. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any FBI personnel. I specifically worked on cases related to the events that took place on January 6, 2021 (hereinafter “January 6 Cases”).

4. For the period of January 2021 and until the last time I worked on January 6 Cases, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice (“DOJ”), including with the relevant U.S. Attorney’s Office handling the prosecution and various Assistant United States Attorneys.

5. As a direct result of my efforts, and those of my colleagues with whom I coordinated, DOJ secured grand jury indictments and convictions on multiple defendants.

6. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force or improper investigative techniques, or of executing my duties in a partisan or biased fashion.

7. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

8. To the best of my knowledge, each of the individual criminal defendants in the January 6 Cases that I worked on were afforded all of the due process rights that any other defendant would receive.

9. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

10. During the time I was assigned to work on January 6 Cases, I was never given the option to decline such assignment because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

11. I am aware that many of my colleagues received an e-mail from their superiors with instructions that they fill out a survey that was disseminated by the FBI, in which they were to identify what kinds of tasks they executed in relation to January 6 Cases. While I worked on many January 6 Cases, I, and a number of my colleagues, did not receive the survey. I have no idea why. That said, my name is on many FBI records making it clear I worked on January 6 Cases and it is simply a matter of time before my name is included on the survey list, if it has not been already.

12. I am aware that the survey information was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General Emil Bove III.

13. I was never given a reason, other than the fact that I worked on January 6 Cases, as to why I should have been included on this survey list.

14. Regardless of the fact I did not fill out the survey, whatever review is forthcoming into January 6 Cases will include me. And if I were asked if I am or ever was under investigation for misconduct, I would not know how to answer that in the context of this matter. I do believe that whatever the current circumstances are with respect to the so-called “weaponization review” it will potentially have an immediate or future negative impact on what assignments I can currently take or will be assigned, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

15. Because not all FBI personnel were assigned January 6 Cases, and I understand that there are others who were did not have to fill out the survey and are not on the list sent to DOJ, I nonetheless believe that I am still at a distinct disadvantage vis-à-vis those

FBI personnel who share the same title or responsibilities as I do with respect to competitive career moves given my role in January 6 Cases.

16. To be clear, any accusation that I undertook my duties for partisan or weaponized reasons is defamatory and patently false. My actions with respect to any January 6 Cases were strictly driven by the execution of my duties in accordance with my training, in furtherance of the rule of law and enforcement of federal statute(s) and had nothing to do with my personal views or allegiance to any political party.

17. In every January 6 case I worked on, there was ample reliable evidence that a violation of federal criminal statute(s) had occurred.

18. I firmly believe that my name being associated with any list of FBI January 6 Case personnel will cause me reputational harm that may or will impact me for the remainder of my federal career. I view the harm to my current ability to perform my duties as real and tangible.

19. I am also extremely worried about the future impact this investigation will have on my job prospects, as it is entirely likely I will have to disclose the existence of this investigation and certainly any final adverse determination, even if false, on any future security clearance or employment forms.

20. I am well aware that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the FBI personnel who worked on their and other cases and have been active on social media demanding information about us.

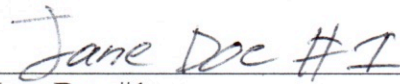
21. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My

concern extends not only to the actions of January 6 convicted felons and their supporters, but also to other malign actors whom I have investigated over the years.

22. Finally, to say that these actions by DOJ have demoralized me and that of many of my colleagues who were simply doing our jobs would be an understatement.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge.

Date: February 23, 2025


Jane Doe #1
Jane Doe #1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION et al.

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE et al.

Defendants.

Case Nos. 25-0325-JMC (Consolidated
Case) & 25-328-JMC (Lead case)

DECLARATION OF JANE DOE #2 (25-328)

The undersigned hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this Declaration on personal knowledge and in support of the Plaintiffs Motion for Preliminary Injunction.

2. I am currently employed by the Federal Bureau of Investigation ("FBI"). Pursuant to the Court's Minute Order issued February 6, 2025, my identity and other identifying information as to my employment is being protected under seal and *ex parte* so I will refrain from providing any details here that could identify me. Of course, my true name, and relevant background information is contained in my legal counsel's sealed declaration. (25-328, Dkt. 4). I am more than willing supplement that information under seal as requested by the Court.

3. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any FBI personnel. I specifically worked on cases related to the events that took place on January 6, 2021 (hereinafter "January 6 Cases").

4. For the period of January 2021 and until the last time I worked on January 6 Cases, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice (“DOJ”), including with the relevant U.S. Attorney’s Office handling the prosecution and various Assistant United States Attorneys.

5. As a direct result of my efforts, and those of my colleagues with whom I coordinated, DOJ secured grand jury indictments and convictions on multiple defendants.

6. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force or improper investigative techniques, or of executing my duties in a partisan or biased fashion.

7. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

8. To the best of my knowledge, each of the individual criminal defendants in the January 6 Cases that I worked on were afforded all of the due process rights that any other defendant would receive.

9. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

10. During the time I was assigned to work on January 6 Cases, I was never given the option to decline such assignment because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

11. I am aware that many of my colleagues received an e-mail from their superiors with instructions that they fill out a survey that was disseminated by the FBI, in which they were to identify what kinds of tasks they executed in relation to January 6 Cases. While I worked on many January 6 Cases, I, and a number of my colleagues, did not receive the survey. I have no idea why. That said, my name is on many FBI records making it clear I worked on January 6 Cases and it is simply a matter of time before my name is included on the survey list, if it has not been already.

12. I am aware that the survey information was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General Emil Bove III.

13. I was never given a reason, other than the fact that I worked on January 6 Cases, as to why I should have been included on this survey list.

14. Regardless of the fact I did not fill out the survey, whatever review is forthcoming into January 6 Cases will include me. And if I were asked if I am or ever was under investigation for misconduct, I would not know how to answer that in the context of this matter. I do believe that whatever the current circumstances are with respect to the so-called "weaponization review" it will potentially have an immediate or future negative impact on what assignments I can currently take or will be assigned, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

15. Because not all FBI personnel were assigned January 6 Cases, and I understand that there are others who were did not have to fill out the survey and are not on the list sent to DOJ, I nonetheless believe that I am still at a distinct disadvantage vis-à-vis those

FBI personnel who share the same title or responsibilities as I do with respect to competitive career moves given my role in January 6 Cases.

16. To be clear, any accusation that I undertook my duties for partisan or weaponized reasons is defamatory and patently false. My actions with respect to any January 6 Cases were strictly driven by the execution of my duties in accordance with my training, in furtherance of the rule of law and enforcement of federal statute(s) and had nothing to do with my personal views or allegiance to any political party.

17. In every January 6 case I worked on, there was ample reliable evidence that a violation of federal criminal statute(s) had occurred.

18. I firmly believe that my name being associated with any list of FBI January 6 Case personnel will cause me reputational harm that may or will impact me for the remainder of my federal career. I view the harm to my current ability to perform my duties as real and tangible.

19. I am also extremely worried about the future impact this investigation will have on my job prospects, as it is entirely likely I will have to disclose the existence of this investigation and certainly any final adverse determination, even if false, on any future security clearance or employment forms.

20. I am well aware that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the FBI personnel who worked on their and other cases and have been active on social media demanding information about us.

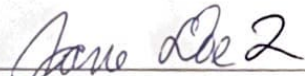
21. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My

concern extends not only to the actions of January 6 convicted felons and their supporters, but also to other malign actors whom I have investigated over the years.

22. Finally, to say that these actions by DOJ have demoralized **me and** that of many of my colleagues who were simply doing our jobs would be an understatement.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge.

Date: February 23, 2025



Jane Doe #2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION et al.

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE et al.

Defendants.

Case Nos. 25-0325-JMC (Consolidated
Case) & 25-328-JMC (Lead case)

DECLARATION OF JANE DOE #3 (25-328)

The undersigned hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this Declaration on personal knowledge and in support of the Plaintiffs Motion for Preliminary Injunction.

2. I am currently employed by the Federal Bureau of Investigation (“FBI”). Pursuant to the Court’s Minute Order issued February 6, 2025, my identity and other identifying information as to my employment is being protected under seal and *ex parte* so I will refrain from providing any details here that could identify me. Of course, my true name, and relevant background information is contained in my legal counsel’s sealed declaration. (25-328, Dkt. 4). I am more than willing to supplement that information under seal as requested by the Court.

3. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any FBI personnel. I specifically worked on cases related to the events that took place on January 6, 2021 (hereinafter “January 6 Cases”).

4. For the period of January 2021 and until the last time I worked on January 6 Cases, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice (“DOJ”), including with the relevant U.S. Attorney’s Office handling the prosecution and various Assistant United States Attorneys.

5. As a direct result of my efforts, and those of my colleagues with whom I coordinated, DOJ secured grand jury indictments and convictions on multiple defendants.

6. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force or improper investigative techniques, or of executing my duties in a partisan or biased fashion.

7. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

8. To the best of my knowledge, each of the individual criminal defendants in the January 6 Cases that I worked on were afforded all of the due process rights that any other defendant would receive.

9. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

10. During the time I was assigned to work on January 6 Cases, I was never given the option to decline such assignment because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

11. On or about February 2, 2025, I received an e-mail from my superiors with instructions that I fill out a survey that was disseminated by the FBI, in which I was to identify what kinds of tasks I executed in relation to January 6 Cases.

12. I have never before in my tenure with the FBI received such a survey.

13. Although I question the request for and purpose of the survey, I filled it out as I was directed to do so by my superiors.

14. I am aware that the survey information I provided was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General Emil Bove III.

15. I was never given a reason, other than the fact that I worked on January 6 Cases, as to why I should be included on this survey list.

16. If I were asked if I am or ever was under investigation for misconduct, I would not know how to answer that in the context of this matter, but I do believe that whatever the current circumstances are with respect to the so-called “weaponization review” it will potentially have an immediate or future negative impact on what assignments I can currently take or will be assigned, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

17. Because not all FBI personnel were assigned January 6 Cases, and I understand that some who were did not have to fill out the survey and are not on the list sent to DOJ, I believe that I am now at a distinct disadvantage vis-à-vis those FBI personnel who share the same title or responsibilities as I do with respect to competitive career moves.

18. To be clear, any accusation that I undertook my duties for partisan or weaponized reasons is defamatory and patently false. My actions with respect to any January 6 Cases were strictly driven by the execution of my duties in accordance with my training, in furtherance of the rule of law and enforcement of federal statute(s) and had nothing to do with my personal views or allegiance to any political party.

19. In every January 6 case I worked on, there was ample reliable evidence that a violation of federal criminal statute(s) had occurred.

20. I firmly believe that my name being on this survey list of all FBI January 6 Case personnel will cause me reputational harm that may or will impact me for the remainder of my federal career. I view the harm to my current ability to perform my duties as real and tangible.

21. I am also extremely worried about the future impact this investigation will have on my job prospects, as it is entirely likely I will have to disclose the existence of this investigation and certainly any final adverse determination, even if false, on any future security clearance or employment forms.


22. I am well aware that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the FBI personnel who worked on their and other cases and have been active on social media demanding information about us.

23. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My concern extends not only to the actions of January 6 convicted felons and their supporters, but also to other malign actors whom I have investigated over the years.

24. Finally, to say that these actions by DOJ have demoralized me and that of many of my colleagues who were simply doing our jobs would be an understatement.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge.

Date: February 23, 2025


Jane Doe #3

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION et al.

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE et al.

Defendants.

Case Nos. 25-0325-JMC (Consolidated
Case) & 25-328-JMC (Lead case)

DECLARATION OF JOHN DOE #1 (25-328)

The undersigned hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this Declaration on personal knowledge and in support of the Plaintiffs Motion for Preliminary Injunction.

2. I am currently employed by the Federal Bureau of Investigation (“FBI”). Pursuant to the Court’s Minute Order issued February 6, 2025, my identity and other identifying information as to my employment is being protected under seal and *ex parte* so I will refrain from providing any details here that could identify me. Of course, my true name, and relevant background information is contained in my legal counsel’s sealed declaration. (25-328, Dkt. 4). I am more than willing to supplement that information under seal as requested by the Court.

3. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any FBI personnel. I specifically worked on cases related to the events that took place on January 6, 2021 (hereinafter “January 6 Cases”).

4. For the period of January 2021 and until the last time I worked on January 6 Cases, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice (“DOJ”), including with the relevant U.S. Attorney’s Office handling the prosecution and various Assistant United States Attorneys.

5. As a direct result of my efforts, and those of my colleagues with whom I coordinated, DOJ secured grand jury indictments and convictions on multiple defendants.

6. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force or improper investigative techniques, or of executing my duties in a partisan or biased fashion.

7. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

8. To the best of my knowledge, each of the individual criminal defendants in the January 6 Cases that I worked on were afforded all of the due process rights that any other defendant would receive.

9. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

10. During the time I was assigned to work on January 6 Cases, I was never given the option to decline such assignment because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

11. On or about February 2, 2025, I received an e-mail from my superiors with instructions that I fill out a survey that was disseminated by the FBI, in which I was to identify what kinds of tasks I executed in relation to January 6 Cases.

12. I have never before in my tenure with the FBI received such a survey.

13. Although I question the request for and purpose of the survey, I filled it out as I was directed to do so by my superiors.

14. I am aware that the survey information I provided was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General Emil Bove III.

15. I was never given a reason, other than the fact that I worked on January 6 Cases, as to why I should be included on this survey list.

16. If I were asked if I am or ever was under investigation for misconduct, I would not know how to answer that in the context of this matter, but I do believe that whatever the current circumstances are with respect to the so-called "weaponization review" it will potentially have an immediate or future negative impact on what assignments I can currently take or will be assigned, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

17. Because not all FBI personnel were assigned January 6 Cases, and I understand that some who were did not have to fill out the survey and are not on the list sent to DOJ, I believe that I am now at a distinct disadvantage vis-à-vis those FBI personnel who share the same title or responsibilities as I do with respect to competitive career moves.

18. To be clear, any accusation that I undertook my duties for partisan or weaponized reasons is defamatory and patently false. My actions with respect to any January 6 Cases were strictly driven by the execution of my duties in accordance with my training, in furtherance of the rule of law and enforcement of federal statute(s) and had nothing to do with my personal views or allegiance to any political party.

19. In every January 6 case I worked on, there was ample reliable evidence that a violation of federal criminal statute(s) had occurred.

20. I firmly believe that my name being on this survey list of all FBI January 6 Case personnel will cause me reputational harm that may or will impact me for the remainder of my federal career. I view the harm to my current ability to perform my duties as real and tangible.

21. I am also extremely worried about the future impact this investigation will have on my job prospects, as it is entirely likely I will have to disclose the existence of this investigation and certainly any final adverse determination, even if false, on any future security clearance or employment forms.


22. I am well aware that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the FBI personnel who worked on their and other cases and have been active on social media demanding information about us.

23. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My concern extends not only to the actions of January 6 convicted felons and their supporters, but also to other malign actors whom I have investigated over the years.

24. Finally, to say that these actions by DOJ have demoralized me and that of many of my colleagues who were simply doing our jobs would be an understatement.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge.

Date: February 23, 2025


John Doe #1

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION et al.

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE et al.

Defendants.

Case Nos. 25-0325-JMC (Consolidated
Case) & 25-328-JMC (Lead case)

DECLARATION OF JOHN DOE #3 (25-328)

The undersigned hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this Declaration on personal knowledge and in support of the Plaintiffs Motion for Preliminary Injunction.

2. I am currently employed by the Federal Bureau of Investigation (“FBI”). Pursuant to the Court’s Minute Order issued February 6, 2025, my identity and other identifying information as to my employment is being protected under seal and *ex parte* so I will refrain from providing any details here that could identify me. Of course, my true name, and relevant background information is contained in my legal counsel’s sealed declaration. (25-328, Dkt. 4). I am more than willing to supplement that information under seal as requested by the Court.

3. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any FBI personnel. I specifically worked on cases related to the events that took place on January 6, 2021 (hereinafter “January 6 Cases”).

4. For the period of January 2021 and until the last time I worked on January 6 Cases, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice (“DOJ”), including with the relevant U.S. Attorney’s Office handling the prosecution and various Assistant United States Attorneys.

5. As a direct result of my efforts, and those of my colleagues with whom I coordinated, DOJ secured grand jury indictments and convictions on multiple defendants.

6. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force or improper investigative techniques, or of executing my duties in a partisan or biased fashion.

7. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

8. To the best of my knowledge, each of the individual criminal defendants in the January 6 Cases that I worked on were afforded all of the due process rights that any other defendant would receive.

9. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

10. During the time I was assigned to work on January 6 Cases, I was never given the option to decline such assignment because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

11. On or about February 2, 2025, I received an e-mail from my superiors with instructions that I fill out a survey that was disseminated by the FBI, in which I was to identify what kinds of tasks I executed in relation to January 6 Cases.

12. I have never before in my tenure with the FBI received such a survey.

13. Although I question the request for and purpose of the survey, I filled it out as I was directed to do so by my superiors.

14. I am aware that the survey information I provided was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General Emil Bove III.

15. I was never given a reason, other than the fact that I worked on January 6 Cases, as to why I should be included on this survey list.

16. If I were asked if I am or ever was under investigation for misconduct, I would not know how to answer that in the context of this matter, but I do believe that whatever the current circumstances are with respect to the so-called “weaponization review” it will potentially have an immediate or future negative impact on what assignments I can currently take or will be assigned, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

17. Because not all FBI personnel were assigned January 6 Cases, and I understand that some who were did not have to fill out the survey and are not on the list sent to DOJ, I believe that I am now at a distinct disadvantage vis-à-vis those FBI personnel who share the same title or responsibilities as I do with respect to competitive career moves.

18. To be clear, any accusation that I undertook my duties for partisan or weaponized reasons is defamatory and patently false. My actions with respect to any January 6 Cases

were strictly driven by the execution of my duties in accordance with my training, in furtherance of the rule of law and enforcement of federal statute(s) and had nothing to do with my personal views or allegiance to any political party.

19. In every January 6 case I worked on, there was ample reliable evidence that a violation of federal criminal statute(s) had occurred.

20. I firmly believe that my name being on this survey list of all FBI January 6 Case personnel will cause me reputational harm that may or will impact me for the remainder of my federal career. I view the harm to my current ability to perform my duties as real and tangible.

21. I am also extremely worried about the future impact this investigation will have on my job prospects, as it is entirely likely I will have to disclose the existence of this investigation and certainly any final adverse determination, even if false, on any future security clearance or employment forms.

22. I am well aware that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the FBI personnel who worked on their and other cases and have been active on social media demanding information about us.

23. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My concern extends not only to the actions of January 6 convicted felons and their supporters, but also to other malign actors whom I have investigated over the years.

24. Finally, to say that these actions by DOJ have demoralized me and that of many of my colleagues who were simply doing our jobs would be an understatement.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge.

Date: February 23, 2025

A handwritten signature in cursive script that reads "John Doe #3". The signature is written in black ink and is positioned above a horizontal line. Below the line, the text "John Doe #3" is printed in a standard, sans-serif font.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION et al.

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE et al.

Defendants.

Case Nos. 25-0325-JMC (Consolidated
Case) & 25-328-JMC (Lead case)

DECLARATION OF JOHN DOE #4 (25-328)

The undersigned hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this Declaration on personal knowledge and in support of the Plaintiffs Motion for Preliminary Injunction.

2. I am currently employed by the Federal Bureau of Investigation (“FBI”). Pursuant to the Court’s Minute Order issued February 6, 2025, my identity and other identifying information as to my employment is being protected under seal and *ex parte* so I will refrain from providing any details here that could identify me. Of course, my true name, and relevant background information is contained in my legal counsel’s sealed declaration. (25-328, Dkt. 4). I am more than willing supplement that information under seal as requested by the Court.

3. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any FBI personnel. I specifically worked on cases related to the events that took place on January 6, 2021 (hereinafter “January 6 Cases”).

4. For the period of January 2021 and until the last time I worked on January 6 Cases, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice (“DOJ”), including with the relevant U.S. Attorney’s Office handling the prosecution and various Assistant United States Attorneys.

5. As a direct result of my efforts, and those of my colleagues with whom I coordinated, DOJ secured grand jury indictments and convictions on multiple defendants.

6. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force or improper investigative techniques, or of executing my duties in a partisan or biased fashion.

7. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

8. To the best of my knowledge, each of the individual criminal defendants in the January 6 Cases that I worked on were afforded all of the due process rights that any other defendant would receive.

9. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

10. During the time I was assigned to work on January 6 Cases, I was never given the option to decline such assignment because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

11. On or about February 2, 2025, I received a phone call and e-mail from my superiors with instructions that I fill out a survey that was disseminated by the FBI, in which I was to identify what kinds of tasks I executed in relation to January 6 Cases.

12. I have never before in my tenure with the FBI received such a survey.

13. Although I question the request for and purpose of the survey, I filled it out as I was directed to do so by my superiors.

14. I am aware that the survey information I provided was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General Emil Bove III.

15. I was never given a reason, other than the fact that I worked on January 6 Cases, as to why I should be included on this survey list.

16. If I were asked if I am or ever was under investigation for misconduct, I would not know how to answer that in the context of this matter, but I do believe that whatever the current circumstances are with respect to the so-called “weaponization review” it will potentially have an immediate or future negative impact on what assignments I can currently take or will be assigned, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

17. Because not all FBI personnel were assigned January 6 Cases, and I understand that some who were did not have to fill out the survey and are not on the list sent to DOJ, I believe that I am now at a distinct disadvantage vis-à-vis those FBI personnel who share the same title or responsibilities as I do with respect to competitive career moves.

18. To be clear, any accusation that I undertook my duties for partisan or weaponized reasons is defamatory and patently false. My actions with respect to any January 6 Cases were strictly driven by the execution of my duties in accordance with my training, in furtherance of the rule of law and enforcement of federal statute(s) and had nothing to do with my personal views or allegiance to any political party.

19. In every January 6 case I worked on, there was ample reliable evidence that a violation of federal criminal statute(s) had occurred.

20. I firmly believe that my name being on this survey list of all FBI January 6 Case personnel will cause me reputational harm that may or will impact me for the remainder of my federal career. I view the harm to my current ability to perform my duties as real and tangible.

21. I am also extremely worried about the future impact this investigation will have on my job prospects, as it is entirely likely I will have to disclose the existence of this investigation and certainly any final adverse determination, even if false, on any future security clearance or employment forms.

22. I am well aware that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the FBI personnel who worked on their and other cases and have been active on social media demanding information about us.

23. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My concern extends not only to the actions of January 6 convicted felons and their supporters, but also to other malign actors whom I have investigated over the years.

24. Finally, to say that these actions by DOJ have demoralized me and that of many of my colleagues who were simply doing our jobs would be an understatement.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge.

Date: February 23, 2025



John Doe #4

SWORN DECLARATION OF JANE DOE (25-325)

I, Jane Doe, being of sound mind and over the age of eighteen (18), do hereby state that I have personal knowledge of the matters asserted herein, and should I be called to testify in a court of competent jurisdiction, would state the following:

1. I am currently employed as an FBI special agent in the headquarters office. I have been employed with the FBI since 2016.
2. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any of my fellow agents and FBI personnel.
3. On or about January 10, 2021, I was first assigned to work on cases related to the events that took place on January 6, 2021 (hereinafter “January 6 Cases”). At that time, I was working in the Washington Field Office.
4. For the period of January 2021 to October of 2022, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice, for example, with Assistant United States Attorneys.
5. As a direct result of my efforts, and those of the persons with whom I coordinated, DOJ secured grand jury indictments on multiple defendants, and convictions of more than 100 people.
6. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force, or of executing my duties in a partisan or biased fashion.
7. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

8. Of the cases I worked on, none of the defendants asserted in court that my actions were biased, partisan or weaponized. To the best of my knowledge, each of the defendants were afforded all of the due process rights that any other defendant would receive.

9. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

10. I also assert that when I was assigned January 6 Cases to investigate, I was not given the option to decline investigating because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

11. On or about February 2, 2025, I received an email from my superiors instructing me to fill out a survey that was disseminated by the DOJ, in which I was to identify what kinds of tasks I executed in relation to January 6 Cases.

12. Never before in my tenure with the FBI was I ever sent such a survey.

13. Although I had a great deal of trepidation about filling out the survey and its purposes, I filled it out as I was directed to do by my superiors.

14. I am aware that the survey I filled out was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General, Mr. Emil Bove III.

15. I was never given a reason as to why I should be included on this list, other than the fact that I worked on January 6 Cases.

16. It is my understanding that at this time, if I were asked if I am under investigation for misconduct, I would not know how to answer, and would have to disclose the “review” being conducted by DOJ of my actions on January 6 Cases.

17. I believe that this has a current, immediate negative impact on what assignments I can currently take, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

18. I am no longer being assigned to any tasks associated with the investigation of domestic terrorism and extremist activity.

19. Because not all agents were assigned January 6 Cases, and some who were did not have to fill out the survey and are not on the list sent to DOJ, I believe that I am now at a distinct disadvantage vis-à-vis those agents with respect to competitive career moves.

20. I also assert that the accusation that I undertook my duties for partisan and weaponized reasons is defamatory and patently false. My actions with respect to the January 6 Cases were strictly driven by the execution of my duties in accordance with my training, and had nothing to do with my personal views or allegiance to any political party.

21. In every January 6 case I worked on, there was ample reliable evidence that a violation of the federal criminal code had occurred.

22. I attest to the fact that being on Mr. Bove’s list will cause me reputational harm that may impact me for the remainder of my career. The harm to my current ability to do my duties is real and tangible.

23. I am also extremely worried about what impact this investigation will have on my future job prospects, as I will likely have to disclose the existence of this investigation on any future security clearance or job inquiries.

24. I am aware of the fact that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the agents who worked on those cases and have been active on social media demanding information about us.


25. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My concern extends not only to the actions of January 6 convicted felons, but also to other malign actors whom I have investigated over the years.

26. Finally, since this investigative process began, I have been deeply negatively impacted emotionally and mentally. These actions by DOJ have demoralized me and many of my colleagues who were simply doing our jobs.

And further Affiant sayeth not.

I, Jane Doe, do swear and/or affirm under the federal penalties for perjury that the foregoing statements are true to the best of my knowledge and recollection.

2-21-2025
Date


Jane Doe

SWORN DECLARATION OF JANE DOE #2 (25-325)

I, Jane Doe #2, being of sound mind and over the age of eighteen (18), do hereby state that I have personal knowledge of the matters asserted herein, and should I be called to testify in a court of competent jurisdiction, would state the following:

1. I am currently employed as an FBI special agent in the headquarters office. I have been employed with the FBI since 2012.
2. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any of my fellow agents and FBI personnel.
3. On or about January 10, 2021, I was first assigned to work on cases related to the events that took place on January 6, 2021 (hereinafter "January 6 Cases"). At that time, I was working in the Washington Field Office.
4. Most of the agents in the Washington Field Office in January of 2021 were told to work on numerous January 6 investigations, regardless of their regular assignments, in an all-hands-on-deck manner.
5. For the period of January 2021 to March of 2023, I executed my investigative and law enforcement duties at the direction of my supervisors, and in cooperation with personnel from the Department of Justice, for example, with Assistant United States Attorneys.
6. As a direct result of my efforts, and those of the persons with whom I coordinated, DOJ secured grand jury indictments on multiple defendants, and convictions of more than 100 people.
7. During the entire time that I worked on January 6 Cases, I was never accused of violating FBI policies or procedures, accused of using excessive force, or of executing my duties in a partisan or biased fashion.

8. During the entire time that I worked on January 6 Cases, I was never reprimanded by anyone in my chain of command for poor performance or unethical behavior.

9. Of the cases I worked on, none of the defendants asserted in court that my actions were biased, partisan or weaponized. To the best of my knowledge, each of the defendants were afforded all of the due process rights that any other defendant would receive.

10. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.

11. I also assert that when I was assigned January 6 Cases to investigate, I was not given the option to decline investigating because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the assignment of these cases. In other words, I was given direct orders to investigate and execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

12. On or about February 2, 2025, I received an email from my superiors instructing me to fill out a survey that was disseminated by the DOJ, in which I was to identify what kinds of tasks I executed in relation to January 6 Cases.

13. Never before in my tenure with the FBI was I ever sent such a survey.

14. Although I had a great deal of trepidation about filling out the survey and its purposes, I filled it out because my current supervisor did not have any knowledge of what I did on the January 6 Cases.

15. I am aware that the survey I filled out was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General, Mr. Emil Bove III.

16. I was never given a reason as to why I should be included on this list, other than the fact that I worked on January 6 Cases.

17. It is my understanding that at this time, if I were asked if I am under investigation for misconduct, I would not know how to answer, and would have to disclose the “review” being conducted by DOJ of my actions on January 6 Cases.

18. I believe that this has a current, immediate negative impact on what assignments I can currently take, and that I would be obligated to reveal this fact to a prosecutor if asked. I have received no direction from my superiors or the DOJ to the contrary.

19. I am no longer being assigned to any tasks associated with the investigation of domestic terrorism and extremist activity.

20. Because not all agents were assigned January 6 Cases, and some who were did not have to fill out the survey and are not on the list sent to DOJ, I believe that I am now at a distinct disadvantage vis-à-vis those agents with respect to competitive career moves.

21. I fear that agents on that list are being treated as scapegoats by the DOJ in order to reduce the size of the FBI workforce as has been recently done at other federal agencies.

22. I also assert that the accusation that I undertook my duties for partisan and weaponized reasons is defamatory and patently false. My actions with respect to the January 6 Cases were strictly driven by the execution of my duties in accordance with my training, and had nothing to do with my personal views or allegiance to any political party.

23. In every January 6 case I worked on, there was ample reliable evidence that a violation of the federal criminal code had occurred.

24. I attest to the fact that being on Mr. Bove's list will cause me reputational harm that may impact me for the remainder of my career. The harm to my current ability to do my duties is real and tangible.

25. I am currently in the process of applying for a competitive internal position with a fixed term commitment, and am concerned that the mere fact that I worked on January 6 Cases will put me at a disadvantage compared to other applicants. I do know that typically agents under investigation for misconduct are not eligible for promotion until they are exonerated.

26. I am also extremely worried about what impact this investigation will have on my future job prospects, as I will likely have to disclose the existence of this investigation on any future security clearance or job inquiries.

27. I am aware of the fact that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the agents who worked on those cases and have been active on social media demanding information about us, and are also demanding that DOJ pursue prosecutions of us for the work we did.

28. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My concern extends not only to the actions of January 6 convicted felons, but also to other malign actors whom I have investigated over the years.

29. Finally, since this investigative process began, I have been deeply negatively impacted emotionally and mentally. These actions by DOJ have demoralized me and many of my colleagues who were simply doing our jobs to investigate those who violated the criminal code, under the guidance of the DOJ and our supervisors.

30. As federal agents we do not receive compensation for working over our regularly scheduled hours, as it is covered under the Availability Pay rules. There were numerous instances when I worked extra hours on January 6 Cases to meet the deadlines set to execute my duties in a safe manner.

And further Affiant sayeth not.

I, Jane Doe, do swear and/or affirm under the federal penalties for perjury that the foregoing statements are true to the best of my knowledge and recollection.

02/21/2025
Date

Jane Doe #2
Jane Doe #2

SWORN DECLARATION OF JANE DOE #3 (25-325)

I, Jane Doe #3, being of sound mind and over the age of eighteen (18), do hereby state that I have personal knowledge of the matters asserted herein, and should I be called to testify in a court of competent jurisdiction, would state the following:

1. I am currently employed by the FBI as a staff employee. I have been employed with the FBI since 2017.
2. I am a career service employee, and not a political appointee. I did not exercise policy making authority with respect to any of my fellow FBI personnel.
3. My duties include providing intelligence analysis and examining background information.
4. On or about January 10, 2021, I was first assigned to support work on cases related to the events that took place on January 6, 2021 (hereinafter "January 6 Cases"). I recall that nearly all personnel were asked to help initially, as there was so much information to review.
5. I executed my duties in support of January 6 investigations at the direction of my supervisors, and in cooperation with personnel from the Department of Justice for a short while, less than three months. I was then assigned to other matters.
6. During the entire time that I supported January 6 Cases, I was never accused of violating FBI policies or procedures, or of executing my duties in a partisan or biased fashion.
7. During my entire FBI career, I have never been accused of being biased, weaponized or partisan in the execution of my duties.
8. I also assert that when I was assigned to support January 6 Cases, I was not given the option to decline my duties because of my political views or opinions. In fact, to my knowledge, the topic of my political views or opinions played no role whatsoever in the

assignment of my duties. In other words, I was given direct orders to execute my duties to the best of my abilities and in accordance with FBI policies, and that is precisely what I did.

9. On or about February 2, 2025, I received an email from my superiors instructing me to fill out a survey that was disseminated by the FBI, in which I was to identify what kinds of tasks I executed in relation to January 6 Cases.

10. Never before in my tenure with the FBI was I ever sent such a survey.

11. Although I had a great deal of trepidation about filling out the survey and its purposes, I filled it out as I was directed to do by my superiors.

12. I am aware that the survey I filled out was forwarded by the FBI to DOJ in accordance with instructions from Acting Deputy Attorney General, Mr. Emil Bove III.

13. I was never given a reason as to why I should be included on this list, other than the fact that I worked on January 6 Cases.

14. It is my understanding that at this time, if I were asked if I am under investigation for misconduct, I would not know how to answer, and would have to disclose the “review” being conducted by DOJ of my actions on January 6 Cases.

15. I believe that this has a current, immediate negative impact on what assignments I can currently take, and that I would be obligated to reveal this fact to a prosecutor if asked.

16. Because not all employees were assigned January 6 Cases, and some who were did not have to fill out the survey and are not on the list sent to DOJ, I believe that I am now at a distinct disadvantage vis-à-vis those employees with respect to competitive career moves.

17. I also assert that the accusation that I undertook my duties for partisan and weaponized reasons is defamatory and patently false. My actions with respect to the January 6 Cases were

strictly driven by the execution of my duties in accordance with my training, and had nothing to do with my personal views or allegiance to any political party.

18. In every January 6 case I worked on, there was ample reliable evidence that a violation of the federal criminal code had occurred, and it was my job to analyze data for that specific purpose.

19. I attest to the fact that being on Mr. Bove's list will cause me reputational harm that may impact me for the remainder of my career. The harm to my current ability to do my duties is real and tangible.

20. I have been informed that any derogatory information in my personnel record will impact my ability to be promoted. This would be the first such derogatory information associated with me since I began working at the FBI.

21. I am also extremely worried about what impact this investigation will have on my future job prospects, as I will likely have to disclose the existence of this investigation on any security clearance or job inquiries.

22. I am aware of the fact that several pardoned January 6 convicted felons, and those who support them, have been actively seeking information about the agents and employees who worked on those cases and have been active on social media demanding information about us.

23. I am extremely worried and anxious about my personal safety and that of my family should the fact that I worked on January 6 Cases be publicly disclosed. My concern extends not only to the actions of January 6 convicted felons, but also to others who may hold a grudge against the FBI.

24. The FBI has already communicated recent doxing and swatting incidents against personnel who worked on either the January 6 Cases or the Mar-a-Lago classified documents

case. The threat against me and others like me is very real, and is causing great anxiety amongst FBI personnel. It is not imaginary or speculative.

25. I assert that what is happening at the FBI is politically driven, and that I may be targeted if I assert any political views with friends or family. I have taken the step of contacting my county supervisor of elections to ask that my voter registration information be privatized. I have also decided to avoid any political conversations with colleagues and friends while off duty.

26. I further have serious concerns about my private emails and text messages being accessed by the FBI to ascertain my political leanings.

27. I have heard rumors that some of the software we use on government devices is able to listen in to ambient sounds via the microphones on our devices. I have not been able to corroborate that, but more senior personnel have specifically advised me to turn off all of my government devices when they are not in use and to be very careful what I say while those devices are on.

28. Finally, since this investigative process began, I have been deeply negatively impacted emotionally and mentally. These actions by DOJ have demoralized me and many of my colleagues who were simply doing our jobs.

And further Affiant sayeth not.

I, Jane Doe, do swear and/or affirm under the federal penalties for perjury that the foregoing statements are true to the best of my knowledge and recollection.

2/24/2025
Date

Jane Doe #3
Jane Doe #3

SWORN DECLARATION OF FRANK FIGLIUZZI (25-325)

I, Frank Figliuzzi, being of sound mind and over the age of eighteen (18), do hereby state that I have personal knowledge of the matters asserted herein, and should I be called to testify in a court of competent jurisdiction, would state the following:

1. I served 25 years as an FBI Special Agent from 1987 to 2012. During that time, I served in every leadership role in the FBI's career ladder up to the position of Assistant Director, including Supervisory Senior Resident Agent, Squad Supervisor, Unit Chief in the Office of Professional Responsibility (OPR), Assistant Special Agent in Charge, Inspector, Chief Inspector, Special Agent in Charge, Deputy Assistant Director, and Assistant Director.
2. Over the course of my career at the FBI, I had countless opportunities to examine and participate in the assessment of FBI agents for professional development and promotional purposes, as well as to review their conduct for disciplinary purposes.
3. These opportunities have given me a broad-based understanding of how the FBI functions, and more importantly, of how important an agent or other FBI employee's reputation for professionalism and ethical conduct is to his or her career.
4. My roles in OPR and Inspection Division particularly related to the impact on an employee's career and post-FBI employment when such an employee is accused of misconduct, subject to personnel inquiries, or other administrative actions, some of which may fall outside the scope of long-established Human Resources Division practices.
5. Being the subject of an internal investigation for misconduct, or even poor performance, has such a debilitating and interfering impact on an agent, the FBI has set out clear rules and guidelines to ensure such investigations are only initiated when there is good cause to believe an agent or employee has fallen short of expectations.

6. While an employee is under investigation, he or she is not likely to be promoted, and may be taken off of active investigations until the matter is resolved. Again, this can have serious and long-lasting effects on the employee or agent's reputation, even if they are ultimately exonerated.

7. During the course of my FBI career, I have never seen any administration gather a list of FBI employees for review or investigation based on direction from the White House. It is therefore my testimony that the Executive Order of January 20, 2025 (hereinafter "the Executive Order"), demanding review of FBI actions based on an assumption that those actions were "weaponized", or "partisan", is both unprecedented and extremely dangerous.

8. My understanding of the Executive Order is that DOJ was instructed to identify FBI agents and personnel who were involved with the investigation and prosecution of the individuals who were involved in crimes related to the January 6, 2021, attack on and around the Capitol building and halls of Congress (hereinafter "January 6 Cases").

9. I further understand that on or about February 2, 2025, Acting Deputy Attorney General Emil Bove (hereinafter "Mr. Bove") sent out a survey to thousands of agents and employees, ordering them to self-identify the work they did on January 6 cases, asserting that the data collected by that survey was to be aggregated into a list of employees who may be subjected to internal administrative review or disciplinary action.

10. I have been advised by Counsel for the Plaintiffs that a list of employees who worked on January 6 Cases has, in fact, been provided to Mr. Bove and others within the government.¹

11. Per an email I reviewed that is in the record before the Court and has been widely publicized, Mr. Bove asserted that the list he has demanded from the FBI would only be used

¹ I have been informed that some personnel who worked on January 6 Cases were not included on the list for reasons that are not clear to me.

to determine whether the employees carried out their duties ethically, and whether they acted with corrupt or partisan intent. *See* EXHIBIT 1.

12. I have reviewed the survey disseminated by Mr. Bove, a copy of which is attached hereto at EXHIBIT 2.

13. As is clear on the face of the survey, no information solicited by the survey questions provides any insight into whether the respondent engaged in any inappropriate or prohibited actions.

14. I therefore conclude that the only way Mr. Bove could ascertain if any respondent executed his or her duties in a “weaponized” or “partisan” way, would be to gather additional information about the actions of the respondent, which would constitute an administrative investigation.

15. Thus, for all intents and purposes, the personnel who are on that list are functionally “under investigation” for malfeasance, which, as explained below, has immediate impacts on their ability to execute their duties.

16. The employees whose names were collected merely because they worked on their assigned January 6 cases are currently facing lasting harm within their local field offices or headquarters assignments, their potential promotional advancement opportunities, and potentially in their post-FBI careers if those careers are in law enforcement or national security, or private sector roles requiring security clearances.

17. Mr. Bove’s email states: “No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties,” and goes on to aver that the only individuals who should be concerned, “are those who acted with corrupt or partisan intent, who blatantly defied orders

from Department leadership, or who exercised discretion in weaponizing the FBI." See EXHIBIT 1.

18. Based on my professional experience and years of service to the FBI, I state that Mr. Bove's representation is misleading and incorrect because Bove's stated intention – to ascertain whether those listed employees properly conducted their investigations, will – by necessity, require an administrative inquiry into each of those employees.

19. The mere opening of any administrative inquiry on an FBI employee triggers personnel consequences that last through the remainder of the employee's career, and beyond.

20. At the local level, the FBI's Giglio-Henthorn policy requires an individual employee and their field office to disclose to prosecutors any pending or adjudicated administrative inquiry that might tend to call into question their honesty, trustworthiness, veracity and ethics.²

21. An inquiry opened to determine, as Mr. Bove asserts, whether an agent "...acted with corrupt or partisan intent," or "carried out their duties in an ethical manner," would fall under FBI policy as requiring the agent to disclose the inquiry to his or her leadership and to the Assistant United States Attorney's that he or she partners with to prosecute their investigations.

22. Such mandated disclosures will inevitably harm an agent's career by causing his or her leadership, and the US Attorney's offices with which he or she works, to question future assignments, as well as the agent or employee's ability to convincingly testify before a grand jury or petit jury, and could lead to the agent suffering what the Office of Personnel Management and the FBI refer to as a "loss of effectiveness."

² See *Giglio v United States*, 405 U.S. 150 (1972), also provided that disclosure is required for any material that could damage the credibility of a witness for the prosecution based upon dishonesty, misconduct or bias.

23. The term “loss of effectiveness,” refers to any issue with the agent or employee’s background that calls into question their personal integrity such that their credibility could be questioned, and could taint the results of their work.

24. Specifically many, if not most of the agents assigned to January 6 cases were assigned to Joint Terrorism Task Forces (hereinafter “JTTF”) in the field offices.

25. An agent who would have to disclose to prosecutors that he or she is under inquiry for having been “partisan” or “weaponized,” might have to be removed from that case or task force, and deprive that agent of an earned position on what many agents deem a prestigious assignment to the JTTF.

26. That agent could not effectively work a violent extremist case again, because he or she would be cross-examined by a defense counsel as to why his or her name was on a list of agents who worked January 6 cases, and was investigated for being “weaponized” or otherwise “partisan.”

27. Furthermore, such an investigation could potentially undermine the agent or employee’s ability to hold the highest levels of security clearance, as such matters are always considered in the granting of security clearances. Pending the outcome of the inquiries Mr. Bove would need to open, an employee’s clearance might be suspended, which would preclude them from even accessing FBI office space.

28. Thus, in the near and immediate term, merely being on Mr. Bove’s list of agents to be investigated for partisanship does clearly, and in my opinion, irreparably cause harm to that agent or employees’ ability to execute their duties, and would necessarily foreclose them from many of the activities of the FBI.

29. The long-term reputational damage to an agent or employee is equally extremely serious. The FBI's Administrative Action Name Check Policy Directive 1249 (5.1) dated 2-13-2023, requires name checks to be conducted for any personnel actions that may benefit the employee. *See* EXHIBIT 3.

30. These checks are to identify any items reflecting pending inquiries involving the subject employee. Such checks may cover their entire career in most circumstances (5.1.6).

31. When such checks indicate a pending or adjudicated administrative matter involving the employee, the Assistant Director of Human Resources Division must review the findings and make recommendations as to whether to preclude the employee's promotion, award or preferential transfer (5.4).

32. For promotion beyond mid-level management to the Senior Executive Service or other Senior Level ranks, further name checks are required to be run within DOJ databases as well.

33. In the current highly politicized environment within the FBI and DOJ, it is not hard to envision either a formal or informal protocol where no employee who worked January 6 cases would be promoted, given an award or transferred to their office of preference.

34. But even if such did not occur, an employee who has an administrative investigation in his or her work history, no matter how frivolous or ludicrous the predicate for that investigation, would be at a disadvantage as compared to an employee with no such "baggage."

35. The simple act of keeping these unwarranted administrative inquiries open for the length of time it will take to investigate as many as 6,000 agents and their cases, will effectively preclude those agents from progressing in their careers.

36. Furthermore, many FBI agents retire or resign and move on to the intelligence community, law enforcement or private sector jobs related to national security.

37. In such cases, it is FBI policy to provide those prospective employers of retired or former FBI personnel the results of an FBI name check on the former employee.

38. Specially, the FBI will advise those new employers whether the employee left “under inquiry” or had any derogatory information in his files. Such an indication would and does impact a new employer’s decision to grant the former FBI employee a security clearance or a job within law enforcement or intelligence.

39. Thus, the fact that FBI agents and personnel on a list gathered of persons to be administratively investigated for ethical violations, regardless of whether or not that person is ultimately exonerated, will have lasting and irreparable negative impact on their future job prospects.

40. The intelligence community is a very small community, in which one’s reputation for integrity and good judgment is paramount, and follows them wherever they go.

41. A baseless accusation of partisanship, weaponization or lack of integrity has a clear, punitive effect on an agent or employee, regardless of the intention of the person(s) who initiated such an investigation or inquiry.

42. While the FBI holds its employees to high standards of integrity and professionalism, it does not launch investigations into the conduct of its employees without a reason to believe they have trespassed on the rules that govern them. This is a minimum requirement of FBI leaders when it comes to managing their subordinates, because it is quite easy to ruin an employees’ reputation and career prospects with unjustified investigations.

43. In my 25 years with the FBI, I have never seen investigations of FBI agents launched without some factual predicate to justify the inquiry, and certainly never to the scale launched by the current administration.

44. This process not only will likely ruin the careers of thousands of FBI employees, it will in turn, dramatically weaken the network of highly skilled and experienced FBI personnel who have given their entire careers to keeping the citizens of this country safe. America does not benefit from undermining the short and long term efficacy of hundreds of experienced personnel.

And further Affiant sayeth not.

I, Frank Figliuzzi, swear and/or affirm, under the federal penalties for perjury, that the matters asserted herein are true and accurate to the best of my knowledge.

2-21-2025
Date


Frank Figliuzzi

EXHIBIT 1

Colleagues:

I write with additional information regarding the memo that I sent to the FBI's acting director on January 31, 2025.

Multiple times during the week of January 27, 2025, I asked the FBI's acting leadership to identify the core team in Washington, D.C. responsible for the investigation relating to events on January 6, 2021. The purpose of the requests was to permit the Justice Department to conduct a review of those particular agents' conduct pursuant to President Trump's Executive Order concerning weaponization in the prior administration. FBI acting leadership refused to comply. That insubordination necessitated, among other things, the directive in my January 31, 2025 memo to identify all agents assigned to investigations relating to January 6, 2021. In light of acting leadership's refusal to comply with the narrower request, the written directive was intended to obtain a complete data set that the Justice Department can reliably pare down to the core team that will be the focus of the weaponization review pursuant to the Executive Order. The memo stated unambiguously, and I stand by these words, that the information process" that will be used to "determine whether any additional personnel actions are necessary."

Let me be clear: No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties. The only individuals who should be concerned about the process initiated by my January 31, 2025 memo are those who acted with corrupt or partisan intent, who blatantly defied orders from Department leadership, or who exercised discretion in weaponizing the FBI. There is no honor in the ongoing efforts to distort that simple truth or protect culpable actors from scrutiny on these issues, which have politicized the Bureau, harmed its credibility, and distracted the public from the excellent work being done every day. If you have witnessed such behavior, I encourage you to report it through appropriate channels.

In closing, I am extremely grateful for the service and sacrifices of those in the FBI's ranks who have done the right thing for the right reasons. You will be empowered to do justice as we work together to make America safe again. I very much look forward to continuing that work with you.



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In closing, I am extremely grateful for the service and sacrifices of those in the FBI's ranks who have done the right thing for the right reasons. You will be empowered to do justice as we work together to make America safe again. I very much look forward to continuing that work with you.

EXHIBIT 2

A/DAG Memo Response: Events that Occurred at or Near the US Capitol on January 6, 2021

 When you submit this form, the owner will see your name and email address.

* Required

1. Are you submitting this form for yourself or on behalf of your employee? *

- Me
- Employee

2. What is your/your employee's current title? *

Special Agent

3. Are you/your employee currently a supervisor? *

Yes

4. Are you/your employee currently an ASAC or SSIA? *

No

5. Are you/your employee currently an SES employee (e.g., SAC, Section Chief, DAD, AD, etc...)? *

No

6. What was your/your employee's title when you/your employee participated in investigation(s) or prosecution(s) of events that occurred at or near the US Capitol on January 6, 2021? Select your answer *

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Special Agent

7. Were you/your employee a supervisor when you/your employee participated in investigation(s) or prosecution(s) of events that occurred at or near the US Capitol on January 6, 2021? Select your answer *

No

8. Were you/your employee an ASAC or SSIA when you/your employee participated in investigation(s) or prosecution(s) of events that occurred at or near the US Capitol on January 6, 2021? Select your answer *

No

9. Were you/your employee an SES employee when you/your employee participated in investigation(s) or prosecution(s) of events that occurred at or near the US Capitol on January 6, 2021? Select your answer *

No

10. What division are you/your employee currently in? (The drop down menu is sorted first by Field Offices, Legat Offices, then HQ divisions, and then in alphabetical order by the division's 2-character code). Select your answer *

[REDACTED]

11. What division were you/your employee in when you/your employee participated in investigation(s) or prosecution(s) of events that occurred at or near the US Capitol on January 6, 2021? Select your answer *

[REDACTED]

12. What was your/your employee role in the investigation(s) or prosecution(s) relating to events that occurred at or near the US Capitol on January 6, 2021? Select all that apply. *

12. What was your/your employee role in the investigation(s) or prosecution(s) relating to events that occurred at or near the US Capitol on January 6, 2021? Select all that apply. *

- Analytical support
- Approved ECs or other documents in a case file
- Arrest - led operation or participated in arrest
- Assigned as case agent for investigation(s)
- Assigned as co-case agent for investigation(s)
- Conducted baseline database checks for case opening
- Conducted surveillance of subject(s)
- Discovery
- Evidence collection and/or disposition
- Grand jury subpoena - submission or review
- HQ Program Management Support
- Interviewed witness(es), subject(s), and/or complainant(s)
- Responded to lead set by another office
- Search warrant - led operation or participated in search
- Supervised squad conducting investigation(s)
- Testified at a trial
- The responses in this survey are provided

13. What was the approximate date of your/your employee's last activity relating to the investigation(s) or prosecution(s) relating to events that occurred at or near the US Capitol on January 6, 2021? *

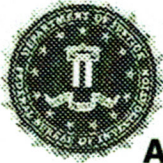
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EXHIBIT 3

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FEDERAL BUREAU OF INVESTIGATION
POLICY DIRECTIVE
Administrative Action Name Check Policy Directive
1249D

General Information

Proponent	<u>Human Resources Division (HRD)</u>
Publication Date	2023-02-13
Last Updated	2023-04-21
Supersession	<i>Administrative Action Name Check Policy Directive (1184D)</i>

1. Authorities

- Title 5 *United States Code* (U.S.C.) Section (§) 301
- 5 U.S.C. § 302
- 5 U.S.C. § 552a (Privacy Act of 1974)

2. Purpose

2.1. The Federal Bureau of Investigation's (FBI) reputation is largely dependent upon how employees conduct themselves in both their official and personal capacities. All FBI employees are expected to act in accordance with the highest standards of personal honor and integrity. Exercising good judgment and sound decision making is key in ensuring the effectiveness and credibility of the FBI.

2.2. This policy sets forth processes for conducting administrative action name checks for personnel actions, when an FBI employee is being considered for a personnel action that conveys benefits, such as a promotion, direct placement, transfer, program role, award or incentive, sabbatical, education program, committee or board, separated law enforcement officer (LEO) identification (ID) card, early retirement, and the like.

3. Scope

This policy directive (PD) applies to all FBI employees, task force officers (TFO), and retired FBI employees under consideration for participation in the Reserve Service Program.

4. Exemptions

There are no exemptions to this PD.

5. Policy Statement

5.1. The administrative action name check requires that a query be conducted, as requested, of an employee's records retained by the following FBI components: Office of Professional Responsibility (OPR), Security Division (SecD), Inspection Division (INSD), HRD's Performance Appraisal Unit (PAU), Office of Disciplinary Appeals (ODA), Office of

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Equal Employment Opportunity Affairs (OEEOA), and, for foreign assignments, the International Operations Division (IOD). Administrative action name checks for Senior Executive Service (SES) and Senior Level (SL) positions also require additional queries sent to the Department of Justice's (DOJ) OPR and Criminal Division.

- 5.1.1. An administrative action name check must be conducted each time an employee is being considered for a personnel action that conveys a benefit.
- 5.1.2. Processing must not occur on such personnel actions until the employees pass their administrative name checks.
- 5.1.3. An administrative action name check is not required for a noncompetitive promotion (i.e., career ladder).
- 5.1.4. An administrative action name check must be conducted on an employee's records for at least the three years immediately preceding the query for a proposed personnel action that conveys benefits, and up to the employee's entire career, pursuant to the HRD Name Check Preclusion Guide or as determined by the assistant director (AD), HRD. This includes, but is not limited to, competitive promotions, direct placements, potential transfers (including no-cost transfers), sabbatical and University Education Program (UEP) nominations, Reserve Service Program requests, award and incentive nominations, qualified separated LEO ID card requests, Student Loan Repayment Program (SLRP) requests, committee and board members selections, such as for the SES career board and the diversity advisory committees (DAC), and employees applying for Employee Assistance Program (EAP) roles, either full-time or collateral, and other preferential benefits, such as early retirement.
- 5.1.5. For General Schedule (GS)-14, GS-15, SES, and SL personnel actions, and for all foreign assignments, an administrative action name check must be conducted on an employee's records spanning his or her entire career.
- 5.1.6. An administrative action name check must be conducted on an employee's records spanning his or her entire career for any employee applying to a special agent (SA) position, receiving a supervisory promotion, an honorary award, an external award, as well as other personnel actions, as determined by the AD, HRD.
- 5.2. Although there are penalties imposed by OPR when employees engage in misconduct, these penalties are separate and distinct from any preclusion period that may be imposed by HRD. See the HRD Name Check Preclusion Guide for further information.
 - 5.2.1. The preclusion period imposed by HRD allows a candidate an appropriate time frame to demonstrate improved judgment and the performance expected of all FBI employees, before receiving a benefit or a promotion. This preclusion period also helps mitigate any negative perception and morale implications associated with rewarding a candidate who has pending or substantiated misconduct, equal employment opportunity (EEO), security, or other performance issues. As such, a preclusion period may be applied to avoid perceptions of rewarding bad behavior, which can negatively affect the FBI's reputation and workforce morale.
- 5.3. Any queried FBI employee who is found to be the subject of any administrative investigation, case, complaint, management deficiency, or IOD curtailment that is open, "no notice," pending, or closed (if found to be substantiated) must be referred to the AD, HRD (or designee) for further review.
- 5.4. The AD, HRD (or designee) must determine whether the FBI employee is precluded or not precluded from further consideration for the personnel action. The AD, HRD (or designee) can use discretion when making preclusion decisions for all name check findings,

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but specifically for those pending final adjudication. The decision of the AD, HRD is considered final and not subject to appeal.

5.4.1. FBI employees approved (i.e., not precluded) by the AD, HRD (or designee) may proceed with their personnel actions, and FBI employees declined (i.e., precluded) by the AD, HRD (or designee) are removed from consideration for their personnel actions. The decision of the AD, HRD (or designee) is independent of DOJ and the reporting FBI components and considered final for personnel actions, as outlined in subsection 6.1 of this PD. All administrative action name checks and preclusion recommendations for selectees for SES and SL positions must be submitted to the Director (or designee) for review and approval.

5.4.2. Individuals who are subjects or named in extended, ongoing investigations face potential preclusion, based on the discretion of the AD, HRD (or designee). In all instances, the decision of the AD, HRD (or designee) is based on several factors, including, but not limited to, the facts of the investigation, historical precedent, severity and recentness of the allegation, OPR's Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process, mitigating or aggravating factors, and potential penalties that could be imposed on the FBI employee. Typically, an investigation that goes beyond three years and has not been adjudicated should not preclude the named FBI employee from receiving his or her personnel action. However, lengthy investigations that involve egregious misconduct or behavior may preclude the named FBI employee from receiving his or her personnel action.

5.4.3. The preclusion period begins from the date of the offense and not the date of final adjudication of the administrative action. In instances in which the employee was demoted, the preclusion period begins from the date the demotion took effect. In cases in which the date of the offense is unknown, the preclusion period should start from the investigation start date. The HRD Name Check Preclusion Guide, which outlines the recommended preclusion periods for personnel actions, is based on historical precedent and the guidelines established in OPR's Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process. For more information, please refer to the HRD Name Check Preclusion Guide, OPR's Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process, or Security Executive Agent Directive (SEAD) 4: National Security Adjudicative Guidelines (June 8, 2017).

5.5. A no notice name check result refers to a pending investigation in which the named employee has yet to be notified of the existence of an investigation. In this case, a no notice name check result must be forwarded to the AD, HRD (or designee) for final review and approval of a preclusion decision. In SES and SL selections, a no notice name check result must be forwarded to the Director (or designee) for final review and approval.

5.6. If OEEOA returns a positive response from a query, the Office of the General Counsel (OGC) must provide a letter with a legal opinion that addresses whether the matter should constitute an impediment to future personnel actions. An EEO allegation, in and of itself, should not preclude an individual from personnel actions. Unless OGC or INSD informs HRD that they believe there is evidence that the named employee did in fact discriminate against the complainant, the AD, HRD should not preclude the employee.

6. Roles and Responsibilities

6.1. The AD, HRD (or designee) must:

6.1.1. Review the administrative action name check summaries in which a queried FBI employee was found to be a subject of an administrative investigation, case, complaint, inspection deficiency, or IOD curtailment.

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6.1.2. Decide to preclude or not preclude an employee from further consideration for a personnel action based on the information provided.

6.1.3. Request further information if the information provided is insufficient to make a decision.

6.1.4. Maintain consistency with the application of the HRD Name Check Preclusion Guide.

6.2. The Leadership Selection Unit (LSU), HRD must:

6.2.1. Coordinate the requested administrative action name check query for all Federal Bureau of Investigation Headquarters (FBIHQ) divisions, field offices (FO), or other appropriate entities.

6.2.2. Receive requests for name checks of FBI employees who are in the scope for administrative action name check queries.

6.2.3. Receive responses from the FBIHQ divisions and FOs conducting queries within their internal databases based on the names of FBI employees provided by LSU.

6.2.4. Present the positive responses, including previous preclusion decisions, on administrative action name check queries for review to the AD, HRD (or designee).

6.2.5. Maintain a historical record in the Enterprise Process Automation System (EPAS) automated name check system that provides names of FBI employees, requesting components, request dates, offices (i.e., FBIHQ divisions and DOJ) queried, response dates, and preclusion decisions from the AD, HRD.

6.2.6. Solicit queried offices (i.e., FBIHQ divisions and DOJ) for more specific details to assist the AD, HRD (or designee) in making a sound decision.

6.2.7. Provide historical data when requested by the AD, HRD (or designee).

6.3. OPR must:

6.3.1. Conduct a comprehensive search of its case management system for pending or closed matters, which were substantiated, for the named FBI employee.

6.3.2. Provide an affirmative or negative response. If affirmative, provide the date of the offense, the date the matter was opened, the date the disciplinary matter was closed, a summary of OPR's findings, and the sanction imposed.

6.3.3. For OPR affirmative finds for SES and SL selections and all other name check requests, provide LSU a copy of OPR's final disciplinary action letter and the results or finding from the infraction.

6.3.4. ODA must:

6.3.5. Conduct a comprehensive search of the relevant databases to determine if the named FBI employee filed a disciplinary appeal.

6.3.6. Provide an affirmative or negative response to LSU. If affirmative, provide a copy of the final letter or other relevant documentation to LSU.

6.4. PAU must:

6.4.1. Conduct a comprehensive search of [REDACTED] named FBI employees who have cases open for indefinite suspensions, performance cases, or leave cases.

6.4.2. Provide an affirmative or negative response to LSU. If affirmative, PAU must provide a written summary of each named employee's case to LSU.

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6.4.3. For incentive awards and SLRP, present the positive responses on administrative action name check queries for review to the AD, HRD (or designee).

6.5. The Clearance Investigations Unit (CIU), SecD must:

6.5.1. Conduct a comprehensive search of the [redacted] related SecD databases and case files.

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6.5.2. Analyze any records maintained in the legacy system known as the [redacted] for requests that require full career checks.

6.5.3. Provide an affirmative or negative response to LSU. If affirmative, CIU must provide the date and details of the deficiency or administrative action to LSU.

6.6. Internal Affairs Section (IAS), INSD must:

6.6.1. Conduct a comprehensive search of the case management system for any named FBI employee who has a pending case matter pertaining to misconduct (internally or through the Office of the Inspector General [OIG], DOJ).

6.6.2. Provide an affirmative or negative response to LSU. If affirmative, IAS must provide the date and details of the misconduct case(s) to LSU.

6.7. Office of Inspections (OI), INSD must:

6.7.1. Conduct a comprehensive search for any named FBI employee who has a pending matter pertaining to shooting incidents or management deficiencies.

6.7.2. Provide an affirmative or negative response to LSU. If affirmative, OI must provide the date and details of the deficiency or administrative action to LSU.

6.8. OEEOA must:

6.8.1. Conduct a comprehensive search of its [redacted] to determine if the named employee was identified as a responsible management official (RMO) in an EEO matter.

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6.8.2. Provide an affirmative or negative response to LSU. If an FBI employee is determined to be an RMO, OEEOA must provide a case write-up of the issues as it pertains to the specific RMO.

6.8.3. Provide a copy of the case write-up to the Employment Law Unit (ELU), OGC, which must provide a written opinion to LSU on whether the complaint or findings are an impediment to the FBI employee's personnel action.

6.9. IOD must:

6.9.1. Conduct a comprehensive search of the [redacted]

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6.9.2. Provide an affirmative or negative response to LSU. If affirmative, IOD must provide a summary of the curtailment, type of curtailment, and sanctions imposed, if any.

6.10. ELU must:

6.10.1. Provide a written response to LSU regarding named FBI employees who have been identified as RMOs in OEEOA matters.

7. References

- HRD Name Check Preclusion Guide

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- *Awards Program Policy Guide (1095PG)*
- *Disciplinary Appeals Process Policy Directive (0915D)*
- *Federal Bureau of Investigation Credentials and Special Agent Gold Badges Policy Guide (1097PG)*
- *Loss of Effectiveness Reassignments and Curtailments Policy Directive (1035D)*
- *Merit Promotion and Placement Plan Policy Directive and Policy Guide (0689DPG)*
- *Recruitment, Relocation, and Retention Incentives Policy Guide (0662PG)*
- *Reserve Service Program Policy Directive (1036D)*
- *Sabbatical Program Policy Guide (1019PG)*
- *Special Agent Midlevel Management Selection System Policy Guide (1101PG)*
- *Student Loan Repayment Program Policy Guide (1115PG)*
- *University Education Program Policy Guide (1127PG)*

8. Acronyms

8.1. Acronyms

AD	assistant director
CIU	Clearance Investigations Unit
DAC	diversity advisory committee
DOJ	Department of Justice
EAP	Employee Assistance Program
EEO	equal employment opportunity
ELU	Employment Law Unit [I and II]
EPAS	Enterprise Process Automation System
FBI	Federal Bureau of Investigation
FBIHQ	Federal Bureau of Investigation Headquarters
FO	field office
GS	General Schedule
HRB	Human Resources Branch
HRD	Human Resources Division

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IAS	Internal Affairs Section
ID	identification
INSD	Inspection Division
IOD	International Operations Division
LEO	law enforcement officer
LSU	Leadership Selection Unit
ODA	Office of Disciplinary Appeals
OEEOA	Office of Equal Employment Opportunity Affairs
OGC	Office of the General Counsel
OI	Office of Inspections
OIG	Office of the Inspector General
OPR	Office of Professional Responsibility
PAU	Performance Appraisal Unit
PD	policy directive
RMO	responsible management official
SA	special agent
SEAD	Security Executive Agent Directive
SecD	Security Division
SES	Senior Executive Service
SL	Senior Level
SLRP	Student Loan Repayment Program
TFO	task force officer
U.S.C.	<i>United States Code</i>
UEP	University Education Program

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Sponsoring Executive Approval

Name

Title

Michael H. Schneider

Assistant Director
Human Resources Division

Final Approval

Name

Title

Jennifer Leigh Moore

Executive Assistant Director
Human Resources Branch

SWORN DECLARATION OF LEWIS SCHILIRO (25-325)

I, Lewis Schiliro, being of sound mind and over the age of eighteen (18), do hereby state that I have personal knowledge of the matters asserted herein, and should I be called to testify in a court of competent jurisdiction, would state the following:

1. I recently retired from being the Managing Director of Freeh, Sporkin and Sullivan, an international firm that specializes in judicial, prosecutorial and law enforcement consulting. I was in that role from 2017 to 2024.
2. From 2009 to 2016, I was the Cabinet Secretary for the Delaware Department of Safety and Homeland Security. Amongst many other duties, in that role I served as the Chair of the Delaware Council on Police Training and the Police Accreditation Commission.
3. Prior to that, I was employed by the Federal Bureau of Investigation from 1975 until 2000. My last role in the FBI was as Assistant Director in Charge (hereinafter "ADIC") of the New York Field Office, which is the largest field office outside of the headquarters in Washington, DC.
4. At the time that I worked there, the New York Office (hereinafter "NYO") was the largest and most complex of all the FBI field offices. It is comprised of approximately 1200 special agents and an additional 300 support personnel. There were also approximately 150 New York Police Department officers assigned to the various Task Forces. I believe that the staffing level in the NYO increased after 9/11.
5. During my time at the FBI, I held every position to include case agent, squad supervisor, Assistant Special Agent in Charge (ASAC) for counter terrorism, Special Agent in Charge (SAC) for the Criminal Division, and finally ADIC.

6. As ADIC for the NYO, I was accountable for the supervision, management, and leadership of more than 1500 Special Agents and support personnel working in all areas of criminal, national security, and international and domestic terrorism law enforcement.

7. The NYO was responsible for all criminal, terrorism, and security cases in both the Southern and Eastern Districts of New York.

8. During my tenure, the men and women of the NYO took on the five La Cosa Nostra organized crime families, as well other violent gang investigations, white collar and corruption cases, and both domestic and international terrorism investigations and prosecutions.

9. The unparalleled success of the NYO was a direct result of the courage, integrity, and above all, the testimonial credibility of the personnel devoted to the most difficult and far-reaching investigations imaginable.

10. Because sophisticated organized crime syndicates were able to afford extremely astute and aggressive defense counsel, it was imperative that the work of the agents on those cases was able to stand-up to the highest level of scrutiny.

11. In accordance with FBI policies and binding Supreme Court precedent, prosecutors on these cases were required to divulge to any defense counsel any derogatory information in the background or record of any agent that worked on those cases.

12. In fact, it was routine for prosecutors to inquire about the background of any FBI personnel who handled critical evidence in any case, particularly if that background contained any information that would call into question the integrity and personal bias of the FBI agent or personnel.

13. Because I had authority to assign agents to cases, on a few occasions I opted not to assign such cases to agents who had open investigations into their conduct or problems with their performance, even if I thought any claims against them may not be substantiated.

14. The reason for this caution is that any defense counsel worth his or her salt would easily turn any derogatory information about an agent into a trial about the agent and his or her methods and motivations, rather than keeping the trial focused on the acts of the accused.

15. I was the Government's expert witness in the infamous *United States v John Gotti* case. In that role, I was grilled for hours about the investigative methods of the FBI, and the propriety of the acts of FBI agents. I have personal experience with the import of the integrity of FBI agents and personnel.

16. It is with this understanding of how information about an FBI agent's background impacts his or her ability to do their work that I state unequivocally that any accusation of unethical conduct against an FBI agent causes immediate and long-standing reputational damage.

17. Such derogatory information is required to be documented in their personnel files, and is required to be disclosed by the FBI agent or personnel to their supervisors, the prosecutors they work with, on their security clearance paperwork, and to future employers within the law enforcement industry.

18. Particularly with respect to agents, an accusation of "partisanship" or "weaponization" is extremely serious, and would harm their ability to be used as a testifying witness on any cases. An agent that cannot stand by the work he or she does, is likely to lose their career.

19. During my time in the NYO, I participated in numerous conferences with the United States Attorney, in order to determine whether information in an agent's personnel file was subject to disclosure pursuant to a *Giglio* finding.¹

20. Even in cases where the allegation against the FBI agent was fairly innocuous, more often than not, adverse information in their background would foreclose their ability to be used as a testimonial witness.

21. The inability to be used as a witness is essentially the death knell for an FBI agent's career. It dramatically limits the kinds of investigations that agent can work on, and in turn, curtails their ability to promote or transfer into more desirable assignments.

22. That is why, as a supervisor of thousands of FBI agents, I was extremely careful to ensure that investigations into the conduct of personnel were only initiated when there was a credible factual predicate establishing that the agent or personnel had engaged in misconduct or a substantial policy violation.

23. During my tenure at the FBI, agents who were under investigation were not eligible for promotions, and were given administrative tasks that would not taint any ongoing investigations.

24. It was extremely humiliating for the person under investigation, and almost always lead to long-term reputational damage that was not undone merely by the person being cleared of the charges against them.

25. It was an essential part of my duties as ADIC to ensure that prior to an investigation into an agent was initiated, there was sufficient factual information to warrant such action. This is

¹See *Giglio v United States*, 405 U.S. 150 (1972) (provides that disclosure is required for any material that could damage the credibility of a witness for the prosecution based upon dishonesty, misconduct or bias); *Brady v Maryland*, 373 U.S. 83 (1963) (establishing that the prosecution must disclose exculpatory evidence that could allow the defense to impeach the credibility of a prosecution witness).

because, as stated above, the very fact of initiating an investigation carries serious consequences that should not be taken lightly.

26. Notwithstanding that caution, there were occasions that the inquiry into the agent was resolved in favor of the agent, and yet disclosure to the prosecutor and opposing counsel was still required.

27. Once we removed the ability of an agent to testify, we essentially eliminated their ability to continue as an investigator.

28. Luckily, because the FBI invests so heavily in initial and ongoing training, investigations into the conduct of FBI agents and personnel were relatively infrequent.

29. If, however, a large number of agents were placed under suspicion of ethical violations, this would have crippled the investigative function of the NYO, and would have negatively impacted all of the cases they were working on.

30. While it has been some time since I worked at the FBI, one thing that has not changed is the importance placed on the integrity and professionalism of FBI agents in the critical work that they do.

31. It is my understanding that the White House issued an Executive Order on January 20, 2025, which essentially accused the FBI agents who worked on cases related to the events at or near the Capitol on January 6, 2021, of being “partisan” or “weaponized.”

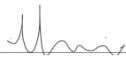
32. As a former ADIC within the FBI structure, I assert that there are few, if any, members of the FBI who had the authority to refuse to investigate any cases referred to them by the office of origin in Washington, DC, and certainly not the thousands of personnel who were asked to report the work they did on January 6 Cases.

33. The mere accusation by the White House that the FBI acted without a factual basis for their January 6 investigations calls into question the integrity of thousands of people, and now places in jeopardy all of their work on hundreds of current matters.

And further Affiant sayeth not.

I, Lewis Schiliro, swear and/or affirm, under the federal penalties for perjury, that the matters asserted herein are true and accurate to the best of my knowledge.

2/21/25
Date



Lewis Schiliro