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7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN FRANCISCO DIVISION**

10 VICTORIA LAW,  
11  
12 PLAINTIFF,  
13  
14 vs.  
15  
16 FEDERAL BUREAU OF PRISONS,  
17  
18 DEFENDANT.

CASE NO.: 4:24-CV-06628-YGR

**PLAINTIFF’S MOTION FOR ORDER TO  
SHOW CAUSE AS TO WHY BOP SHOULD  
NOT BE HELD IN CONTEMPT;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF.**

HON. ALEX G. TSE  
COURTROOM: A  
DATE AND TIME OF HEARING: DECEMBER  
26, 2025

1       **I. Introduction**

2           Plaintiff Victoria Law respectfully submits this Motion requesting that the Court issue an Order  
3 to Show Cause as to why the Defendant should not be held in contempt, and Memorandum of Points and  
4 Authorities in Support Thereof. On May 30, 2025, this court issued an Order requiring BOP to review at  
5 least 1,000 pages per month and “release responsive records to Law on the last day of every month” and  
6 if it “finds nothing to produce, BOP must timely notify Law.” (*Dkt. No. 42*). The BOP violated that  
7 Order by failing to produce records by the Court ordered deadline in September (before the shutdown)  
8 and October, continuing its repeated noncompliance, as extensively documented in Plaintiff’s filings.  
9 BOP has not responded to a request for a conferral after the government reopened.  
10

11       **II. Statement of Facts**

12           On May 30, 2025, this Court issued an Order requiring BOP to review at least 1,000 pages per  
13 month and “release responsive records to Law on the last day of every month,” and if it “finds nothing to  
14 produce, BOP must timely notify Law.” (*Dkt. No. 42*).<sup>1</sup> October 1, 2025, the federal government shut  
15 down. On November, 14, 2025, following the government’s November 12, 2025 re-opening, Plaintiff  
16 sent a request to USA Pyle requesting a conferral on BOP’s positions on: (1) the missing September and  
17 October productions; (2) its plan for completing those productions, and satisfying the Order going  
18 forward; (3) regarding a potential Motion for an Order to Show Cause why the BOP should not be held  
19 in contempt the Order requiring completion of the September production before the shutdown. Plaintiff  
20 has received a response. *See Exhibit 1 Declaration of Caitlin Kelly Henry*. More than 500 days after  
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24           <sup>1</sup> Since then, On August 19, 2025, Plaintiff filed her Motion for Partial Judgment on the Pleadings and  
25 Declaratory Judgment (*Dkt. No. 45*), September 2, BOP submitted its Opposition (*Dkt. No. 47*),  
26 September 9, Plaintiff replied (*Dkt. No. 48*), September 16, BOP objected to the reply evidence (*Dkt.*  
27 *No. 49*), and September 23, Plaintiff responded to that objection (*Dkt. No. 50*). On September 25, the  
28 Court vacated the September 30 hearing and indicated the motion would be decided on the papers or  
reset as needed (*Dkt. No. 51*).

1 submitting an expedited FOIA Request to the BOP seeking records about the notorious criminal “rape  
2 club” federal officials ran at the Dublin, this action has no end in sight. That is due to BOP’s handling of  
3 Plaintiff’s Request and its conduct in this litigation, which have departed from the statutory framework  
4 Congress established for processing FOIA requests. BOP has yet to complete a search and make the  
5 statutorily required determination and continues to engage in dilatory behavior.  
6

### 7 **III. Legal Standard Re: Civil Contempt**

8 Federal courts have the inherent power to enforce court orders through civil and criminal  
9 contempt. *See Spallone v. US*, 493 U.S. 265, 276 (1990). The Court may “punish by fine or  
10 imprisonment, or both, at its discretion, such contempt of its authority” as “[d]isobedience or resistance  
11 to its lawful writ, process, order, rule, decree or command.” 18 U.S.C. § 401. “The power of contempt  
12 which a judge must have and exercise in protecting the due and orderly administration of justice, and in  
13 maintaining the authority and dignity of the court, is most important and indispensable.” *Cooke v. U.S.*,  
14 267 U.S. 517, 539 (1925). Defiance of a court order supports contempt. *See Stone v. City of San*  
15 *Francisco*, 968 F.2d 850, 856 (9th Cir. 1992); *Int’l Painters & Allied Trades Indus. Pension Fund v.*  
16 *ZAK Architectural Metal & Glass LLC*, 736 F. Supp. 2d 35, 38 (D.D.C. 2010) (“contempt is a remedial  
17 device that a court can utilize to achieve full compliance with its orders.”). Additionally, Congress  
18 passed FOIA section 5 U.S.C. § 552(a)(4)(G) as a remedial measure to ensure FOIA orders are  
19 meaningful and that agencies cannot evade judicial authority by ignoring production directives.  
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22 The party moving for contempt must demonstrate that the alleged contemnor violated “a specific  
23 and definite order of the court.” *Hook v. State of Ariz.*, 907 F.Supp. 1326, 1340 (D.Ariz. 1995). The  
24 burden then shifts to that party to demonstrate it took “‘all reasonable steps within [its] power to insure  
25 compliance’ with the court’s orders.” *Hook v. Ariz. Dep’t Corrections*, 107 F.3d 1397, 1403 (9th Cir.  
26 1997) (quoting *Sekaquaptewa v. MacDonald*, 544 F.2d 396, 404 (9th Cir. 1976)); *see also Donovan v.*  
27

1 *Mazzola*, 716 F.2d 1226, 1240 (9th Cir. 1983). “In assessing whether an alleged contemnor took ‘every  
2 reasonable step’ to comply with the terms of a consent decree, a district court can consider (1) a history  
3 of noncompliance and (2) a failure to comply despite the pendency of the contempt motion.” *Hook*, 907  
4 F.Supp. at 1340 (quoting *Stone*, 968 F.2d at 857). “A party’s subjective intent is irrelevant.” *Id.*

#### 6 **IV. Argument**

7 To establish contempt, the Plaintiff “must show, by clear and convincing evidence, that: (1) there  
8 was a court order in place; (2) the order required certain conduct by the defendant; and (3) the defendant  
9 failed to comply with that order.” *Serv. Emps. Int’l Union Nat’l Indus. Pension Fund v. Artharee*, 48 F.  
10 Supp. 3d 25, 28 (D.D.C. 2014) (internal quotation marks omitted) (quoting *Int’l Painters*, 736 F. Supp.  
11 2d at 38). Once Ms. Law has made the required showing, BOP bears the burden to “provide adequate  
12 detailed proof” to justify noncompliance, for example, by showing a good-faith attempt to comply. *Serv.*  
13 *Emps. Int’l Union*, 48 F. Supp. 3d at 28–29. Plaintiff satisfies the clear-and-convincing-evidence  
14 standard because the Court issued a clear and definite Order (*Dkt.* No 42) that required specific monthly  
15 productions in September and October, and the BOP indisputably failed to comply with either  
16 requirement. Accordingly, BOP bears the burden of demonstrating why it failed to comply and why it  
17 should not be sanctioned for non-compliance.  
18  
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#### 20 **A. This Court Ordered Monthly Productions**

21 On May 30, 2025, this Court issued an Order requiring BOP to review at least 1,000 pages per  
22 month and “release responsive records to Law on the last day of every month.” (*Dkt.* No. 42). A  
23 scheduling order “is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by  
24 counsel without peril.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir. 1992)(  
25 *Gestetner Corp. v. Case Equip. Co.*, 108 F.R.D. 138, 141 (D.Me.1985); *See also Olgay v. Soc’y for*  
26 *Env’t Graphic Design, Inc.*, 169 F.R.D. 219, 220 (D.D.C. 1996) “The scheduling order that results from  
27

1 this process is intended to serve “as the unalterable road map (absent good cause) for the remainder of  
2 the case.” *Citing Final Report of the Civil Justice Reform Act Advisory Group of the United States*  
3 *District Court for the District of Columbia* 39 (Aug. 1993). “Indeed, disregard of the order would  
4 undermine the court’s ability to control its docket, disrupt the agreed-upon course of litigation, and  
5 reward the indolent and the cavalier.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610.  
6

7 **B. The Order Required September and October Releases**

8 The Order required the BOP to release records in September and in October.  
9

10 **C. BOP Failed to Produce Either Month**

11 The BOP did not request a stay during the shutdown. On October 7, 2025, Plaintiff filed a Notice  
12 of Supplemental Evidence, entering into the record the BOP’s failure to make the September 2025  
13 release before the government shutdown. (*Dkt.* No. 52) On November 3, 2025, Plaintiff filed a Notice of  
14 Supplemental Evidence, entering into the record the BOP’s failure to make the October 2025 release.  
15 (*Dkt.* No. 53) The shutdown ended on November 12, and the BOP has not communicated a plan for  
16 releasing either month’s required production.  
17

18 **D. BOP Offers No Good Cause for Its Pattern of Violations**

19 The BOP has not shown good cause for its failure to comply with the Court’s Order before the  
20 September shutdown. *See Richardson v. Yellen*, 323 F.R.D. 444, 446 (D.D.C. 2018) (“To show good  
21 cause, the moving party must show both diligence and a lack of prejudice to the opposing parties.”).  
22 Courts have repeatedly emphasized, including in the aforementioned cases, that scheduling orders cannot be  
23 disregarded without consequence. The BOP cannot satisfy the good-cause standard because it lacked  
24 diligence before the shutdown and created prejudice that continues now. The Court’s Order required  
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1 BOP to make its September production before any lapse in appropriations, yet BOP failed to do so and  
2 has not explained that failure.

3 This case does not involve an isolated FOIA violation or one missed deadline. The September  
4 and October missed deadlines represent the seventh and eighth missed deadlines<sup>2</sup> in BOP's entrenched,  
5 systemic pattern and practice of disregarding FOIA's timing, determination, expedited processing, and  
6 formatting requirements; especially where records concern BOP's own misconduct, constitutional  
7 violations, and high-profile scandals BOP's filings admit there is great public interest in. *Dkt.* No. 31 at  
8 5. The Declaration of Caitlin Kelly Henry in Support of Plaintiff's Motion for Partial Judgment on the  
9 Pleadings and Declaratory Judgment (*Dkt.* No. 45-2) provides a detailed timeline of BOP's delays and  
10 of the prejudice it causes Ms. Law, some of which is summarized here. The First Joint Discovery Letter  
11 brief details Plaintiff's arguments that BOP was acting in bad faith. *Dkt.* No. 31 at 2).

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13  
14 The record contains no evidence that BOP exercised due diligence in processing the Request.  
15 BOP agreed to expedited processing. *Dkt.* No. 1-2 at 1-2. Over 500 days later, it has yet to finish a  
16 search or make a determination. BOP admits it ranked the Request 4,996 out of 6,837 requests, without  
17 distinguishing it from non-expedited requests. (Christenson Decl. ¶6, *Dkt.* 33-4.) Though capable of  
18 processing 1,000 pages monthly, it declined until ordered by the Court. (*Dkt.* No. 42; *Dkt.* No. 1-2 at 1–  
19 2.) BOP's pattern includes failure to make a determination, stonewalling with piecemeal, partial,<sup>3</sup> and  
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21  
22 <sup>2</sup> In the spring of 2025, BOP failed to comply with its every-four-week production schedule in five  
23 instances and entirely missed two scheduled productions. See Ex. 9, Missing Information and  
24 Productions. The second, third, and fourth productions (due January 17, February 14, and March 14,  
25 2025) were each released one week late, (on January 24, February 21, and March 21, respectively). *Id.*  
26 The fifth production, due April 11, 2025, was released three weeks late, on May 1, 2025. *Id.* BOP failed  
27 to produce any records at all for the sixth and seventh scheduled productions, due May 9 and June 6,  
28 2025. *Id.* What was originally scheduled as the eighth production (due July 4, 2025) ultimately became  
the sixth, completed on June 30, 2025, after this Court ordered BOP to produce it by that date.

<sup>3</sup> From December 2024 until the Order (*Dkt.* No. 42), BOP reviewed 1,220 pages of records. Of those, it  
released 1,219 pages either in full or in part. BOP released only 728 pages that were not public already –  
an average rate of 182 pages per month. After the Order compelling BOP to increase its rate to 1,000

1 unexplained rolling releases to create the illusion of compliance while planning to withhold the majority  
2 of responsive records over six years while it processes records based on undisclosed search terms and no  
3 differently from a non-expedited case.<sup>4</sup> BOP’s Case Management Statement (*Dkt.* No. 21 7:25-8:3)  
4 admits it has not:

5  
6 determined a final estimated page count...The Court should not require monthly status  
7 reports about the number of pages released. Plaintiff will know how many pages are  
8 released with each monthly release, and there is no reason to fill the Court’s docket with  
9 duplicative information. The parties can update the Court at further status conferences  
10 about the progress of the monthly releases.

11 In its First Joint Discovery Letter Brief (*Dkt.* No. 31 at 6) BOP states:

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

17 BOP admits its seriatim letters (*See Dkt.* No. 45-1 Ex. 1-5, 7) consist of piecemeal ex-post facto  
18 summaries accompanying each production that provide only limited information on page counts and  
19 exemption claims. BOP admits it is not defining the full scope of the search, stating what records it has  
20 searched for, what systems it searched, what remains to be searched, what search terms were used, and  
21 what records it plans to withhold and on what basis. With respect to withholdings, BOP states that it will  
22 not provide a Vaughn index or equivalent explanation until the end of its productions. Deferring this  
23 disclosure until a later time and not giving timely notice impedes the Requester’s ability to meaningfully

24 \_\_\_\_\_  
25 pages reviewed per month. By August, BOP released in full 61 pages (3.05%), in part 640 pages (32%),  
26 withheld 11 pages (0.55%), found duplicative 42 pages (2.1%), and deemed non-responsive 1,246 pages  
27 (62.3%). At this rate, production will take over six years for email alone, with no estimates for 46  
28 remaining items.

<sup>4</sup> BOP admits the Request was being treated as number 4,999 out of 6,837 ongoing requests, not in a  
queue with expedited requests. Christenson Declaration (*Dkt.* No. 33-4, ¶6) This is facially incompatible  
with FOIA’s expedited framework, which requires that expedited requests be processed “as soon as  
practicable” in a track with other expedited cases. 5 U.S.C. § 552(a)(6)(E)(iii)).

1 assess or challenge the agency’s actions or seek judicial review. BOP’s filings indicate that BOP intends  
2 to delay its obligations until the close of production or the submission of a Vaughn index.

3 A party seeking to justify noncompliance must show both diligence and an absence of prejudice  
4 to the opposing party, a showing BOP cannot make. Its inaction before the shutdown, its continued  
5 inaction after the government reopened, and its failure to communicate any compliance plan  
6 demonstrate a lack of diligence, while the resulting delay has caused ongoing prejudice to Plaintiff and  
7 to the public’s ability to obtain timely information.  
8

### 9 **E. Plaintiff and the Public Suffer Ongoing Harm**

10 “Stale information is of little value.” *See American Oversight v. Dep’t of State*, 414 F. Supp. 3d  
11 182, 186 (D.D.C. 2019). Plaintiff, her readers, and the public lost (and will continue to lose) the value of  
12 release, including holding the BOP accountable in Congressional hearings, legislation, and civil and  
13 criminal cases, and potentially securing release from immigration or carceral facilities. BOP’s delay in  
14 complying with this expedited Request was and is, as Congress recognized, “tantamount to denial.” H.R.  
15 Rep. No. 93–876, at 6 (1974), 1974 U.S. Code Cong. & Admin. News, pp. 6267, 6271. Without  
16 judicially imposed timelines, the statutory promise of expedited processing remains hollow and  
17 ineffective; the BOP will continue to “preclude [the public] ... from obtaining in a timely fashion  
18 information vital to the current and ongoing debate surrounding the legality of a high-profile  
19 government action.” *Protect Democracy Project, Inc. v. DOD*, 263 F. Supp. 3d 293, at 300 (D.D.C.  
20 2017) (internal quotation omitted).  
21  
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23 After the May Order BOP began producing emails revealing matters that courts have repeatedly  
24 found to implicate substantial public interests and warrant disclosure. Although the BOP has withheld or  
25 designated the majority of reviewed emails as non-responsive to the search terms and custodians it  
26 created, or duplicative, the few emails it has disclosed so far reveal significant evidence of misconduct,  
27  
28

1 mismanagement, and denial of rights. The emails shed light on potential government impropriety,  
2 serious staff misconduct, and systemic failures in how the BOP has managed detention, oversight, and  
3 post-conviction processes at Dublin.<sup>5</sup> Furthermore, as noted in the *CCWP* case and previous briefs,  
4 allegations exist that BOP has destroyed and may continue destroying potentially responsive records.

## 6 **V. Relief Sought**

7 Because BOP violated a clear court order, offers no good cause, and continues to withhold  
8 required productions, the Court should impose coercive and compensatory civil contempt sanctions.  
9 Here, an award of compensatory relief ensures that Plaintiff is made whole for the expenses and  
10 prejudice directly caused by the agency's noncompliance, while a coercive sanction is warranted to  
11 ensure timely future adherence to the Court's directives.

### 13 **A. Sanctions**

14 When wielding its inherent power, the Court must exercise its discretion "to fashion an  
15 appropriate sanction for conduct which abuses the judicial process." *Chambers v. NASCO, Inc.*, 501  
16 U.S. 32, (1991). This Court has inherent authority to enforce its orders through civil contempt, and that  
17 authority applies fully in Freedom of Information Act cases under 5 U.S.C. § 552(a)(4)(G). "[W]hile  
18 civil contempt sanctions are not punitive, they can be imposed to compensate the complainant for losses  
19 sustained as a result of the contumacious conduct." *US v. United Mine Workers*, 330 U.S. 258, 303,  
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22 <sup>5</sup> Dublin is the U.S. prison with the highest number of staff criminally charged with sexual abuse. See  
23 Complaint, *Dkt.* No. 1-1. Two additional convictions have occurred since the request. *See Dkt.* No 45-2.  
24 The Request detailed over 100 articles providing varied perspectives and direct quotes highlighting the  
25 unexpected, chaotic, and troubling nature of the BOP's closure of FCI Dublin, which reporters found  
26 was orchestrated to evade oversight, included acts of retaliation against plaintiffs. Complaint Exhibit A's  
27 (*Dkt* No. 1-1) Exhibit 3: Substantial Due Process Rights (at 58-75) Outlines how the BOP's actions have  
28 violated incarcerated people's substantial due process rights and provides a list of approximately 90  
specific cases that could benefit from release of records (though some of these cases have been resolved,  
there remain ongoing immigration, compassionate release, civil, and criminal cases where the records  
could be used). These violations continue to date.

1 (1947). Civil contempt sanctions may include coercive measures to ensure compliance and  
2 compensatory measures to remedy the harm caused by noncompliance. Such relief is warranted here  
3 because the BOP violated a clear and unambiguous order, failed to meet the required production  
4 deadlines, and has offered no good cause or plan for coming into compliance. Civil contempt is meant to  
5 enforce and remediate, not punish.  
6

7 The BOP should be required to issue a declaration explaining why the September and October  
8 releases were not produced, what steps it has taken to comply, and when it will complete the outstanding  
9 productions. The Court should also order the agency to submit compliance reports at intervals of two  
10 weeks, each supported by a sworn declaration.<sup>6</sup> These reports should detail the agency's progress in  
11 processing the Request, including the number of files, records, or documents reviewed during the  
12 reporting period, the total number of pages processed, and the number and type of records and pages that  
13 remain outstanding. The declaration should describe the specific steps BOP took toward compliance and  
14 identify the steps that remain. Any incomplete, late, or duplicative submissions should be deemed  
15 noncompliant with the order. The Court should also hold monthly compliance hearings before at which a  
16 designated BOP official must appear to provide sworn testimony supporting the contents of the most  
17 recent declaration, including explaining the steps taken to meet the Court's Order, accounting for any  
18 delays, and identifying the actions required to complete the outstanding production. These hearings will  
19 allow the Court to assess the credibility and adequacy of BOP's efforts and provide a structured forum  
20 for addressing any continuing deficiencies in compliance.  
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27 <sup>6</sup> See *Nightingale v. USCIS*, No. 3:19-cv-03512, 507 F. Supp. 3d 1193 (N.D. Cal. 2019) and *Moore v. ICE*, No. EP-19-CV-00279-DCG, (W.D. Tex., 2019) for examples.

