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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HUMAN RIGHTS DEFENSE CENTER,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE et al.,

Defendants.

CASE NO. 2:20-cv-00674-JHC

ORDER

I

INTRODUCTION

This matter comes before the Court on Defendants’ Motion to Alter or Amend Judgment under Rule 59(e) or for Relief from the Judgment under Rule 60(b)(6). *See* Dkt. # 67. Defendants United States Department of Justice and its law enforcement component the Drug Enforcement Administration (collectively, Defendants or the DEA) ask the Court to amend its judgment. *See* Dkt. # 64. Plaintiff Human Rights Defense Center (HRDC) opposes the motion. Dkt. # 69. Being fully advised, for the reasons below, the Court DENIES the motion.

II**BACKGROUND**

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3 On May 20, 2019, HRDC submitted a Freedom of Information Act (FOIA) request,
4 seeking disclosure of records of “all litigation against the [DEA] and/or its employees or agents
5 where the [DEA] and/or its insurers paid \$1,000 or more to resolve claims.” Dkt # 25-2 at 2.
6 HRDC requested records of “settlements, damages, attorney fee awards, and sanctions,
7 irrespective of the identity of the plaintiff or claimant.” *Id.* After the DEA denied HRDC’s
8 request and the Department of Justice Office of Information Policy denied HRDC’s
9 administrative appeal, *see* Dkt. ## 25-6; 25-6, HRDC filed this action. Dkt. # 1.

10 On July 8, 2022, Defendants moved for summary judgment. Dkt. # 24. On August 26,
11 2022, Plaintiff cross-moved for summary judgment. Dkt. # 26. The Court granted in part and
12 denied in part the motions, denying portions of Defendants’ and Plaintiff’s motions without
13 prejudice. Dkt. # 33 at 1–2, 32–34. In that order, among other conclusions, the Court
14 determined that the DEA incorrectly withheld the identities of alleged “tortfeasors/wrongdoers”
15 (collectively, tortfeasors), *see id.* at 16–19, because “[b]alancing the tortfeasors’ nontrivial
16 privacy interests against the significant interests favoring disclosure . . . revealing the DEA
17 employee alleged tortfeasors’ names would not constitute a clearly unwarranted invasion of
18 personal privacy.” *Id.* at 19.

19 Defendants then moved to stay this portion of the Court’s order. Dkt. # 42. The Court
20 granted the motion, implementing a stay of the disclosure of the names of the tortfeasors that
21 would remain “in effect through the conclusion of any appeal or until the deadline to file a notice
22 of appeal lapses[.]” Dkt. # 47.

1 The parties then cross-moved for summary judgment for a second time. *See* Dkt. ## 53,
2 55, 57, 59. After supplemental briefing and in camera review of certain files, *see* Dkt. ## 60, 61,
3 the Court granted in part and denied in part the motions, and entered judgment. Dkt. ## 63, 64.

4 The DEA now moves to amend or alter the judgment under Federal Rule of Civil
5 Procedure 59(e) or Federal Rule of Civil Procedure 60(b)(6), contending that the Court
6 misapplied the law in its first order on summary judgment, *see* Dkt. # 33, and that the Court
7 should amend its judgment to “relieve [the] DEA of the requirement to identify its employees
8 who are named ‘tortfeasors.’” Dkt. # 67 at 3. HRDC opposes. Dkt. # 69.

9 III

10 LEGAL STANDARDS

11 A. Rule 59(e): Altering or Amending a Judgment

12 Under Rule 59(e), a party may move to alter or amend a judgment no later than 28 days
13 after the entry of the judgment. Fed. R. Civ. P 59(e). This rule provides for an “extraordinary
14 remedy” that should be “used sparingly in the interests of finality and conservation of judicial
15 resources.” *Kona Enterprises, Inc. v. Est. of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000)
16 (quoting 12 James William Moore et al., *Moore’s Federal Practice* § 59.30[4] (3d ed. 2000)).

17 In general, there are four basic grounds upon which a Rule 59(e) motion may be
18 granted: (1) if such motion is necessary to *correct manifest errors of law* or fact
19 upon which the judgment rests; (2) if such motion is necessary to present newly
20 discovered or previously unavailable evidence; (3) if such motion is necessary to
21 *prevent manifest injustice*; or (4) if the amendment is justified by an intervening
22 change in controlling law.

23 *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (citing *McDowell v. Calderon*,
24 197 F.3d 1253, 1255 n.1 (9th Cir.1999) (en banc) (per curiam) (emphasis added)). “Since
specific grounds for a motion to amend or alter are not listed in the rule, the district court enjoys
considerable discretion in granting or denying the motion.” *McDowell*, 197 F.3d at 1255 n.1.

1 Even so, a Rule 59(e) motion may not be used to raise arguments or present evidence for the first
2 time when they could reasonably have been raised earlier in the litigation. *See Kona*, 229 F.3d at
3 890. The Ninth Circuit has cautioned that motions under Rule 59(e) “should not be granted,
4 absent highly unusual circumstances,” and only when “the district court is presented with newly
5 discovered evidence, committed clear error, or if there is an intervening change in the controlling
6 law.” *Id.* (quoting *389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999)).

7 B. Rule 60(b)(6): Relief from Judgment or Order

8 Rule 60(b) provides various grounds for relief from a final judgment, including relief
9 from “mistake, inadvertence, surprise, or excusable neglect[,]” “newly discovered evidence[,]”
10 “fraud[,]” or when the judgment is “void” or “has been satisfied, released, or discharged[.]” Fed.
11 R. Civ. P. 60(b)(1)–(5). Under Rule 60(b)(6), the Court may “relieve a party . . . from a final
12 judgment . . . for any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(6). A “movant
13 seeking relief under Rule 60(b)(6) must show ‘extraordinary circumstances justifying the
14 reopening of a final judgment.’” *Hall v. Haws*, 861 F.3d 977, 987 (9th Cir. 2017) (quoting
15 *Gonzalez v. Crosby*, 545 U.S. 524, 535 (2005)). Rule 60(b)(6) should be “used sparingly as an
16 equitable remedy to prevent manifest injustice.” *United States v. Alpine Land & Reservoir Co.*,
17 984 F.2d 1047, 1049 (9th Cir. 1993).

18 “[T]he decision to grant Rule 60(b)(6) relief is a case-by-case inquiry that requires the
19 trial court to intensively balance numerous factors, including the competing policies of the
20 finality of judgments and the incessant command of the court's conscience that justice be done in
21 light of all the facts.” *Hall*, 861 F.3d at 987 (quoting *Phelps v. Alameida*, 569 F.3d 1120, 1133
22 (9th Cir. 2009)). “Rule 60(b)(6) is a grand reservoir of equitable power, and it affords courts the
23 discretion and power to vacate judgments whenever such action is appropriate to accomplish
24 justice.” *Id.* (quoting *Phelps*, 569 F.3d at 1133).

IV
DISCUSSION

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3 The DEA seeks relief under Rule 59(e) or Rule 60(b)(6), requesting that the Court
4 remove “the Judgment’s requirement that [the] DEA release the names of its employees who
5 were alleged [tortfeasors.]” Dkt. # 67 at 1. According to the DEA, “[r]elief is needed to correct
6 a misapplication of the law in the Court’s first summary judgment order,” *see* Dkt. # 33, “in
7 which the Court relied on authorities that addressed tortfeasors who were proven, repeat
8 offenders, or whose names had already been disclosed in a publicly filed civil complaint.” Dkt.
9 # 67 at 2 (citing Dkt. # 33 at 16-19). The DEA contends that the Court’s “reliance on inapposite
10 authorities incorrectly inflated the perceived public interest in disclosure, deflated the
11 employees’ privacy interest in redaction, and led to the erroneous conclusion that [the] DEA
12 must produce these employees’ names.” *Id.* The DEA provides a declaration from Joshua Delo
13 (Delo Declaration), Unit Chief of the processing sub-unit within the FOIA/Privacy Act Unit of
14 the United States Department of Justice, in support of its brief. Dkt. ## 68, 68-1.

15 HRDC opposes, arguing that the DEA “essentially seeks reconsideration of the Court’s
16 summary judgment ruling that names of DEA employees appearing in settlement and claim
17 records are subject to FOIA disclosure.” Dkt. # 69 at 6. According to HRDC, there are three
18 grounds on which the Court should deny the motion: (1) the DEA offers “no change in law” to
19 justify a reversal of the Court’s judgment; (2) the DEA “impermissibly attempts to introduce new
20 evidence regarding specific employees and settlements disclosed in the records at issue,” *see*
21 Dkt. ## 68, 68-1, claiming that the evidence was available to the DEA before its summary
22 judgment briefing; and (3) “even if the new evidence is considered, it is insufficient to satisfy the
23 DEA’s burden of establishing that any FOIA exemption applies.” Dkt. # 69 at 6.

1 In its first summary judgment order, the Court considered whether the DEA properly
2 invoked FOIA exemption 6, *see* 5 U.S.C. § 552(b)(6), when it redacted the identities of alleged
3 DEA employee tortfeasors. Exemption 6 allows agencies to withhold “personnel and medical
4 files and similar files the disclosure of which would constitute a clearly unwarranted invasion of
5 personal privacy[.]” *Id.* In deciding the DEA’s use of exemption 6, the Court considered (1)
6 whether the documents in question consisted of “personnel and medical files and similar files”
7 (which the Court found they did), *see* Dkt. # 33 at 12, and (2) whether the production of the
8 document, or the information contained in it, constituted “a clearly unwarranted invasion of
9 personal privacy.” *Id.* at 12–13 (citing 5 U.S.C. § 552(b)(6)).

10 When considering if disclosure under FOIA constitutes a “clearly unwarranted invasion
11 of personal privacy,” courts “must balance the privacy interest protected by the exemptions
12 against the public interest in government openness that would be served by disclosure.”
13 *Prudential Locations LLC v. U.S. Dep’t of Hous. & Urb. Dev.*, 739 F.3d 424, 430 (9th Cir. 2013)
14 (quoting *Elec. Frontier Found. v. Off. of The Dir. of Nat’l Intel.*, 639 F.3d 876, 886 (9th Cir.
15 2010)). To do so, courts apply a two-step test for balancing individual privacy rights against the
16 public’s interest in disclosure. The first step assesses the personal privacy interest at stake to
17 ensure that disclosure implicates a nontrivial personal privacy interest. *Cameranesi v. U.S. Dep’t*
18 *of Def.*, 856 F.3d 626, 637 (9th Cir. 2017). The second step assesses whether the public interest
19 in disclosure is a significant one and whether that information sought “is likely to advance that
20 interest.” *Id.* (quoting *Lane v. Dep’t of Interior*, 523 F.3d 1128, 1137 (9th Cir. 2008)). The
21 information the plaintiff seeks must “contribut[e] significantly to public understanding of the
22 operations or activities of the government.” *Forest Serv. Emps. for Env’t Ethics v. U.S. Forest*
23 *Serv.*, 524 F.3d 1021, 1025 (9th Cir. 2008) (alteration in original) (citation and quotation marks
24 omitted).

1 A. New Evidence Under Rules 59 and 60

2 The DEA—relying on information provided in the Delo Declaration—contends that the
3 Court undervalued the tortfeasor’s privacy interests and overvalued the public interest in access
4 to the DEA files at issue. *See generally* Dkt. ## 68, 68-1. HRDC responds that the information
5 in the Delo Declaration is “untimely and should be disregarded” because it comes from the
6 DEA’s own files and could have been submitted “at any time in this litigation.” Dkt. # 69 at 13.
7 HRDC says that “Rule 59 and Rule 60 do not allow a litigant to sit on its hands and withhold
8 readily available evidence until after judgment has been entered.” *Id.* HRDC contends that the
9 Court gave the DEA multiple opportunities to submit declarations and briefing regarding the
10 FOIA exemptions at issue and the DEA should not have “an additional bite at the evidence *after*
11 judgment.” *Id.* at 14 (citing *Transgender Law Center v. Immigr. & Customs Enf’t*, 46 F.4th 771,
12 781 (9th Cir. 2022); *Wiener v. FBI*, 943 F.2d 972, 979 (9th Cir. 1991)). For these reasons,
13 HRDC asks the Court to strike or disregard the information provided in the Delo Declaration. *Id.*

14 The DEA replies that the Court “has broad discretion to consider evidence that
15 specifically addresses the legal framework it established” in its first summary judgment order.
16 Dkt. # 71 at 6. The DEA says that the Delo Declaration informs the Court as to whether the
17 tortfeasors were repeat offenders and whether they are still employed with the agency. The DEA
18 disagrees with HRDC’s assertion that the Court already gave it the “opportunity to supplement
19 the record on the issue of identifying the alleged tortfeasor employees[,]” contending that the
20 Court should “consider [the] DEA’s declaration to ensure ‘that justice [is] done in light of all the
21 facts.’” Dkt. # 67 at 7, 10 (citing *Hall*, 861 F.3d at 987); Dkt. # 71 at 7.

22 “Reconsideration is appropriate if the district court (1) is presented with newly
23 discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or
24 (3) if there is an intervening change in controlling law.” *Sch. Dist. No. 1J, Multnomah Cnty., Or.*

1 v. *ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993) (reviewing a motion for reconsideration under
2 Rule 59(e)). The DEA does not seek relief based on newly discovered evidence under Rule
3 59(e) or Rule 60(b)(2). The DEA instead appears to argue that the Court “committed clear error
4 or the initial decision was manifestly unjust” under Rule 59(e) or for “any other reason that
5 justifies relief” under Rule 60(b)(6).

6 Because a Rule 59(e) motion may not be used to raise arguments or present evidence for
7 the first time when they could reasonably have been raised earlier in the litigation, and the Delo
8 Declaration includes information about DEA files that was available to Defendants at an earlier
9 time, the Court does not consider the motion under that rule. *See Kona*, 229 F.3d at 890. But
10 because it is the “incessant command of the court's conscience that justice be done in light of all
11 the facts[,]” and given the circumstances presented by this case, the Court exercises its discretion
12 to consider the motion, and the information provided in the Delo Declaration, under Rule
13 60(b)(6). *See Hall*, 861 F.3d at 987.

14 B. Personal Privacy Interest

15 In its first summary judgment order, the Court considered the DEA’s reasons for
16 nondisclosure—as they pertained to the tortfeasors’ privacy interests—to be “insufficient”
17 because they were “vague, conclusory allegations of prejudice and harassment.” Dkt. # 33 at 17.
18 The Court observed that “federal government employees’ privacy interests are generally
19 diminished when they have been ‘investigated for misfeasance relating to the performance of
20 official duties.’” *Id.* at 18 (citing *Hum. Rts. Def. Ctr. v. U.S. Dep’t of Homeland Sec.*, No. C18-
21 1141 TSZ, 2021 WL 1264003, at *3 (W.D. Wash. Apr. 6, 2021) (*HRDC v. ICE*); *Prison Legal*
22 *News v. Samuels*, 787 F.3d 1142, 1150 (D.C. Cir. 2015))). The Court also said that *Hunt v. FBI*,
23 972 F.2d 286, 288 (9th Cir. 1992)—a case cited by the DEA—was “distinguishable because,
24 contrary to HRDC’s FOIA request in this case, there was ‘little or no public interest served by

1 disclosure of th[e] isolated file [in *Hunt*].” Dkt. # 33 at 18. The Court therefore assumed,
2 “without deciding, that these DEA employee alleged tortfeasors have a nontrivial privacy interest
3 in preventing the disclosure of their identities.” *Id.*

4 In its motion, the DEA contends that the Court’s reliance on *HRDC v. ICE*, was
5 misplaced because the names of the government employees in that case had been publicly
6 disclosed on the “case docket report” and the allegations set forth in the complaint were public
7 knowledge. 2021 WL 1264003, at *3; Dkt. # 67 at 6. The DEA says that the alleged tortfeasors
8 here “have not been publicly disclosed, nor do their names appear in settlement agreements” or
9 any documents that authorize public disclosure. Dkt. # 67 at 6. The DEA states that these
10 alleged tortfeasors have “greater privacy interests” than the diminished ones in *HRDC v. ICE*.
11 *Id.* at 6–7. The DEA then suggests that the Court should consider *Hunt* for the proposition that
12 government employees may have reduced privacy interests, but “they retain substantial privacy
13 interests because they ‘generally ha[ve] a privacy interest in any file that reports on an
14 investigation that could lead to [their] discipline or censure.’” *Id.* at 7 (citing *Lane*, 523 F.3d at
15 1137.¹

16 HRDC responds that *HRDC v. ICE* “cited the prior public availability of the employees’
17 name in a court docket as *one* reason why an agency employee had a diminished privacy interest
18 in a settlement agreement,” but also recognized that “the alleged ‘misfeasance relating to their
19 official duties’ further diminishes any privacy interest in nondisclosure.” Dkt. # 69 at 12
20

21 ¹ The DEA’s reliance on *Hunt v. F.B.I* is misplaced. While the Court has recognized that agents
22 generally have “a privacy interest in any files that reports on an investigation that could lead to the
23 employee’s discipline or censure,” it did not err in distinguishing *Hunt* from this matter because, while
24 HRDC seeks multiple files here, *Hunt* sought just one file, which limited the public interest in its
disclosure. *Hunt v. F.B.I.*, 972 F.2d at 289 (“The single file sought by *Hunt* will not shed any light on
whether all such FBI investigations are comprehensive or whether sexual misconduct by agents is
common.”). Still, this case applies more to the public interest inquiry, which the next section of this order
discusses. *See infra* Section IV.C.

1 (emphasis in original) (quoting *HRDC v. ICE*, 2021 WL 1264003, at *3). As for the DEA’s use
2 of *Hunt* and *Lane*, HRDC contends that these cases “are distinguishable because in both, unlike
3 in this case, the agency established a specific basis for concluding that disclosure imperiled
4 employees’ privacy.” *Id.*

5 In *HRDC v. ICE*, the court said that individuals have generally diminished privacy
6 interests in two separate instances: (1) when information is already publicly available and (2)
7 when federal government employees have been investigated for misfeasance relating to the
8 performance of official duties. 2021 WL 1264003, at *3 (citing *Providence J. Co. v. U.S. Dep’t*
9 *of Army*, 981 F.2d 552, 568 (1st Cir. 1992)). There, the judge found that both situations applied,
10 thus diminishing the agency employees’ privacy interests. *See id.* (“Second, at least with respect
11 to the ICE employees named in the Settlement, the alleged ‘misfeasance relating to their official
12 duties’ further diminishes any privacy interest in nondisclosure.”). The Court’s recognition that
13 “federal government employees’ privacy interests are generally diminished when they have been
14 ‘investigated for misfeasance relating to the performance of official duties[,]” *see* Dkt. # 33 at
15 18, is thus not an example of manifest injustice. *See Alpine Land*, 984 F.2d at 1049.

16 C. Public Interest in Disclosure

17 In its first summary judgment order, the Court concluded that

18 There is a significant public interest served by disclosure of the DEA employee
19 alleged tortfeasors’ identities to determine whether the “public servants who have
20 been accused of wrongdoing are multiple offenders; how much taxpayer money has
21 been used to resolve claims against those individuals; and whether any continue to
22 be employed by DEA.” Dkt. # 26 at 26. *See HRDC v. ICE*, 2021 WL 1264003, at
23 *3 (district court determined that the public had a “significant” interest in knowing
24 the identities of ICE officials involved in “any allegedly wrongful act of detention”
for the same reasons as those here).

Dkt. # 33 at 19.

1 The Court was also persuaded by the discussion in *Prison Legal News v. Samuels*, 787 F.3d
2 at 1151:

3 Identifying employees who repeatedly engage in tortious or discriminatory conduct
4 will “shed[] light on an agency’s performance of its statutory duties.” [*U.S. Dep’t*
5 *of Just. v. Reps. Comm. for Freedom of Press*, 489 U.S. 749, 773 (1989)]. This, in
6 turn, will further the public interest in ensuring that “disciplinary measures imposed
7 are adequate, and that those who are accountable are dealt with in an appropriate
8 manner.” *Stern v. FBI*, 737 F.2d 84, 92 (D.C. Cir. 1984). It may also help root out
9 the misuse of public funds, an interest typically favoring disclosure.

10 *See* Dkt. # 33 at 18–19 (alteration in original).

11 The DEA disagrees with the Court’s reliance on *Samuels*, asserting that this case
12 addressed repeated tortious conduct but that “none of the DEA employees” here “is an
13 established repeat offender.” Dkt. # 67 at 8 (citing Dkt. # 68 at 4 ¶ 10). Citing the Delo
14 Declaration, the DEA states that only three of the 55 alleged tortfeasors were named in more
15 than one claim. *Id.* (citing Dkt. # 68 at 5–6 ¶¶ 15–17). For these reasons, the DEA contends that
16 “public interest in disclosure of the DEA employees’ names is much less than the ‘significant
17 interests favoring disclosure’ that the Court derived from *Samuels*.” *Id.*

18 HRDC responds that the Court already rejected this argument in its first summary
19 judgment order. Dkt. # 69 at 7, 11. HRDC contends that “privacy interests are generally
20 diminished when they have been ‘investigated for misfeasance relating to the performance of
21 official duties.’” *Id.* at 11 (quoting *HRDC v. ICE*, 2021 WL 1264003, at *3; citing *Samuels*, 787
22 F.3d at 1150).

23 References to *Samuels* appear twice in the Court’s first summary judgment order. First,
24 when considering the tortfeasors’ privacy interests, the Court cited *Samuels* for the proposition
that an agency may not categorically withhold employee names that are accused of wrongdoing.
Dkt. # 33 at 18. Then, in its discussion on the public interest in disclosure, the Court cited
Samuels again, determining that there was a public interest in disclosure so the public may see

1 that an agency's disciplinary measures are adequate and that any alleged tortfeasors are dealt
2 with in an appropriate manner by the agency. *Id.* at 19. The Court also noted that the *Samuels*
3 court identified a public interest in rooting out misuse of public funds, favoring disclosure. *Id.*

4 Assuming without deciding that all the alleged tortfeasors here were one-time offenders,
5 as compared to the repeat offenders in *Samuels*, this distinction is not material to the propositions
6 that the Court drew from *Samuels*: that an agency may not categorically withhold names of its
7 tortfeasor employees; identifying employees that engage in tortious conduct will shed light on
8 the agency's performance of statutory duties; and this is directly linked to the public's interest in
9 ensuring that those who engage in tortious activities will be held accountable. Whether the
10 alleged tortfeasors here are one-time or repeat offenders, as in *Samuels*, is not a pivotal factual
11 distinction that might discredit the notion that there is a public interest in an agency's
12 disciplinary measures or in the way an agency behaves when using public funds. The Court does
13 not deem the fact distinction raised by the DEA to be a manifest injustice to justify relief under
14 Rule 60(b)(6). *See Herron*, 634 F.3d at 1111.

15 The DEA next addresses the Court's "three-fold public interest in disclosure" presented
16 in its first summary judgment motion: (1) to determine whether the DEA employees accused of
17 wrongdoings are multiple offenders; (2) to know how much taxpayer money has been used to
18 resolve claims against these employees; and (3) to discover whether any remain employed by the
19 DEA. *See* Dkt. # 67 at 9; Dkt. # 33 at 18. The DEA contends that the Delo Declaration
20 addresses all three of these public interest concerns.

21 First, the DEA says that "none of the DEA employees accused of wrongdoing is a
22 'multiple offender.'" Dkt. # 67 at 10 (citing Dkt. # 68 at 4 ¶ 10). Second, the DEA says that is
23 has already disclosed how much taxpayer money it paid to resolve the claims at issue. *Id.*; Dkt.
24 # 68 at 8–9 ¶ 24. Third, the DEA says that "disclosing the names of the three DEA employees

1 who were named as alleged tortfeasors for multiple claims would not inform HRDC (or the
2 public) whether those persons still worked for the DEA” because none of them are currently
3 employed by the DEA. Dkt. # 67 at 11 (citing Dkt. # 68 at 6 ¶ 18). For these reasons, the DEA
4 asserts that the “disclosure of the alleged tortfeasor employees’ names would not advance any
5 aspect of the public interest identified by the Court in this case.” *Id.*

6 HRDC responds that “contrary to [the] DEA’s argument,” the three aspects of public
7 interest that the DEA identifies in its motion are “among the public interests served by disclosure
8 here” but “hardly the *only* public interests.” Dkt. # 69 at 15 (emphasis in original). Instead,
9 HRDC says that for “FOIA to serve its purpose of informing citizens ‘what their government is
10 up to,’[] details matter—including the identity of the employees at issue.” *Id.* (quoting *Reps.*
11 *Comm. for Freedom of the Press*, 489 U.S. at 773). HRDC contends that the “interest in the
12 identity of individual employees accused of wrongdoing does *not* depend on whether the
13 employee is a repeat offender or is ultimately found culpable. *Id.* (emphasis in original) (citing
14 *Am. Immigr. Council v. U.S. Customs & Border Patrol*, 590 F. Supp. 3d 306 (D.D.C.
15 2022), *reconsideration denied*, No. CV 19-2965 (RC), 2023 WL 2755412 (D.D.C. Apr. 3, 2023)
16 (finding that disclosure of officers’ names was “necessary for the public to understand the
17 government’s operations” and “aid public understanding of whether the agency acted improperly
18 and the extent of any harm caused.”)).

19 The Court agrees with HRDC. The public interest in disclosure under FOIA is broader
20 than the three interests discussed in the Court’s first summary judgment order. *Cf. Kowack v.*
21 *U.S. Forest Serv.*, 766 F.3d 1130, 1133 (9th Cir. 2014) (“The only public interest we consider is
22 ‘the extent to which disclosure of the information sought would “she[d] light on an agency’s
23 performance of its statutory duties” or otherwise let citizens know “what their government is up
24 to.”’)” (citations omitted). The Court reiterates that no matter the factual scenario—whether the

1 tortfeasors identified in the 156 files at issue were alleged or substantiated offenders, repeat
2 offenders, or were identified in settlement agreements that expressly disclaimed admission of
3 fault—the public interest analysis focuses on “the extent to which disclosure of the information
4 sought would ‘she[d] light on an agency’s performance of its statutory duties’ or otherwise let
5 citizens know ‘what their government is up to.’” *U.S. Dep’t of Def. v. Fed. Lab. Rel. Auth.*, 510
6 U.S. 487, 497 (1994). Disclosure of the files related to the DEA tortfeasors would do just that.

7 The DEA also asserts that the Court “incorrectly distinguished *Hunt*” because, “as in
8 *Hunt*,” there is “little or no public interest served by the [requested] disclosure.” Dkt. # 67 at 11
9 (citing Dkt. # 33 at 18 (quoting *Hunt*, 972 F.2d at 290)). The DEA thus concludes that “it would
10 be a ‘clearly unwarranted invasion of personal privacy’ to disclose these DEA employees’ names
11 with no (or negligible, at best), benefit to the public interest.” *Id.* (citing 5 U.S.C. § 552(b)(6)).
12 As discussed above, the Court disagrees that there is little or no public interest in disclosure here.
13 Therefore, disclosure of these names would not be a clearly unwarranted invasion of personal
14 privacy.

15 V

16 CONCLUSION

17 For these reasons, the Court DENIES the motion.

18 Dated this 9th day of August, 2024.

19 

20 John H. Chun
21 United States District Judge
22
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24