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6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **OAKLAND DIVISION**

8 VICTORIA LAW,
9 PLAINTIFF,
10 VS.
11 FEDERAL BUREAU OF PRISONS,
12 DEFENDANT.

CASE No.: 4:24-cv-06628-YGR

**DECLARATION OF CAITLIN KELLY
HENRY IN SUPPORT OF PLAINTIFF’S
MOTION FOR PARTIAL JUDGMENT ON
THE PLEADINGS AND DECLARATORY
JUDGMENT**

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15 I, Caitlin Kelly Henry, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the
16 following statements are true and correct:

17 1. The following statements are made of my own personal knowledge except as to those matters
18 stated to be based on information or belief. If I were to be called as a witness, I could competently testify
19 about what I have written in this declaration.
20

21 **Procedural History**

22 2. On July 5, 2024, Plaintiff Victoria Law (“Plaintiff”) submitted a FOIA request seeking, in
23 order of priority, approximately 50 categories of records regarding the Dublin prison sex abuse and
24 closure scandals. *Dkt.* No. 1-1 at 1-85 (the “Request” or “FOIA Request”).

25 3. On July 10, 2024, Defendant Federal Bureau of Prisons (“Defendant” or “BOP”) found that
26 the request merited expedited processing. *Dkt.* No. 1-2 at 1-2. “Defendant admits that, by letter dated
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1 July 10, 2024, it acknowledged receipt of the Request and advised that it met the requirement to be
2 processed on an expedited basis and would be expedited to the best of its ability and placed on the
3 processing track ahead of other requests and processed as soon as practicable.” *Dkt.* No. 16 at ¶ 50.
4

5 4. On August 18, 2024, after receiving no determination responsive to her expedited processing
6 of the FOIA Request after multiple email inquiries (*Dkt.* No. 1-1, Exhibit C August 4, 2024 Email,
7 Exhibit D, August 12, 2024 to HQ, Exhibit E August 12, 2024 Email to Western Regional), Plaintiff
8 administratively appealed. *Dkt.* No. 1-6 at 1-5. On August 19, 2024, the Office of Information Policy
9 (OIP) assigned her appeal number 2024-04492. *Dkt.* No. 1-6. On August 23, 2024, BOP stated, “As no
10 adverse determination has yet been made by BOP, there is no action for this Office to consider on
11 appeal.” *See Dkt.* No. 1-9.
12

13 5. On September 20, 2024, Plaintiff filed the complaint initiating this case. *See Dkt.* No. 1. As
14 admitted in BOP’s Answer, at the time Plaintiff filed, BOP had failed to make the statutorily required
15 determination or provide Plaintiff any responsive records. *Dkt.* No. 16. at ¶ 60.
16

17 6. On September 23, 2024, Judge Trina Thompson set the initial Case Management Conference
18 for January 2, 2025. *Dkt.* No. 5. On October 2, 2024, this conference was reset for January 9, 2025. *Dkt.*
19 No. 9. On December 3, 2024, BOP requested to continue the conference. *Dkt.* No. 17. Judge Thompson
20 continued the conference to January 16, 2025, *Dkt.* No. 18.
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22 7. On October 30, 2024, BOP sought and received consent to extend its deadline to file an
23 Answer (*Dkt.* No. 13) to November 22, 2024. On November 22, 2024, BOP again sought and received
24 consent from Plaintiff and the Court to further extend the deadline for filing the agency's Answer to
25 November 27, 2024. *Dkt.* No. 14.
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1 8. On November 27, 2024, Defendant filed its Answer and admitted: “Defendant admits that, to
2 date, it has neither communicated a determination letter to Plaintiff regarding FOIA Request 2024-
3 04492 nor produced any records responsive to it.” *Dkt.* No. 16 at ¶ 39.

4
5 9. On November 27, 2024, BOP’s Answer admitted that the Request “would be expedited to the
6 best of its ability and placed on the processing track ahead of other requests and processed as soon as
7 practicable.” *Dkt.* No. 16 at ¶ 50.

8
9 10. In the fall of 2024, Plaintiff repeatedly asked Defendant to agree to a production schedule
10 with dates and pages and format certain. Defendant’s January 9, 2025, Case Management Statement
11 reflected that it agreed to produce records every four weeks. *Dkt.* No. 21 at 2. However, Defendant
12 immediately breached its agreement to produce every four weeks. *See* Ex. 9, Missing Information and
13 Productions.

14 11. On December 20, 2024, over five months after receiving the Request, and three months after
15 this litigation was initiated for failure to respond, Defendant began its production by releasing 568 pages
16 of records retention schedules publicly available on the National Archives and Records Administration
17 website. It downloaded approximately 172 separate records and merged them into one PDF file.

18
19 12. On January 9, 2005, BOP’s Case Management Statement (*Dkt* No. 21 7:25-8:3) indicated it
20 has not finished its search but argued against monthly status reports. Defendant admitted that it had not:
21 determined a final estimated page count...[but] The Court should not require monthly
22 status reports about the number of pages released. Plaintiff will know how many pages
23 are released with each monthly release, and there is no reason to fill the Court’s docket
24 with duplicative information. The parties can update the Court at further status
25 conferences about the progress of the monthly releases.

26 13. On January 13, 2025, the Court related the case to 22-cv-05137-YGR, *M.R. v. Federal*
27 *Correctional Institution “FCI” Dublin* (*Dkt.* No. 23) and reassigned the case to this Court. *Dkt.* No. 25.
28 On January 17, 2025, the parties jointly requested a case management conference. *Dkt.* No. 26. This
court vacated the February 3, 2025, case management conference and referred the parties to Magistrate

1 Judge Tse for discovery, including document production issues. *Dkt.* No. 29. The parties have yet to
2 appear at a case management conference.

3 14. The parties filed two Joint Discovery Letter Briefs, one of February 24, 2025 (*Dkt.* No. 31)
4 and the second on April 11, 2025 (*Dkt.* No. 33). Judge Tse held hearings on May 12, 2025, and May 27,
5 2025. *Dkt.* No 43, 44.

6
7 15. On February 24, 2025, in its First Joint Discovery Letter Brief (*Dkt.* No. 31 at 6) Defendant
8 indicated it has not finished its search or made a determination. In response to Plaintiff’s request for a
9 determination, monthly status report and/or Vaughn Index,¹ Defendant argued

10 Plaintiff’s request for a Vaughn index and monthly status reports identifying what is
11 being withheld, and why, would be counterproductive. BOP should be allowed to focus
12 on gathering and releasing records given its limited resources. Indeed, it is unclear what
13 Plaintiff wants in a monthly status report as identifying what is being withheld, and why
14 appears to be a request for a Vaughn index by another name.

15 16. On February 24, 2025, in the first Declaration of Kara Christenson (*Dkt.* No. 31-2 at ¶ 9) (the
16 “Feb. 24 Christenson Decl.”) BOP admitted it has not finished its search or made a determination:

17 I understand Plaintiff is seeking an order requiring the filing of monthly status reports
18 about what is released and what is withheld, and on what basis. I also understand Plaintiff
19 is seeking an order requiring the preparation of a Vaughn index. Each document
20 production includes a determination letter identifying the portion of the request the
21 records are responsive to; the total number of pages processed, released in full, released
22 in part, withheld in full, identified as duplicative; and the exemptions applied. While
23 perhaps not as detailed as a Vaughn index, each determination letter provides Plaintiff a
24 general accounting and status of the records sufficient to track progression of production
25 so BOP can focus its limited resources on continued gathering, processing and producing
26 documents.

27 17. The Feb. 24 Christenson Decl. further stated: “As of February 19, 2025, BOP has over 6300
28 open requests with 6099 currently backlogged. Plaintiff’s request is 5028 out of the 6395 open requests.

26 ¹ A Vaughn Index (*Vaughn v. Rosen* 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974))
27 is a document prepared by agencies that are opposing the disclosure of information that must: (1)
28 identify each document withheld; (2) state the statutory exemption claimed; and (3) explain how
disclosure would damage the interests protected by the claimed exemption.

1 In order to reach the 5000 deduplicated pages per month Plaintiff is requesting, the 5027 requests older
2 than Plaintiff's request would have to be placed on an indefinite hold." *Dkt.* 31-2 at ¶6.

3 17. On April 11, 2025, in the second Declaration of Kara Christenson (the "April 11 Christenson
4 Decl."), BOP stated, "As of February 19, 2025, BOP has over 6800 open requests with 6369 currently
5 backlogged. Plaintiff's request is 4996 out of the 6837 open requests." *Dkt.* 33-4 at ¶6.

7 18. The April 11, 2025, Second Discovery Letter Brief included exhibits demonstrating how
8 BOP data show the FOIA office is now at its lowest staffing level in 17 years (*Dkt.* No. 33-2 at 1) which
9 has predictably led to increased backlogs (*Id.* at 2); increased median expedited processing times (*Id.* at
10 3); a virtual elimination of prompt expedited processing responses (*Id.* at 5); and increased litigation
11 costs (*Id.* at 6).

13 19. A May 1, 2025, email from Katherine M. Carpenter, Senior Attorney, BOP, Western
14 Regional Counsel's Office to Plaintiff is attached hereto as Exhibit 6. In the email, BOP admitted it
15 wasn't meeting deadlines and attributed it to systemic problems in BOP's FOIA office including chronic
16 understaffing, non-FOIA workflows (GAO audits, quarterly reporting, and performance evaluations), a
17 FOIA inbox consistently holding more than 300 unanswered emails.

19 I wanted to add my apologies to Kara's and to also add some context to her explanation for the
20 delay in production. It's almost impossible to explain just how greatly the BOP's FOIA team has
21 been decimated by the recent string of resignations and retirements. I know that you have read
22 Kara's Declaration from this case, but for her to be serving as both the acting FOIA Chief as well
23 as the Supervisory Government Information Specialist is really no small feat. As she indicated in
24 one of her previous emails to you, she missed the most recent document production because she
25 was out of the office. She was not on vacation, but was TDY for work. She has been working
26 diligently to catch up since her return. Currently, the BOP's FOIA team has a number of staff out
27 on annual leave, including one of the remaining attorneys, so Kara has had to step in and handle
28 GAO audit reviews, which have a very quick turnaround time. Moreover, it's quarterly reporting
time for OIP and Strategic Plans for the Department of Justice, which also have quick turnaround
times. The BOP FOIA email inbox has consistently had over 300 emails waiting to be addressed
for the last few months, and the FOIA backlog is now over 6,660 requests. There are currently
over 250 FOIA requests waiting for final review. Finally, it's performance evaluation time for the
FOIA staff. Kara, as acting FOIA Chief, is responsible for addressing all of that. Kara takes all of
her responsibilities very seriously, but she really is just one person and there are only 24 hours in
a day. There are going to be times when she has to put some of her other FOIA responsibilities
first, and, sadly, that might result in record production in your case and other cases not being

1 made right on schedule. This should not be taken as any indication that either Kara or the BOP
2 does not take this litigation seriously, but rather as a reflection that we are working with limited
3 resources at this point and doing the absolute best we can to keep our FOIA program operating
4 and serving everyone. We cannot simply ignore all of the other requestors and focus on only one
5 request. I would ask for your continued patience with Kara, as she truly does care deeply about
6 her work and is one of the most diligent, hardest workers that I've ever had the pleasure of
7 working with.

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20. At the May 12, 2025, discovery hearing, Judge Tse directed Plaintiff's counsel to contact
DOJ attorneys from the *CCWP* and *M.R.* cases to identify whether records disclosed in those matters
might overlap with Plaintiff Law's FOIA request. *Dkt.* No. 43. DOJ counsel declined to provide Plaintiff
with records but agreed to assist BOP in locating documents if specific issues arose, with any production
to be handled by BOP and its FOIA counsel. *See Dkt.* Nos. 39, 39-1, 43.

21. On May 12, 2025, BOP stated it is not filing "an Open America stay motion. And that's not at
all what the Government is seeking in this case." Discovery Hr'g Tr. (May 12, 2025) *Dkt.* No. 43,
20:19–22.

22. According to the June 16, 2025, FY 2026 BOP Salaries and Expenses Request BOP has not
sought additional resources to meet its FOIA obligations and is only hiring for new correctional officer
positions, and not FOIA-related positions.²

23. On July 25, 2025, BOP reported a backlog of 6,369 requests; data released by OIP³ for the
third quarter of FY 2025 shows that BOP's backlog increased over 6% to 6,760 since the April 2025
Christenson Declaration (*Dkt.* No. 33-4, ¶6).

² Department of Justice, *FY 2026 Congressional Budget Submission: Federal Prison Industries (FPI) Exhibits* (June 16, 2025), at 2 <https://www.justice.gov/media/1403221/dl?inline>, also available at <https://www.justice.gov/doj/fy-2026-congressional-budget-submission>.

³ Office of Information Policy, *FOIA.gov Quarterly FOIA Data for Federal Bureau of Prisons, Third Quarter FY 2025: Requests Received, Processed, and Backlogged* (July 25, 2025), <https://www.foia.gov/quarterly.html/results>.

1 **Defendant’s Productions**

2 24. Although the February 24, 2025, Christenson Declaration (*Dkt.* No. 31-2, ¶6) noted that
3 “BOP *could* process 1000 pages each month,” (emphasis added) BOP has elected not to do so, despite
4 finding it merited expedited processing.

5 25. Attached as Exhibits 1-5 and Exhibits 7-8 are true and correct copies of Defendant’s Release
6 Letters related to its January, February, March, May, June, and July 2025 productions, respectively.

7 26. Attached as Exhibits 9-12 are documents that I created which provide summaries of each
8 production and illustrations of the items released and release rates.

9 27. In the spring of 2025, BOP failed to comply with its every-four-week production schedule in
10 five instances and entirely missed two scheduled productions. *See* Ex. 9, Missing Information and
11 Productions. The second, third, and fourth productions (due January 17, February 14, and March 14,
12 2025) were each released one week late, (on January 24, February 21, and March 21, respectively). *Id.*
13 The fifth production, due April 11, 2025, was released three weeks late, on May 1, 2025. *Id.* BOP failed
14 to produce any records at all for the sixth and seventh scheduled productions, due May 9 and June 6,
15 2025. *Id.* What was originally scheduled as the eighth production (due July 4, 2025) ultimately became
16 the sixth, completed on June 30, 2025, after Judge Tse ordered BOP to produce it by that date. *Dkt.* No.
17 42.

18 28. From December 2024 until Judge Tse’s May 30, 2025, Discovery Order (*Dkt.* No. 42), BOP
19 reviewed 1,220 pages of records. Of those, it released 1,219 pages either in full or in part. BOP released
20 only 728 pages that were not public already – an average rate of 182 pages per month. *See* Release
21 Letters, Exs. 1-5, 7. Its first release of 568 pages consisted of BOP transmitting records retention
22 schedules maintained on the National Records Administration website.⁴

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28 ⁴ (RECORDS CONTROL SCHEDULES NATIONAL ARCHIVES, <https://www.archives.gov/records-mgmt/rcs/schedules/index.html?dir=/departments/department-of-justice/rg-0129>)

1 29. On June 30, 2025, after the May 30, 2025, order (*Dkt.* No. 42), BOP reviewed 1,000 pages
2 and deemed non-responsive 595 pages (59.5%) and released in full 28 pages (2.8%) released in part 338
3 pages (33.8%) withheld in full (11) pages (1.1%), found duplicative 28 pages (2.8%). *See* Ex. 7. On July
4 31, 2025, BOP's letter indicated it reviewed 1,000 pages, released in full 33 pages (3.3%), released in
5 part 302 pages (30.2%), found duplicative 14 pages (1.4%), and deemed non-responsive 651 pages
6 (65.1%). *See* Ex. 8. BOP provided no explanation of search locations, search terms, or how
7 responsiveness was determined.
8

9 30. In total, in the year that elapsed since receiving Plaintiff's request, BOP reviewed
10 approximately 3,220 pages and released 1,920 pages (in full or in part) (59% release rate). *See* Ex. 10,
11 Release Timelines and Page Counts. BOP noted it withheld approximately 11 pages, deemed duplicative
12 43 pages, or and labeled non-responsive 1,243 pages (38%). *Id.* As of August 2025, BOP communicated
13 that it had completed the release for three items, numbers 9, 47, and 44 (where it printed records from
14 the NARA website). *See* Ex. 12, Categories of Records Produced and Withheld
15

16 31. As of August 2025, BOP communicated that it had partially completed its search for and
17 release of eight items, numbers 1, 7, 8, 10, 11, 12, 13, and 22. *Id.*
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19 32. As of August 2025, BOP has not communicated efforts to search for the remaining 39 items:
20 2, 3, 4, 5, 6, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,
21 39, 40, 41, 42, 43, 45, 46, 48, 49, 50. *Id.*
22

23 33. At its current rate of review under Judge Tse's order (*Dkt.* No. 42), ***BOP will take***
24 ***approximately 6 years and 8 months (80 months)*** to complete its review of email records alone.
25 Plaintiff has proposed multiple measures to narrow and streamline the email search process, which BOP
26 has either declined or failed to address. This estimate applies only to one category of records, email, out
27 of a total of 50 listed FOIA items (47 of which remain outstanding) and is based on the review and
28

1 release rates from the June 30, 2025, and July 31, 2025, productions. Exhibit 11 details June and July
2 2025 productions and show that BOP is reviewing large volumes of records while releasing almost
3 none—disclosing just 0.30% of pages in full in June and 0% in July, with the overwhelming majority
4 (over 87% in June and nearly 95% in July) labeled “non-responsive” without explaining the criteria
5 used. BOP also marked many pages as duplicative and withheld additional records in part or in full,
6 despite FOIA’s mandate of prompt, expansive disclosure. *Id.* If these proportions hold, over 70,000 of
7 the estimated 80,000 pages will never be released.
8

9 **Urgent Need for and Public Interest In Plaintiff’s FOIA Request and Releases**

11 34. After Judge Tse’s May 30, 2025 (*Dkt.* No. 42) order, BOP began producing emails revealing
12 matters that courts have repeatedly found to implicate substantial public interests and warrant disclosure.
13 Although the BOP has withheld or designated the majority of reviewed emails as non-responsive or
14 duplicative, the few emails it has disclosed so far reveal significant evidence of misconduct,
15 mismanagement, and denial of rights. The emails shed light on potential government impropriety,
16 serious staff misconduct, and systemic failures in how the BOP has managed detention, oversight, and
17 post-conviction processes at Federal Correctional Institute Dublin (“Dublin”).
18

19 35. Dublin is the U.S. prison with the highest number of staff criminally charged with sexual
20 abuse. *See* Complaint, *Dkt.* No. 1-1. Two additional convictions⁵ have occurred since the request and
21 one retrial is pending.⁶ The Request detailed over 100 articles providing varied perspectives and direct
22 quotes highlighting the unexpected, chaotic, and troubling nature of the BOP’s closure of FCI Dublin,
23 which reporters found was orchestrated to evade oversight, included acts of retaliation against plaintiffs
24

25 _____
26 ⁵ U.S. Attorney’s Office, N.D. Cal., *Two More FCI Dublin Correctional Officers Plead Guilty to Sexually Abusing Female Inmates* (Aug. 7, 2025), <https://www.justice.gov/usao-ndca/pr/two-more-fci-dublin-correctional-officers-plead-guilty-sexually-abusing-female-inmates>.

27 ⁶ Lisa Fernandez, *New Trial for FCI Dublin Prison Officer 'Dirty Dick' Smith to Begin Earlier Than Planned*, KTVU FOX 2 (Apr. 22, 2025), <https://www.ktvu.com/news/new-trial-fci-dublin-prison-officer-dirty-dick-smith-begin-earlier-than-planned>
28

1 and others during transfers and at receiving facilities, and involved violence and rights violations *See*
2 *Dkt.* No. 1-1 Ex. A.

3 36. BOP's June 30, 2025, production includes emails regarding ICE detainers and discussions of
4 delayed releases past lawful release dates—raising constitutional concerns and touching on government
5 actions that *CCWP* counsel allege constitute unlawful detention. These records implicate core public
6 interests such as determining whether the agency is doing the job Congress directed it to do, how it
7 handles abuse complaints, and whether agency conduct aligns with law and public expectations.
8

9 37. The July 31, 2025 production includes an April 18, 2024, letter from Rosen Bien Galvan &
10 Grunfeld LLP to the Special Master details reports of staff sexual abuse, the illegal denial of medical
11 care and release opportunities, retaliatory conduct, staff-on-staff sexual assault reported to federal
12 investigators, and obstruction of attorney-client communications and BOP's response to it. These
13 allegations relate directly to misconduct of a serious and intentional nature by BOP officials, improper
14 treatment, and violations of the public trust. The internal emails that follow this letter document BOP
15 staff coordinating legal responses to court-ordered transfers, sentence recalculations, and eligibility for
16 release, illustrating how agency personnel influence post-conviction processes and potentially avoid
17 accountability.
18

19 38. Complaint Exhibit A's (*Dkt* No. 1-1) Exhibit 1: Imminent Threat to the Physical Safety and
20 Life (at 40-47) provides citation to proof of extensive and ongoing threats to the physical safety and
21 lives of people who were incarcerated at Dublin, particularly during and after the BOP's abrupt April
22 2024 closure of the facility.⁷ That concern remains a true and ongoing date.
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25 _____
26 ⁷ The exhibit details abuse during mass transfers, including BOP staff and others involved in the transfer
27 pointing rifles at people, verbal harassment, medical neglect, lack of access to hygiene and food, and
28 denial of medication, alongside retaliatory placement in solitary confinement and deprivation of legal
and religious materials. It underscores the compounded trauma of abuse survivors being exposed to
repeated violence during transit and in new facilities, especially as some were moved without medical
clearance or access to necessary health services.

1 39. Complaint Exhibit A's (*Dkt. No. 1-1*) Exhibit 2: Urgency to Inform the Public (at 48-57)
2 presents evidence of the public's urgent need for information about the BOP's handling of the FCI
3 Dublin abuse crisis, particularly concerning the facility's secretive closure and chaotic transfer of people
4 to other prisons.⁸ The urgency persists to date.

5 40. Complaint Exhibit A's (*Dkt. No. 1-1*) Exhibit 3: Substantial Due Process Rights (at 58-75)
6 Outlines how the BOP's actions have violated incarcerated people's substantial due process rights and
7 provides a list of approximately 90 specific cases that could benefit from release of records (though
8 some of these cases have been resolved, there remain ongoing immigration, compassionate release, civil,
9 and criminal cases where the records could be used). These violations continue to date.

10 41. Complaint Exhibit A's (*Dkt. No. 1-1*) Exhibit 4: Exceptional Media Interest (at 76-85)
11 catalogs the widespread and ongoing media coverage surrounding the BOP's failure to prevent and
12 address staff sexual abuse at FCI Dublin, the facility's sudden closure, and the transfer of survivors.⁹
13 The interest continues to date.

14 42. On August 2, 2024, the Court's unsealing of the Special Master's June 5, 2024, Report¹⁰
15 garnered media interest that showed the public's sustained interest in the BOP's handling of the Dublin
16 scandal and closure. *See Dkt. No. 1*. The Report provided a six-page summary of 61 separate findings
17 across 9 categories, each reflecting violations of law, regulation, or policy at FCI Dublin. *Id. at 6-12*. It
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22 ⁸ The exhibit provides evidence of the broad and active interest of legislators, litigants, courts, oversight
23 entities, and the public in understanding BOP's conduct, especially before ongoing court proceedings
24 and hearings. It shows how delayed disclosure will obstruct oversight and justice.

25 ⁹ It includes references to over 100 articles across national and local outlets, highlighting bipartisan
26 congressional outrage and public scrutiny. The exhibit argues that the timing of the closure—
27 immediately after court orders and the Special Master's appointment—appears retaliatory and crafted to
28 avoid transparency. It concludes that the magnitude of press attention and government inquiry meets
FOIA's threshold for "exceptional media interest," reinforcing the public's right to immediate access to
the requested records. Since the July 2024 Request, the urgency to inform the public has continued, as
has the public interest in and served by disclosure.

¹⁰ WENDY STILL, FIRST REPORT OF THE SPECIAL MASTER PURSUANT TO THE COURT'S ORDER OF MARCH
26, 2024, U.S BUREAU OF PRISONS FEDERAL CORRECTIONAL INSTITUTION, DUBLIN (Special Master)
(2024).

1 documents nine areas of systemic failure at FCI Dublin, each reflecting violations of law, federal policy,
2 or constitutional rights.¹¹ The Special Master recommended that “the BOP should regularly share data
3 with the general public related to AICs, demographics, programs, outcomes, etc. This will help increase
4 transparency, improve the public’s knowledge of the BOPs services and enhance collaboration with its
5 government and community partners.” *Id.* at 32. The Special Master noted the importance of the Court’s
6 April 16, 2024, Order, the day following the closure date of April 15, 2024 addressing among other
7 items, that BOP’s mass “document shredding cease and an accounting of all shredding documentation
8 be provided to the Court.” *Id.* at 5.

9
10 43. In the JUNE 30, 2025, Special Master’s Report, Monitor Still assessed compliance across 23
11 provisions of the Consent Decree from March 31 to April 30, 2025, and found that the BOP is not in
12 substantial compliance with the majority of its obligations.¹²

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15 ¹¹ Staffing shortages across the facility resulted in widespread program closures, service delays, and
16 violations of court-ordered reporting requirements. *Id.* The redirection of staff prevented access to
17 essential services and undermined BOP’s ability to meet its obligations under the First Step Act. *Id.* It
18 failed to provide adequate rehabilitative, educational, and reentry programming. *Id.* Long waitlists, lack
19 of coordination, and the absence of bilingual access denied many people opportunities to earn time
20 credits and prepare for release. *Id.* Medical and mental health care was constitutionally deficient. *Id.* The
21 grievance and disciplinary system routinely denied due process; audits revealed excessive sanctions,
22 unsupported charges, and systemic errors that resulted in the expungement of prior findings and required
23 further review. *Id.* People faced barriers accessing forms, experienced delays and arbitrary denials, and
24 received non-substantive responses. PREA-related complaints were mishandled, often ignored, and not
25 escalated for proper investigation. *Id.* Failures in recordkeeping and review processes led to inaccurate
26 release dates, incomplete community referrals, and misapplication of earned credits. *Id.* The facility
27 mishandled compassionate release requests in violation of Program Statement 5050.50 and statutory
28 mandates. *Id.* Requests were ignored or untracked, and BOP submitted inaccurate data to Congress. *Id.*
PREA protocols were incomplete and nonfunctional. *Id.* The facility lacked basic file systems, failed to
ensure follow-up on complaints, and routinely rejected valid reports, creating serious safety risks. *Id.*
BOP mishandled property, communication broke down, and untrained staff from men’s prisons
heightened tensions and confusion. *Id.*

¹² WENDY STILL, 1st Public Monthly Status Report for Rating Period Mar. 31-Apr 30, 2025, (JUNE 30,
2025) (Only two provisions, mental health alerts and provision of confidential legal call lists, were found
in substantial compliance. *Id.* at 15. Eight provisions were found to be in non-compliance, including key
areas such as access to medical devices and prescriptions in Special Housing Units (SHU), application
of earned time credits, and credit loss due to transfer from FCI Dublin. Notably, multiple provisions
related to SHU placement and associated rights and privileges, including access to administrative
remedies, property, and programming, failed to meet required standards. *Id.* at 15 Thirteen provisions
were rated as partial compliance. *Id.* at 15 The Monitor concluded that BOP’s implementation of core
protections under the Consent Decree remains incomplete and inconsistent across facilities.)

1 44. News coverage continues with regard to the mishandling of the closure, the mistrial and
 2 upcoming retrial of Officer Smith (FN 2), pleas of two more officers (FN 2), and reports that the
 3 uninhabitable, mold and asbestos ridden facility¹³ could be repurposed into a for-profit immigration
 4 detention center,¹⁴ and that ICE and BOP may reopen Alcatraz,¹⁵ demonstrates there was and continues
 5 to be widespread public and media interest in immediate access to information. *Id.* at 76-85.
 6

7 **Plaintiff's Meet and Confer Efforts**

8 45. In 2024 and 2025 parties held at least 21 telephonic or video conferrals on: October 28, 2024,
 9 November 15, 2024, November 22, 2024, December 6, 2024, December 27, 2024, January 1, 2025,
 10 January 17, 2025, January 24, 2025, January 30, 2025, February 2, 2025, February 14, 2025, February
 11 24, 2025, March 7, 2025, March 17, 2025, March 21, 2025, March 28, 2024, April 4, 2025, April 11,
 12 2025, May 9, 2025, May 16, 2025, May 23, 2023. BOP also cancelled six scheduled meetings. Plaintiff
 13 made good faith efforts to streamline and efficiently manage the FOIA request process. Plaintiff
 14 attempted to engage in productive regular weekly conferrals with BOP to coordinate and had a weekly
 15 standing agenda item offering to narrow the scope of requests and submitted concrete proposals to
 16 reduce burden and improve efficiency.
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20 46. BOP routinely rejected Plaintiff's proposals, including suggested agenda items for
 21 discussion, during video conferences and over email. Some of Plaintiff's emailed proposals never
 22 received responses including January 27, 2025 emails discussing the narrowing of item and asking for
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 25 ¹³ Corkery, Maura, *ICE Eyes Takeover FCI Dublin Despite Toxic Conditions*, El Tecolote (Mar. 1,
 2025), <https://eltecolote.org/content/en/ice-fci-dublin-immigrant-detention>

26 ¹⁴ Asimov, Nanette, "ICE May Reopen California Prison with History of Sexual Abuse, Toxins." *San*
Francisco Chronicle, 12 Apr. 2024, [https://www.sfchronicle.com/politics/article/ice-dublin-prison-](https://www.sfchronicle.com/politics/article/ice-dublin-prison-immigrants-20190853.php)
[immigrants-20190853.php](https://www.sfchronicle.com/politics/article/ice-dublin-prison-immigrants-20190853.php)

27 ¹⁵ Katie DeBenedetti, *Can Trump Really Reopen Alcatraz? Delegation Heads to Island to Make Case*,
 28 *KQED* (July 17, 2025), [https://www.kqed.org/news/12048367/can-trump-really-reopen-alcatraz-](https://www.kqed.org/news/12048367/can-trump-really-reopen-alcatraz-delegation-heads-to-island-to-make-case)
[delegation-heads-to-island-to-make-case](https://www.kqed.org/news/12048367/can-trump-really-reopen-alcatraz-delegation-heads-to-island-to-make-case).

1 BOP's positions on whether it released part or all of items 7, 10, 12, and 13, and requesting clarification
2 on whether the BOP contends that only 37 grievances or administrative appeals were filed on the
3 relevant subjects, as well as whether BOP will be producing the original forms submitted by
4 incarcerated individuals. On June 16, 2025, Plaintiff's counsel sent an email proposing a process for
5 streamlining email, which received no response. In meet and confers, including in April and May,
6 written agendas, Plaintiff's counsel requested specific information about productions to submit to the
7 court, and BOP did not provide information. BOP counsel also engaged in patterns and practices of
8 refusing reasonable efforts to coordinate scheduling, engaged in delay tactics, and inaccurately
9 represented communications between counsel that ran afoul of honesty, care, and decorum necessary for
10 the fair and efficient administration of justice.
11

12 47. Throughout this matter, Plaintiff's counsel has consistently attempted to engage in the
13 conferring and drafting process in a timely and constructive manner. However, draft filings from
14 opposing counsel have frequently been provided so close to filing deadlines that meaningful review,
15 consultation with the client, and proposed revisions have not been feasible. Plaintiff would propose
16 reasonable turnaround times, and BOP would not respond or agree. For example, after a meet and confer
17 on February 7, 2025, Plaintiff transmitted a draft of a letter brief the same day. Seventeen days later, on
18 February 24, 2025, Defense counsel finally provided its version. In other instances, Defense has waited
19 until shortly before filing deadlines to share draft briefs, limiting Plaintiff's ability to review and respond
20 and participate effectively in the preparation of joint submissions and undermines the collaborative
21 process envisioned by the Court.
22

23 48. Communications from opposing counsel have at times included characterizations of
24 Plaintiff's position or the substance of meet and confer discussions that do not reflect the content of
25 those conversations. For example, the draft Defense counsel finally shared with Plaintiff's counsel just
26 hours before the May 22, 2025, Joint Status Report filing was due, and knowing counsel was out of the
27
28

1 office, suggested that Plaintiff had been inflexible or unwilling to narrow her request. Plaintiff emailed
2 Defense and objected to the mischaracterization of the facts. Defense included the following statement
3 over her objection:
4

5 Most importantly, however, Plaintiff’s counsel’s declaration states that 25 of the 50 FOIA
6 requests “appear similar in theme or overlap with documents unsealed in CCWP.” See
7 Ex. 2 ¶8. Plaintiff has not removed any of these 25 FOIA requests in whole or in part.
8 Plaintiff should identify any FOIA requests where the documents unsealed in CCWP
9 provide a sufficient response to the request, which may be something the Court can
10 facilitate. This would be a practical way to address some of the FOIA requests in light of
11 BOP’s lack of resources for the foreseeable future.

12 Defense then filed a version of the brief that Plaintiff did not approve for filing. Plaintiff promptly
13 notified Defense of the issue but received no response. These repeated practices have undermined the
14 drafting process, prejudiced Plaintiff, and made it difficult to fulfill counsel’s duty to keep the client
15 informed and to participate meaningfully in joint submissions as contemplated by the Court’s rules and
16 the applicable professional conduct guidelines.

17 49. After the June 30, 2025, production, Plaintiff requested an email conferral and asked BOP to
18 (a) confirm whether it is using FOIAXpress’s automatic deduplication capability, (b) explain how it is
19 performing deduplication, and (c) agree not to count automatically deduplicated pages toward the 1,000-
20 page monthly processing quota. BOP responded only to say that it does not use the Advanced Document
21 Review (ADR) module, which it characterized as a separate, additional service, and that FOIAXpress
22 alone does not provide automatic deduplication.¹⁶ BOP did not explain the actual process it is using to
23 de-duplicate records or respond to the processing quota proposal. Plaintiff also asked BOP to explain
24 why a large portion of reviewed pages were labeled “non-responsive,” to describe the search and
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28 ¹⁶ See *FOIAXpress: Advanced Document Review (ADR) Module*, <https://ains.opexustech.com/wp-content/uploads/2018/01/FOIAXpress-ADR.pdf>.

1 collection process that led to these records being included, to explain the criteria used to determine
2 responsiveness.

3 50. BOP's reply reiterated that it expects many non-responsive pages due to broad search terms
4 and argued that this is a result of Plaintiff's choices stating:

5 the approximately 80,000 pages of emails were collected based on search terms and
6 custodians, and a time frame selected by Plaintiff. The search terms are so broad that they
7 capture large numbers of emails that are not remotely close to responsive to the FOIA
8 requests, and this is a problem of Plaintiff's own making by not using more narrow search
9 terms. Moreover, the large number of nonresponsive documents should not be a surprise
10 to you, as I told you.

11 This misrepresented the facts as BOP counsel and BOP selected the search terms. BOP did not describe
12 the specific criteria it uses to determine responsiveness.

13 51. BOP has repeatedly engaged in conduct that delayed resolution of this matter beyond the
14 examples provided in this Declaration.

15 DATED: August 19, 2025

16 Signature: /s/

17 By: Caitlin Kelly Henry, Esq.

18 **Exhibits to Henry Decl.**

- 19 1. First Rolling Release Determination Letter (12/20/2024)
20 2. Second Rolling Release Determination Letter (01/24/2025)
21 3. Third Rolling Release Determination Letter (02/21/2025)
22 4. Fourth Rolling Release Determination Letter (03/21/2025)
23 5. Fifth Rolling Release Determination Letter (05/01/2025)
24 6. Email from Katherine M. Carpenter, Senior Attorney, Federal Bureau of Prisons, Western
25 Regional Counsel's Office (05/01/2025)
26 7. Sixth Rolling Release Determination Letter (06/30/2025)
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- 8. Seventh Rolling Release Determination Letter (07/30/2025)
- 9. Missing Information and Productions
- 10. Release Timelines and Page Counts
- 11. Estimated Production Timeline Based on Email Production Rate
- 12. Categories of Records Produced and Withheld