

February 7, 2025

Hon. Mike Crapo
Chair, Senate Committee on Finance

Hon. Ron Wyden
Ranking Member, Senate Committee
on Finance

Hon. Brett Guthrie
Chair, House Committee on Energy
and Commerce

Hon. Frank Pallone
Ranking Member, House Committee
on Energy and Commerce

Hon. French Hill
Chair, House Committee on
Financial Services

Hon. Maxine Waters
Ranking Member, House Committee
on Financial Services

Hon. Jason Smith
Chair, House Committee on Ways
and Means

Hon. Richard Neal
Ranking Member, House Committee
on Ways and Means



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Deirdre Schifeling
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Executive Director

Deborah N. Archer
President

Re: Executive Overreach and Violations of Congressional Protections for
Agency Data, Federal Funding, and Civil Servants

Dear Chairs and Ranking Members:

The American Civil Liberties Union urges you to fulfil Congress’s constitutional responsibility to conduct meaningful oversight of the Executive Branch as it dismantles statutory checks on presidential power. President Trump, acting through the “Department of Government Efficiency” (DOGE), has accessed critical systems at the Department of Treasury and other agencies, undermining congressionally mandated protections for Americans’ privacy, the appropriations of federal funds, and career civil servants. That overreach will not only harm everyday Americans but also displace Congress from its constitutional role in checking the President. Protections for our data from Executive abuse and funding for federal agencies are legislatively mandated by Congress. It is the Executive’s role to take care that those laws be enforced, not flouted. Congress must step up, do its job, and check the President’s overreach.

That overreach unfolded in a matter of days. During President Trump’s second week in office, senior Treasury officials were approached by a team from DOGE, seeking access to Treasury’s key payments systems. By Friday, one long-time senior Treasury official had been placed on leave and forced to retire,¹ after which individuals affiliated with DOGE gained access to

¹ Andrew Duehren et al., Treasury Official Quits After Resisting Musk’s Requests on Payments, N.Y. Times (Jan. 31, 2025), [here](#).



Treasury payments systems.² Those systems, the Payment Automation Manager and Secure Payment System at the Bureau of the Fiscal Service,³ handle the “majority” of federal payments, including Social Security benefits, tax refunds, and salaries.⁴ Consequently, they “could allow someone to choke off money to specific federal agencies or even individuals”⁵ and contain troves of personal information — millions of Social Security numbers, bank accounts, business finances, and personal finances.⁶

DOGE’s data access continues to expand, as DOGE personnel have accessed data from the Centers for Medicare and Medicaid Services and other agencies,⁷ which may expose medical records, insurance claims, and even hospice elections.⁸

Access to — and abuse of — that information could harm millions of people. Young engineers, with no experience in human resources, governmental benefits, or legal requirements around privacy, have gained unprecedented surveillance over payments to federal employees, Social Security recipients, and small businesses — and with it, control over those payments. Newly installed leadership at key IT agencies have emphasized that they intend to deploy artificial intelligence “government-wide” to “further identify individuals and detect and prevent fraud.”⁹ That technology is untested, and when similar “fraud filters” were deployed during the pandemic, the result was thousands of people incorrectly disenrolled from critical benefits.¹⁰ If

² Andrew Duehren, *Elon Musk’s Team Now Has Access to Treasury’s Payments System*, N.Y. Times (Feb. 1, 2025), [here](#).

³ Vittoria Elliot et al., *A 25-Year-Old With Elon Musk Ties Has Direct Access to the Federal Payment System*, Wired (Feb. 4, 2025), [here](#).

⁴ Bureau of Fiscal Service, *Privacy and Civil Liberties Impact Assessment: Payment Automation Manager at 5* (July 11, 2019), [here](#).

⁵ Elliot et al., *supra* note 3.

⁶ Bureau of Fiscal Service, *supra* note 4, at 6-8; *see also* Bureau of Fiscal Service, *Privacy and Civil Liberties Impact Assessment: Secure Payment System* (Mar. 22, 2021), [here](#).

⁷ Musk’s DOGE Granted Access to US Medicare and Medicaid Systems, Reuters (Feb. 5, 2025), [here](#); Victoria Elliott, *Elon Musk Lackeys Have Taken Over the Office of Personnel Management*, Wired (Jan. 28, 2025), [here](#); Makena Kelly & Zoë Schiffer, *Elon Musk’s Friends Have Infiltrated Another Government Agency*, Wired (Jan. 31, 2025), [here](#).

⁸ Health & Human Services, *SORN 09-70-0502, Enrollment Database (EDB)* (Dec. 21, 2017), [here](#); Health & Human Services, *SORN 09-70-0519, Medicare Current Beneficiary Survey* (Dec. 21, 2017), [here](#).

⁹ Makena Kelly, *Elon Musk Ally Tells Staff ‘AI-First’ Is the Future of Key Government Agency*, Wired (Feb. 3, 2025), [here](#); Jason Koebler et al., *‘Things Are Going to Get Intense:’ How a Musk Ally Plans to Push AI on the Government*, 404 Media (Feb. 4, 2025), [here](#).

¹⁰ Federal Regulators Fine Bank of America \$225 Million Over Botched Disbursement of State Unemployment Benefits at Height of Pandemic, CFPB (July 14, 2022), [here](#).



allowed to proliferate without meaningful oversight by Congress, AI policing of federal support will harm community health centers, HeadStart programs, and Meals on Wheels — all programs already impacted by the Administration’s funding freezes.¹¹

DOGE’s access to databases at Treasury, CMS, and other agencies raises serious questions about their compliance with legal requirements that ensure executive agencies are responsible stewards of our data. For example, the Privacy Act of 1974 prohibits agencies from disclosing personal information, with limited exceptions or for “routine uses” specified by each agency.¹² “Routine uses” specified by Treasury and other agencies do not readily permit disclosures to DOGE.¹³ Other federal laws require federal systems to meet cybersecurity requirements¹⁴ and closely restrict uses of personal information from statistical agencies such as the Bureau of Labor Statistics or the Census Bureau from disclosure in any identifiable form.¹⁵ Reports that data accessed by DOGE is being housed on non-governmental servers or fed into third-party AI¹⁶ raises serious concerns that the President and DOGE are not complying with their legal obligations to protect our data.

Moreover, the actions by the president¹⁷ and DOGE break longstanding norms surrounding executive agencies and limits on presidential authority. Ordinarily, these positions at Treasury, CMS, and elsewhere would be filled with career civil servants, hired through a competitive process, and vetted for conflicts of interest. Similarly, protocols have long been established around access to data, termination of personnel, and disbursement of payments — all to ensure not only that the American people are served by effective, nonpartisan agencies but also to ensure that the President takes care to carry out the laws passed by Congress.¹⁸

¹¹ Monica Sager, Community Health Centers Are Closing Amid Funding Confusion, Newsweek (Feb. 6, 2025), [here](#); Shannon Pettypiece, Head Start Child Care Programs Are Still Unable to Access Federal Money after Trump’s Funding Freeze, NBC News (Feb. 5, 2025), [here](#); Meals on Wheels America Remains Vigilant After OMB Memo Freezing Federal Grants and Loans and Courts Delay Implementation, Meals on Wheels (Jan. 30, 2025), [here](#).

¹² 5 U.S.C. § 552a(b).

¹³ 85 Fed. Reg. 11776, 11779 (Feb. 27, 2024), [here](#).

¹⁴ 35 U.S.C. § 3554.

¹⁵ 44 U.S.C. § 3572(c).

¹⁶ Hannah Natanson, Elon Musk’s DOGE Is Feeding Sensitive Federal Data into AI to Target Cuts, Wash. Post (Feb. 6, 2025), [here](#); Dell Cameron, Federal Workers Sue to Disconnect DOGE Server, Wired (Feb. 4, 2025), [here](#).

¹⁷ See Executive Office of the President, Memorandum to Resolve the Backlog of Security Clearances for Executive Office of the President Personnel (Jan. 20, 2025), [here](#).

¹⁸ U.S. Const. art. II, sec. 3 (“[H]e shall take Care that the Laws be faithfully executed . . .”).



Many of the statutes in question and the norms that are being shredded do not provide express private rights of action allowing affected individuals to sue to remedy harms they suffer. Instead, oversight falls to Congress, as a co-equal branch of the federal government. We urge Congress to conduct oversight to ensure that the traditional limitations on the power of the President — both legal and normative — are upheld. This includes understanding:

- What agency data has been accessed by DOGE personnel and agency employees affiliated with DOGE;
- What processes are in place for hiring and vetting DOGE personnel and agency employees affiliated with DOGE prior to granting access to agency data;
- What legal authority those personnel have to access agency data;
- Who has received agency data outside the originating agency and under what legal authority;
- Where agency data accessed by DOGE personnel is being stored, and whether that storage meets federal cybersecurity and procurement requirements; and,
- Whether agency data has been disclosed to third parties, if AI applications have been used to process agency data, and for what purposes.

Abuse of data and governmental procedures opens the door for wider abuses, including unconstitutional impoundment of funds, dismantling programs that help everyday Americans, and usurping Congress's legislative authority. We urge you to address this executive overreach immediately.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Anders".

Christopher Anders
Director, Democracy &
Technology

A handwritten signature in black ink, appearing to read "Cody Venzke".

Cody Venzke
Senior Policy Counsel

