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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 VICTORIA LAW,) Case No. 3:24-CV-06628-TLT
12)
Plaintiff,) **ANSWER**
13)
v.)
14)
FEDERAL BUREAU OF PRISONS,)
15)
Defendant.)
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28 ANSWER
3:24-CV-06628-TLT

1 Defendant, the Federal Bureau of Prisons (BOP) a component of the U.S. Department of Justice
2 (DOJ), by undersigned counsel, respectfully submits its Answer to the Complaint filed by Plaintiff
3 Victoria Law (Plaintiff).

4 Defendant reserves the right to amend, alter, and supplement the defenses contained in this
5 Answer as the facts and circumstances giving rise to this Complaint become known to Defendant
6 through the course of this litigation. Defendant denies all allegations in the Complaint, including the
7 relief sought, except as specifically admitted in this Answer.

8 1. Paragraph 1 of the Complaint contains a characterization of the action to which no
9 response is required. To the extent a response is deemed required, Defendant denies the allegations
10 contained in Paragraph 1 of the Complaint.

11 2. Paragraph 2 of the Complaint contains a characterization of the action to which no
12 response is required. To the extent a response is deemed required, Defendant denies the allegations
13 contained in Paragraph 2 of the Complaint.

14 **JURISDICTION AND VENUE¹**

15 3. Paragraph 3 of the Complaint consists of conclusions of law regarding jurisdiction to
16 which no response is required. To the extent a response is deemed necessary, Defendant admits that this
17 Court has subject matter jurisdiction under FOIA, subject to its terms and limitations.

18 4. Paragraph 4 of the Complaint consists of conclusions of law regarding jurisdiction to
19 which no response is required. To the extent a response is deemed necessary, Defendant admits that this
20 Court has subject matter jurisdiction under FOIA, subject to its terms and limitations.

21 5. Paragraph 5 of the Complaint consists of conclusions of law regarding venue to which no
22 response is required. To the extent a response is deemed necessary, Defendant admits that venue is
23 proper in this judicial district under FOIA.

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27 ¹ For ease of reference, Defendant has replicated the headings contained in the Complaint. Although Defendant
28 believes that no response is required to such headings, to the extent a response is deemed required and to the extent those
headings and titles could be construed to contain factual allegations, those allegations are denied.

PARTIES

6. Defendant lacks knowledge sufficient to form a belief as to the truth of each and every allegation made in Paragraph 6 of the Complaint and, on that basis, denies them.

7. Defendant admits that it has possession, custody and control of the records related to the Federal Correctional Institution in Dublin, California (FCI Dublin), which is located in the Northern District of California. Defendant denies that it is an agency of the United States within the meaning of 5 U.S.C. § 551, 5 U.S.C. § 552(f) and 5 U.S.C. § 702. Defendant admits that DOJ is an executive branch agency of the United States headquartered in Washington, D.C. within the meaning of 5 U.S.C. § 552(f)(1) and avers that, as such, it is the only proper party to this action.

STATEMENT OF FACTS

BACKGROUND: DUBLIN PRISON SEX ABUSE AND CLOSURE SCANDALS

8. Paragraph 8 sets forth Plaintiff’s characterizations of information in the public domain that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is required. Paragraph 8 refers to proceedings that are matters of public record. To the extent any allegations in Paragraph 8 are inconsistent with the public record, Defendant denies those allegations.

9. Defendant lacks knowledge sufficient to form a belief as to the truth of each and every allegation made in Paragraph 9 of the Complaint and, on that basis, denies them.

10. Paragraph 10 sets forth Plaintiff’s characterizations of information in the public domain that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is required. Paragraph 10 refers to proceedings that are matters of public record. To the extent any allegations in Paragraph 10 are inconsistent with the public record, Defendant denies those allegations.

11. Paragraph 11 sets forth Plaintiff’s characterizations of information in the public domain that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is required. Paragraph 11 refers to proceedings that are matters of public record. To the extent any allegations in Paragraph 11 are inconsistent with the public record, Defendant denies those allegations.

12. Paragraph 12 sets forth Plaintiff’s characterizations of information in the public domain that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is

1 required. Paragraph 12 refers to proceedings that are matters of public record. To the extent any
2 allegations in Paragraph 12 are inconsistent with the public record, Defendant denies those allegations.

3 13. Paragraph 13 sets forth Plaintiff's characterizations of information in the public domain
4 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
5 required. Paragraph 13 refers to proceedings that are matters of public record. To the extent any
6 allegations in Paragraph 13 are inconsistent with the public record, Defendant denies those allegations.

7 14. Paragraph 14 sets forth Plaintiff's characterizations of information in the public domain
8 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
9 required. Paragraph 14 refers to proceedings that are matters of public record. To the extent any
10 allegations in Paragraph 14 are inconsistent with the public record, Defendant denies those allegations.

11 15. Paragraph 15 sets forth Plaintiff's characterizations of information in the public domain
12 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
13 required. Paragraph 15 refers to proceedings that are matters of public record. To the extent any
14 allegations in Paragraph 15 are inconsistent with the public record, Defendant denies those allegations.

15 16. Paragraph 16 sets forth Plaintiff's characterizations of information in the public domain
16 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
17 required. Paragraph 16 refers to proceedings that are matters of public record. To the extent any
18 allegations in Paragraph 16 are inconsistent with the public record, Defendant denies those allegations.

19 17. Paragraph 17 sets forth Plaintiff's characterizations of information in the public domain
20 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
21 required. Paragraph 17 refers to proceedings that are matters of public record. To the extent any
22 allegations in Paragraph 17 are inconsistent with the public record, Defendant denies those allegations.

23 18. Paragraph 18 sets forth Plaintiff's characterizations of information in the public domain
24 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
25 required. Paragraph 18 refers to proceedings that are matters of public record. To the extent any
26 allegations in Paragraph 18 are inconsistent with the public record, Defendant denies those allegations.

27 19. Paragraph 19 sets forth Plaintiff's characterizations of information in the public domain
28 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is

1 required. Paragraph 19 refers to proceedings that are matters of public record. To the extent any
2 allegations in Paragraph 19 are inconsistent with the public record, Defendant denies those allegations.

3 20. Paragraph 20 sets forth Plaintiff's characterizations of information in the public domain
4 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
5 required. Paragraph 20 refers to proceedings that are matters of public record. To the extent any
6 allegations in Paragraph 20 are inconsistent with the public record, Defendant denies those allegations.

7 21. Paragraph 21 sets forth Plaintiff's characterizations of information in the public domain
8 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
9 required. Paragraph 21 refers to a letter from Members of Congress that is a matter of public record.
10 To the extent any allegations in Paragraph 21 are inconsistent with the public record, Defendant denies
11 those allegations.

12 22. Paragraph 22 sets forth Plaintiff's characterizations of information in the public domain
13 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
14 required. Paragraph 22 refers to a letter from Members of Congress that is a matter of public record.
15 To the extent any allegations in Paragraph 22 are inconsistent with the public record, Defendant denies
16 those allegations.

17 23. Paragraph 23 sets forth Plaintiff's characterizations of information in the public domain
18 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
19 required. Paragraph 23 refers to media reports that are matters of public record. To the extent any
20 allegations in Paragraph 23 are inconsistent with the public record, Defendant denies those allegations.

21 **BACKGROUND: PUBLIC INTEREST**

22 24. Defendant lacks knowledge sufficient to form a belief as to the truth of each and every
23 allegation made in Paragraph 24 of the Complaint and, on that basis, denies them.

24 25. Paragraph 25 sets forth Plaintiff's characterizations of information in the public domain
25 that is not pertinent to the resolution of the claims at issue in this FOIA action, to which no response is
26 required. Paragraph 25 refers to proceedings that are matters of public record. To the extent any
27 allegations in Paragraph 25 are inconsistent with the public record, Defendant denies those allegations.
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BOP REQUEST AND RESPONSE

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2 32. Defendant admits that, on July 5, 2024, it received a FOIA request submitted by Plaintiff.
3 A copy of that FOIA request is attached to the Complaint as Exhibit A. That FOIA request speaks for
4 itself and is the best evidence of its contents. Defendant denies the remaining allegations of Paragraph
5 32 to the extent they fail to accurately reflect the content of that FOIA request.

6 33. Defendant admits that, by letter dated July 10, 2024, it acknowledged receipt of
7 Plaintiff's FOIA request. A copy of that acknowledgement letter is attached to the Complaint as Exhibit
8 B. That acknowledgement letter speaks for itself and is the best evidence of its contents. Defendant
9 denies the remaining allegations of Paragraph 33 to the extent they fail to accurately reflect the content
10 of that acknowledgement letter.

11 34. Defendant admits that, on August 4, 2024, attorney Henry emailed Ms. Kara Christenson,
12 FOIA/Privacy Act Liaison for Defendant asking for a status and timeline update. A copy of that email is
13 attached to the Complaint as Exhibit C. That email speaks for itself and is the best evidence of its
14 contents. Defendant denies the remaining allegations of Paragraph 34 to the extent they fail to
15 accurately reflect the content of that email.

16 35. Defendant admits that, on August 12, 2024, attorney Henry emailed P. Willcott and
17 Defendant's general OGC FOIA email box asking for a status and timeline update. A copy of that email
18 is attached to the Complaint as Exhibit D. That email speaks for itself and is the best evidence of its
19 contents. Defendant denies the remaining allegations of Paragraph 35 to the extent they fail to
20 accurately reflect the content of that email.

21 36. Defendant admits that, on August 13, 2024, P. Willcott, for Supervisory Attorney Eugene
22 E. Baime, emailed attorney Henry in response to her requests for a status and timeline update. A copy
23 of that email is attached to the Complaint as Exhibit E. That email speaks for itself and is the best
24 evidence of its contents. Defendant denies the remaining allegations of Paragraph 36 to the extent they
25 fail to accurately reflect the content of that email.

26 37. Paragraph 37 sets forth a legal conclusion to which no response is required. To the extent
27 a response is deemed required, Defendant denies the allegations of Paragraph 37.

1 38. Defendant admits that the screenshot attached to the Complaint as Exhibit F is a
2 screenshot from the FOIA portion of www.bop.gov, specifically, that portion of the BOP's public
3 website which allows a user to track their FOIA request. The screenshot attached to the Complaint as
4 Exhibit J reflects that Plaintiff tracked the status of FOIA Request 2024-04492 on September 17, 2024,
5 at 9:19 a.m. and learned that the Status was "Document Search."

6 39. Defendant admits that, to date, it has neither communicated a determination letter to
7 Plaintiff regarding FOIA Request 2024-04492 nor produced any records responsive to it.

8 **EXHAUSTION: OIP APPEAL AND RESPONSE**

9 40. The first allegation of Paragraph 40 sets forth a legal conclusion to which no response is
10 required. To the extent a response is deemed required, Defendant denies the same. As to the remainder
11 of the allegations of Paragraph 40, Defendant admits that Plaintiff filed an appeal with OIP and that OIP
12 acknowledged receipt of that appeal and assigned it appeal number A-24-02406. A copy of Plaintiff's
13 appeal to OIP is attached to the Complaint as Exhibit G and a copy of OIP's acknowledgment of that
14 appeal is attached to the Complaint as Exhibit H. Those documents speak for themselves and are the
15 best evidence of their contents. Defendant denies the remaining allegations of Paragraph 40 to the
16 extent they fail to accurately reflect the contents of those documents.

17 41. Defendant admits that OIP responded to appeal number A-24-02406 on August 23, 2024.
18 A copy of OIP's response to that appeal is attached to the Complaint as Exhibit I. That document speaks
19 for itself and is the best evidence of its contents. Defendant denies the remaining allegations of
20 Paragraph 41 to the extent they fail to accurately reflect the content of that document.

21 **CAUSES OF ACTION**

22 42. Defendant incorporates its responses set forth in Paragraphs 1 through 41 as if fully set
23 forth herein.

24 43. Paragraph 43 consists of conclusions of law, not allegations of fact, to which no response
25 is required. To the extent a response is required, Defendant denies the allegations of Paragraph 43.

26 44. Defendant lacks knowledge sufficient to form a belief as to the truth of the allegations
27 made in Paragraph 44 of the Complaint and, on that basis, denies the allegations of Paragraph 44.

1 45. Paragraph 45 consists of conclusions of law, not allegations of fact, to which no response
2 is required. To the extent a response is required, Defendant denies the allegations of Paragraph 45.

3 46. Paragraph 46 consists of conclusions of law, not allegations of fact, to which no response
4 is required. To the extent a response is required, Defendant denies the allegations of Paragraph 46.

5 47. Defendant lacks knowledge sufficient to form a belief as to the truth of the allegations
6 made in Paragraph 47 of the Complaint and, on that basis, denies the allegations of Paragraph 47.

7 **CLAIM FOR RELIEF I**
8 **Violation of FOIA 5 U.S.C. § 552**
9 **Failure to Make Expedited Determination**

10 48. Defendant admits that, on July 5, 2024, it received a FOIA request submitted by Plaintiff.
11 A copy of that FOIA request is attached to the Complaint as Exhibit A. That FOIA request speaks for
12 itself and is the best evidence of its contents. Defendant denies the remaining allegations of Paragraph
13 48 to the extent they fail to accurately reflect the content of that FOIA request.

14 49. Defendant admits that, on July 5, 2024, it received a FOIA request submitted by Plaintiff.
15 A copy of that FOIA request is attached to the Complaint as Exhibit A. That FOIA request speaks for
16 itself and is the best evidence of its contents. Defendant denies the remaining allegations of Paragraph
17 49 to the extent they fail to accurately reflect the content of that FOIA request.

18 50. Defendant admits that, by letter dated July 10, 2024, it acknowledged receipt of
19 Plaintiff's FOIA request and advised that it met the requirement to be processed on an expedited basis
20 and would be expedited to the best of its ability and placed on the processing track ahead of other
21 requests and processed as soon as practicable. A copy of that acknowledgement letter is attached to the
22 Complaint as Exhibit B. That acknowledgement letter speaks for itself and is the best evidence of its
23 contents. Defendant denies the remaining allegations of Paragraph 50 to the extent they fail to accurately
24 reflect the content of that acknowledgement letter.

25 51. Paragraph 51 consists of conclusions of law, not allegations of fact, to which no response
26 is required. To the extent a response is required, Defendant denies the allegations of Paragraph 51.

27 52. Defendant admits that, on August 13, 2024, P. Willcott, for Supervisory Attorney Eugene
28 E. Baime, emailed attorney Henry in response to her requests for a status and timeline update. A copy
of that email is attached to the Complaint as Exhibit E. That email speaks for itself and is the best

1 evidence of its contents. Defendant denies the remaining allegations of Paragraph 52 to the extent they
2 fail to accurately reflect the content of that email.

3 53. Paragraph 53 consists of conclusions of law, not allegations of fact, to which no response
4 is required. To the extent a response is required, Defendant denies the allegations of Paragraph 53.

5 54. Paragraph 54 consists of conclusions of law, not allegations of fact, to which no response
6 is required. To the extent a response is required, Defendant denies the allegations of Paragraph 54.

7 55. Paragraph 55 consists of conclusions of law, not allegations of fact, to which no response
8 is required. To the extent a response is required, Defendant denies the allegations of Paragraph 55.

9 56. Paragraph 56 consists of conclusions of law, not allegations of fact, to which no response
10 is required. To the extent a response is required, Defendant denies the allegation of Paragraph 56.

11 **CLAIM FOR RELIEF II**
12 **Violation of FOIA, 5 U.S.C. § 552**
13 **Failure to Conduct Adequate Searches for Responsive Records**

14 57. Defendant incorporates its responses set forth in Paragraphs 1 through 56 as if fully set
15 forth herein.

16 58. Defendant admits that, on July 5, 2024, it received a FOIA request submitted by Plaintiff.
17 A copy of that FOIA request is attached to the Complaint as Exhibit A. That FOIA request speaks for
18 itself and is the best evidence of its contents. Defendant denies the remaining allegations of Paragraph
19 58 to the extent they fail to accurately reflect the content of that FOIA request.

20 59. As set forth in Paragraph 7 above, Defendant denies that it is an agency of the United
21 States subject to and within the meaning of FOIA. Defendant admits, however, that as a component of
22 the Department of Justice, which is an agency subject to and within the meaning of FOIA, it must make
23 reasonable efforts to search for requested records.

24 60. Defendant admits that it has not, to date, produces any documents in response to
25 Plaintiff's FOIA Request and that it has not, to date, prepared a Vaughn Index. Defendant denies that,
26 however, that it has not made any determination as to: 1. The scope of the records it intends to produce;
27 2. The scope of the records it intends to withhold; 3. The reasoning and exclusions/exemptions argued
28 for the withholding of any documents, as these subjects have already been discussed in some detail with

1 counsel for Plaintiff. Defendant further denies that it was required to prepare a Vaughn index at this
2 stage of the litigation.

3 61. Defendant denies the allegation in Paragraph 61 that it has failed to make “reasonable
4 efforts” in conducting a search for responsive records.” The remaining allegations of Paragraph 61
5 constitute conclusions of law, not allegations of fact, to which no response is required. To the extent a
6 response is required, Defendant denies the allegations of Paragraph 61.

7 62. Defendant denies the allegations of Paragraph 62.

8 63. The allegations of Paragraph 63 constitute conclusions of law, not allegations of fact, to
9 which no response is required. To the extent a response is required, Defendant denies the allegations of
10 Paragraph 63.

11 64. The allegations of Paragraph 64 constitute conclusions of law, not allegations of fact, to
12 which no response is required. To the extent a response is required, Defendant denies the allegations of
13 Paragraph 64.

14 65. The allegations of Paragraph 65 constitute conclusions of law, not allegations of fact, to
15 which no response is required. To the extent a response is required, Defendant denies the allegations of
16 Paragraph 65.

17 **CLAIM FOR RELIEF III**
18 **Violation of FOIA, 5 U.S.C. § 552**
Wrongful Withholding of Non-Exempt Responsive Records

19 66. Defendant incorporates its responses set forth in Paragraphs 1 through 65 as if fully set
20 forth herein.

21 67. Defendant admits that, on July 5, 2024, it received a FOIA request submitted by Plaintiff.
22 A copy of that FOIA request is attached to the Complaint as Exhibit A. That FOIA request speaks for
23 itself and is the best evidence of its contents. Defendant denies the remaining allegations of Paragraph
24 67 to the extent they fail to accurately reflect the content of that FOIA request.

25 68. As set forth in Paragraphs 7 and 59 above, Defendant denies that it is an agency of the
26 United States subject to and within the meaning of FOIA. Defendant admits, however, that as a
27 component of the Department of Justice, which is an agency subject to and within the meaning of FOIA,
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1 and which must release non-exempt records and provide a lawful reason for withholding any materials
2 for which exemptions are claimed, and to support the withholdings if challenged in litigation.

3 69. Defendant denies the allegations of Paragraph 69.

4 70. Defendant denies the allegations of Paragraph 70.

5 71. Defendant denies the allegations of Paragraph 71.

6 72. The allegations of Paragraph 72 constitute conclusions of law, not allegations of fact, to
7 which no response is required. To the extent a response is required, Defendant denies the allegations of
8 Paragraph 72.

9 73. The allegations of Paragraph 73 constitute conclusions of law, not allegations of fact, to
10 which no response is required. To the extent a response is required, Defendant denies the allegations of
11 Paragraph 73.

12 **CLAIM FOR RELIEF IV**
13 **Violation of FOIA, 5 U.S.C. § 552(a)(4)(A)(ii)(II)**
14 **Failure to Classify as News Media for Expedition and Fee Waiver**

15 74. Defendant incorporates its responses set forth in Paragraphs 1 through 73 as if fully set
16 forth herein.

17 75. Defendant admits that, on July 5, 2024, it received a FOIA request submitted by Plaintiff.
18 A copy of that FOIA request is attached to the Complaint as Exhibit A. That FOIA request speaks for
19 itself and is the best evidence of its contents. Defendant denies the remaining allegations of Paragraph
20 75 to the extent they fail to accurately reflect the content of that FOIA request.

21 76. The allegations of Paragraph 76 constitute conclusions of law, not allegations of fact, to
22 which no response is required. To the extent a response is required, Defendant denies the allegations of
23 Paragraph 76.

24 77. The allegations of Paragraph 77 constitute conclusions of law, not allegations of fact, to
25 which no response is required. To the extent a response is required, Defendant denies the allegations of
26 Paragraph 77.

27 78. The allegations of Paragraph 78 constitute conclusions of law, not allegations of fact, to
28 which no response is required. To the extent a response is required, Defendant denies the allegations of
Paragraph 78.

CLAIM FOR RELIEF V
Violation of FOIA, 5 U.S.C. § 552(a)(4)(A)(iii)
Failure to Grant Fee Waiver

79. Defendant incorporates its responses set forth in Paragraphs 1 through 78 as if fully set forth herein.

80. The allegations of Paragraph 80 constitute conclusions of law, not allegations of fact, to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 80.

81. Defendant lacks knowledge sufficient to form a belief as to the truth of the allegations made in Paragraph 81 of the Complaint and, on that basis, denies the allegations of Paragraph 81.

82. The allegations of Paragraph 82 constitute conclusions of law, not allegations of fact, to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 82.

83. The allegations of Paragraph 83 constitute conclusions of law, not allegations of fact, to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 83.

84. Defendant denies the allegations of Paragraph 84.

PRAYER FOR RELIEF

85. The unnumbered paragraph beginning with PRAYER FOR RELIEF on pages 33-34 of the Complaint and containing sections a-k constitutes a prayer for relief to which no response is required. To the extent a response is deemed necessary, Defendant denies that Plaintiff is entitled to the requested relief or any relief.

AFFIRMATIVE DEFENSES

As separate and distinct defenses to Plaintiff's claims set forth in the Complaint, and, without assuming any additional burden of proof or production, Defendant alleges the following affirmative defenses. Defendant respectfully requests and reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to the Complaint become known through the course of litigation.

1 **FIRST AFFIRMATIVE DEFENSE**

2 The Complaint fails to state a claim upon which relief can be granted.

3 **SECOND AFFIRMATIVE DEFENSE**

4 Some or all of the requested records are records protected from disclosure by any applicable
5 FOIA exemptions or exclusions. 5 U.S.C. § 552(b).

6 **THIRD AFFIRMATIVE DEFENSE**

7 The FOIA claims should be dismissed because processing the vast quantity of potentially
8 responsive records in response to Plaintiff’s request would impose an unreasonable and undue burden.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 At all times alleged in the complaint, Defendant acted in good faith, with justification, and
11 pursuant to authority.

12 **FIFTH AFFIRMATIVE DEFENSE**

13 The Court lacks subject matter jurisdiction to the extent Plaintiff’s request for relief exceeds the
14 relief authorized under FOIA. 5 U.S.C. § 552.

15 **SIXTH AFFIRMATIVE DEFENSE**

16 Plaintiff is not entitled to declaratory relief. 5 U.S.C. § 552(a)(4)(B).

17 **SEVENTH AFFIRMATIVE DEFENSE**

18 Plaintiff has not alleged sufficient factual and/or legal bases for her request for costs and/or
19 attorneys’ fees.

20 **EIGHTH AFFIRMATIVE DEFENSE**

21 To the extent that Defendant has exercised due diligence in processing Plaintiff’s FOIA requests
22 and exceptional circumstances exist, Defendant should be allowed additional time to process the request.
23 5 U.S.C. § 552(a)(6)(C).

24 **NINTH AFFIRMATIVE DEFENSE**

25 Pursuant to 5 U.S.C. § 552, government agencies are the only proper defendants in a suit under
26 the Freedom of Information Act. “Agency” includes “any executive department, military department,
27 Government corporation, or other establishment in the executive branch of the Government (including
28

1 the Executive Office of the President), or any independent regulatory agency.” 5 U.S.C. § 552(f) .

2 Accordingly, the proper Defendant in this action is the United States Department of Justice.

3 **TENTH AFFIRMATIVE DEFENSE**

4 Defendant asserts that it has, or may have, additional affirmative defenses which are not known
5 to Defendant at this time, but which may be ascertained during litigation. Defendant specifically
6 preserves these and other affirmative defenses as they are ascertained during litigation, including those
7 required by Fed. R. Civ. P. 8 and 12.

8 WHEREFORE, Defendant respectfully requests this Court to dismiss the Complaint with
9 prejudice, enter judgment in favor of Defendant, award costs for defense of this action, and grant such
10 other relief as may be just and equitable

11
12 Dated: November 27, 2024

13 Respectfully submitted,

14 ISMAIL J. RAMSEY
15 United States Attorney

16 */s/ Michael T. Pyle*
17 MICHAEL T. PYLE
18 Assistant United States Attorney
19 *Attorneys for Defendant*
20 *Federal Bureau of Prison*