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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VICTORIA LAW,

PLAINTIFF,

VS.

FEDERAL BUREAU OF PRISONS,

DEFENDANT. ß

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

PLAINTIFF'S REPLY TO OPPOSITION TO 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

I. Introduction

Court orders are not suggestions; they are commands. In Freedom of Information Act (FOIA) cases, the Ninth Circuit has recognized that an agency failing to comply with a court's production order "face[s] the sanction of contempt." *Poulsen v. Dep't of Defense*, 994 F.3d 1046, 1053 (9th Cir. 2021). The Bureau of Prisons (BOP) admits that it neither complied with nor sought relief from this Court's May 30, 2025, Order (*Dkt*. No. 42) in September 2025 before the lapse in federal appropriations commenced. The agency's counsel further admits taking no steps during the federal government lapse in appropriations (shutdown) to stay the deadlines in this case as related to the September, October, November, December, January, and February production deadlines. These choices contradict the

instructions given to US Attorneys in the Department of Justice's Contingency Plan[1] and the Department's Employee Reference Guide,[2] and the practice of the US Attorney's office in other Northern District FOIA cases.[3] Consequently, Plaintiff respectfully requests this Court certify the facts of BOP's noncompliance and serve the agency with an Order to appear before the District Court and show cause why the agency and Ms. Christenson, as the employee responsible for BOP's noncompliance, *see* 5 U.S.C. § 552(a)(4)(G), should not be held in contempt for violating this court's Order. 28 U.S.C. § 636(e). A modified Proposed Order accompanies Plaintiff's Reply.

II. Facts

The Bureau of Prisons closed FCI Dublin in April 2024. Plaintiff submitted the FOIA request in July 2024 (17 months ago), and the agency granted expedited processing. Despite that designation, BOP has made only eight releases in seventeen months (missing 9 months). Before Judge Tse issued the May 30, 2025 Discovery Order (*Dkt*. No. 42), BOP reviewed 1,220 pages and released 1,219 pages in full or

[1] U.S. Dep't of Justice FY 2026 Contingency Plan at 3 (Sept. 29, 2025) ("Litigators will approach the courts and *request* that active cases . . . be postponed until funding is available. If a court denies such a request and order a case to continue, the Government will comply with the court's order, which would constitute express legal authorization for the activity to continue.") *available at* https://www.justice.gov/jmd/media/1377216/dl.

[2] U.S. Dep't of Justice, Lapse in Appropriations Employee Reference Guide at 19 (Oct. 10, 2025) ("Will civil litigation continue? . . . Litigators will need to approach the courts and request that active cases be postponed until funding is available, except for those cases in which postponement would compromise to a significant degree the safety of human life or the protection of property. Litigators should typically request a stay on the first business day following the lapse in appropriations. A sample stay motion will be provided to the litigating divisions if a lapse in appropriations occurs.") *available at* https://www.justice.gov/archives/jmd/media/1415826/dl#:~:text=Employees%20on%20furlough%20during%20a,employee's%20standard%20rate%20of%20pay.

[3] *See, e.g.*, Stipulation to Stay Case, *Sherman v. State*, No. 3:25-cv-07130-LJC, ECF. No. 8 (N.D. Cal. filed Oct. 1, 2025); Stipulation to Stay Case, *Carlson v. HHS*, No. 3:25-cv-01164-EMC, ECF No. 15 (N.D. Cal. Oct. 1, 2025); *American Immigration Council v. CBP*, No. 3:23-cv-05270-SK ECF No. 56 (N.D. Cal. Oct. 1, 2025).

in part, but only 728 of those pages contained information that was not already public, reflecting an average productive release rate of approximately 182 pages per month.

On May 30, 2025, after months of stymied attempts by Plaintiff to secure voluntary compliance from BOP with the agency's statutory obligation to make all responsive records "promptly available," 5 U.S.C. § 552(a)(3)(A), this Court issued an Order requiring BOP to review at least 1,000 pages per month and "release responsive records to Law on the last day of every month," and if it "finds nothing to produce, BOP must timely notify Law."[4] Rather than comply with or seek relief from that Order in September, BOP decided to address the annual needs of every federal FOIA office at the end of the fiscal year.

For June and July, BOP released in full only 61 pages (3.05%) and in part 640 pages (32 %), while withholding 11 pages (0.55 %), marking 42 pages as duplicative (2.1 %), and deeming 1,246 pages nonresponsive (62.3 %). At that pace, production of email alone would take more than six years, with no estimate for the 46 remaining categories of responsive records. In August, BOP reported, locating 380 pages for Item 11 (property claims) and releasing them all in full or in part, and for Items 1, 8, and 22 (email) it located 621 pages and released only one page in part, withholding or treating the remaining 620 pages as nonresponsive (99.84 %). Overall, only 381 of the 1,001 pages reviewed in August were released in full or in part (38.06%).

Defendant's opposition announces the government's intention to continue engaging in a sustained, five-month pattern of noncompliance with the Court's May 30, 2025, Order. BOP complied in

[4] Since then, On August 19, 2025, Plaintiff filed her Motion for Partial Judgment on the Pleadings and Declaratory Judgment (*Dkt*. No. 45), September 2, BOP submitted its Opposition (*Dkt*. No. 47), September 9, Plaintiff replied (*Dkt*. No. 48), September 16, BOP objected to the reply evidence (*Dkt*. No. 49), and September 23, Plaintiff responded to that objection (*Dkt*. No. 50). On September 25, the Court vacated the September 30 hearing and indicated the motion would be decided on the papers or reset as needed (*Dkt*. No. 51]).

June, July, and August, then ceased compliance entirely in September, October, and November. BOP did not seek leave of Court for noncompliance. BOP now declares, contrary to this Court's Order, that it will not make up the missed productions until February 2026 *at the earliest* (there is no guarantee in the agency's filing that it will comply with this estimate, either). It is unclear if BOP plans to start producing anything in December or January, or if it will start producing records in February. BOP may be planning to review 3,000 pages, or 5,000 pages, or none at all since it has not provided Plaintiff or this Court with anything more than it "will make every effort" by February.

The public interest in timely compliance is substantial. Plaintiff is currently working on two articles that address matters involving physical safety, sexual abuse, medical neglect, and the transfer and detention of women in federal custody and in immigration detention. Ms. Law is also reporting on women applying for U visas and other relief based on the sexual abuse they experienced while incarcerated at Dublin. Access to the withheld material is necessary to inform the public and may affect the liberty and survival of individuals whose release or transfer depends on documentation still in BOP's possession. Delayed disclosure of potentially five thousand pages of responsive records risks delaying or preventing life-saving relief for persons in custody.

BOP has not yet returned Plaintiff's November 14, 2025, email (it has had 25 days). BOP has not proposed any efforts to comply or confer or draft any joint letter. BOP did not communicate anticipated noncompliance to the Court. Plaintiff requested a conferral on November 14, asking for BOP's position on the missed productions and its plan to comply. Defendant did not respond before Plaintiff filed and still has not followed up with any proposal for a joint "discovery" statement.

III. Legal Standard

Civil contempt consists of a party's disobedience to a "specific and definite court order by failure to take all reasonable steps within the party's power to comply." *Reno Air Racing Ass'n, Inc. v. McCord*, 452 F.3d 1126, 1130 (9th Cir. 2006). To succeed on a motion for civil contempt, the moving party must show by clear and convincing evidence that the nonmoving party violated the court order beyond substantial compliance, and that the violation was not based on a good faith and reasonable interpretation of that order. *Wolfard v. Glassblowing Co. v. Vanbragt*, 118 F.3d 1320, 1322 (9th Cir. 1997). A prima facie showing of contempt requires the court to find by clear and convincing evidence that the nonmoving party (1) violated a specific and definite court order; (2) beyond substantial compliance; (3) not based on a reasonable and good faith interpretation of the order. If the moving party establishes a prima facie case of contempt, the nonmoving party must show that it took every reasonable step to comply with the Court's order. *Sekaquaptewa v. MacDonald*, 544 F.2d 396, 404 (9th Cir. 1976). Willfulness is not an element of civil contempt. *Verizon California, Inc. v. Online NIC, Inc.* 647 F. Supp. 2d 1110, 1115 (N.D. Cal. 2009).

IV. Argument

BOP's admission of ongoing and potential future violations is not a defense. BOP's opposition makes explicit why it knowingly violated the Order: the agency had other priorities that it elected to complete instead of complying with the Court's command. BOP's position is that this Court cannot compel it to comply or subject it to any consequence for disobedience. That premise is legally and factually incorrect under the FOIA statute. As discussed below, the discovery rules (in this matter where this Court declined to order discovery) do not supersede FOIA's clear statutory text. Nonwithstanding, even under discovery rules, this Court has clear authority to bring the agency into compliance through a variety of mechanisms. When a district judge refers discovery matters under 28 U.S.C. § 636(b)(1)(A), the referral authorizes the magistrate judge to supervise discovery, issue binding orders, and take the

steps Congress prescribed to enforce those orders. Under § 636(e)(6), a magistrate judge who determines that a party has disobeyed an order "shall forthwith certify the facts to a district judge," and the district judge then exercises the contempt power. Thus, even if this court concludes it cannot impose contempt sanctions directly, Judge Gonzalez Rogers unquestionably can. BOP's view that no judicial officer may enforce the May 30, 2025, Order does not immunize its conduct; it underscores the need for certification of facts and recommendation for contempt.

To assist the Court in efficiently resolving this case and clearing its docket, Plaintiff notes that thousands of pages across at least forty-six remaining categories have not yet been reviewed or produced. Based on the release rates reflected in the Christenson Declaration, email production alone would require more than six years to complete at the current pace, with no estimates for the remaining categories. Plaintiff continues to seek clarity and to keep the Court informed. Plaintiff emailed Defendant on November 14, 2025, requesting BOP's position on its missed productions and its plan to comply. BOP did not respond before the motion was filed and has not responded in the weeks since. Plaintiff has no information about whether any records will be produced before February or whether BOP has taken any step toward compliance. Efforts to confer have been met with silence, preventing any possibility of a joint proposal or a narrowed dispute.

A. This Court Ordered Monthly Productions and BOP Offers No Good Cause for Its Pattern of Violations

BOP knowingly and intentionally disregarded the Court's Order by declining to take any of the steps available to ensure compliance. It did not make alternative staffing arrangements to meet the Court-ordered monthly deadlines, did not seek relief or modification of the production schedule when it knew it could not comply, and did not request a stay of deadlines despite clear Department of Justice instructions requiring litigators to do so during a lapse in appropriations. The agency's choice to take no action was not consistent with its obligations under the May 30 Order or DOJ's own clear instruction

and reflects a deliberate decision to ignore mandatory production requirements rather than seek lawful avenues for relief.

1. BOP Refuses to Comply with Obligations Under Order

This Court ordered monthly productions, and BOP offers no good cause for its continuing violations. BOP has refused to comply with its obligations under the May 30 Order and provides no information that would allow the Court to conclude it took, or will take, all reasonable steps to meet its duties after August 2025. Its declarations identify no pages reviewed, files searched, or concrete processing activity and do not explain what remains outstanding or what efforts, if any, were made to mitigate delay. It provides no account of post-shutdown compliance efforts, no indication of any internal reallocations to meet the Court's Order, and no firm deadline for producing the missing or future records.

BOP states it "was unable to process any pages for the month of September." (Christenson Decl. *Dkt.* No. 57 at ¶ 5) "BOP could not process any documents in October 2025." (*Id.* at ¶ 6). BOP "will make every effort to make up the processing missed September through November 2025, by February 1, 2026." (*Id.* at ¶ 8). The language is ambiguous because it does not clarify whether the February 1, 2026, date applies only to the pages missed in September, October, and November or whether it also encompasses the additional work that will accrue, leaving the total scope of the backlog and the timeframe for completing it uncertain. The statement that BOP "will make every effort" to meet that date does not commit BOP to completing production by February 1, 2026 (over three months after restoration of appropriations and Plaintiff's Motion) and does not explain the steps, staffing, or resources it will allocate to comply. Without identifying what remains outstanding, what work was or was not performed between the last compliant production and the end of the shutdown, or how BOP intends to manage new obligations while addressing deficiencies, the Declaration does not allow the Court to determine whether February reflects a firm completion deadline or merely an aspirational target.

2. BOP's September Noncompliance Was Knowing and Unexcused

BOP was not subject to a lapse in appropriations or furloughs in September 2025. The government shutdown did not begin until midnight on October 1. The agency's September production was due before the lapse. BOP's FOIA Office knew that September would involve the annual increased workload. "September, as the last month of the fiscal year, puts an additional pressure and strain on resources. Agencies with high backlogs, like BOP, strive to close as many overdue FOIA requests as possible before October 1 when preparation of the Annual Report to Congress for the "just ended" fiscal year begins. Consequently, in September, seven of BOP's 14 Government Information Specialists (GIS) normally assigned to the intake team spent at least half of their day processing requests." (Christenson Decl. *Dkt.* No. 57 at ¶ 5). Defendant offers as its reason for noncompliance the predictable annual end-of-year workload diversion and internal management decisions, not any legal or practical barrier. The Declaration confirms that BOP chose to redirect staff to other FOIA matters and fiscal year-end data tasks, as opposed to timely allocating more resources to meet its obligations under the Order, fully aware of the September 30 litigation deadline. BOP did not inform the Court it would violate the Order, did not initiate a request relief or conferral with Plaintiff, and did not seek modification of the schedule. These facts, established by Christenson's sworn testimony and counsel's binding admissions, should be certified to the District Court forthwith.

3. Extended Noncompliance: October 2025 Through February 2026

Contrary to clear instructions from the U.S. Department of Justice (of which BOP and the U.S. Attorney's Office are components), both prior to and during the lapse in federal appropriations, BOP failed to seek relief from this court's Order. Justice Department employees were under clear instructions before October 1: "Litigators will need to approach the courts and request that active cases be postponed

until funding is available[.]" U.S. Dep't of Justice FY 2026 Contingency Plan at 3 (Sept. 29, 2025). In case that was unclear, DOJ reiterated these instructions to employees on the tenth day of the shutdown:

- Civil litigation will be curtailed or postponed to the extent that this can be done without compromising to a significant degree the safety of human life or the protection of property.
- Litigators will need to approach the courts and request that active cases be postponed until funding is available, except for those cases in which postponement would compromise to a significant degree the safety of human life or the protection of property. Litigators should typically request a stay on the first business day following the lapse in appropriations. A sample stay motion will be provided to the litigating divisions if a lapse in appropriations occurs.
- If a court denies such a request and orders a case to continue, the government will comply with the court's order.
- Supervisors are reminded that they need to limit their staffing to the minimum level of essential activities to comply with the court's order and to protect life and property.
- In situations where the Department's funding has not lapsed, but the funding for the agencies the Department is representing in civil litigation has lapsed, litigators need to consider in the context of each case whether input and assistance will be required from the agency the Department is representing during the first few days of a lapse. If input and assistance is required from that unfunded agency, then typically the litigator should seek a stay, and a sample stay motion will be provided. If the sample stay motion is granted, the litigation will be on hold and the litigator may continue to work on the case but may not seek input or assistance from the unfunded agency; if the stay motion is denied, then the denial order would authorize work by the unfunded agency being represented to the extent necessary for the litigation to proceed. There may be some cases where the litigators assess that seeking or receiving a stay would harm the litigation itself or the statutory program the litigation supports; in those cases, the litigators should seek further guidance from their supervisors.

U.S. Department of Justice, Lapse in Appropriations Employee Reference Guide at 19 (Oct. 10, 2025).

Counsel for government agencies represented by the U.S. Attorney for the Northern District of California in other cases pending in this District followed these instructions on Day 1 of the shutdown. *See* Stipulation to Stay Case, *Sherman v. State*, No. 3:25-cv-07130-LJC, ECF. No. 8 (N.D. Cal. filed Oct. 1, 2025); Stipulation to Stay Case, *Carlson v. HHS*, No. 3:25-cv-01164-EMC, ECF No. 15 (N.D. Cal. Oct. 1, 2025); Stipulation to Stay Case, *American Immigration Council v. CBP*, No. 3:23-cv-05270-SK, ECF. No. 56 (N.D. Cal. Oct. 1, 2025). Other counsel followed the guidance following publication of

the Employee Reference Guide. *See, e.g.,* Stipulation to Stay Case, *Marker v. Dep't of Educ.*, No. 3:23-cv-058673-JSC ECF. No. 52 (N.D. Cal. Oct. 16, 2025).

The Contingency Plan and Employee Reference Guide are the only official, publicly available directives governing agency operations during a lapse in appropriations, and DOJ has not identified or provided timely notice of any contrary authority that would support the positions advanced in its Opposition. 5 U.S.C. § 552(a)(2)(E) ("A . . . statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by an agency against a party other than the agency only if–(1) it has been indexed and either made available or published as provided by this paragraph; or (ii) the party has actual and timely notice of the terms thereof.").

BOP admits producing no records during the shutdown. BOP admits it did not produce records since returning to work on November 13. Defendant cites a one-day Thanksgiving holiday and a backlog of emails as justification over many days of additional noncompliance (26 days from Days from November 13 to December 9, 2025, or 80 days from November 13, 2025 to February 1, 2026). These are discretionary staffing choices, not legal obstacles.

B. Sovereign Immunity Does Not Bar Sanctions or Attorneys' Fees

The Ninth Circuit considered and rejected BOP's position on sovereign immunity in controlling adverse authority. In *Rosenfield v United States*, the court held 5 U.S.C. 552(a)(4)(E)'s waiver of sovereign immunity "authorizes interim fee awards." 859 F.3d 717, 723 (9th Cir. 1998). Reviewing the text, legislative history, and purpose, the appeals court upheld a district court's grant of interim fees to a FOIA requestor, finding "[i]nterim fees are available to FOIA litigants because Congress intended § 552(a)(4)(E) to operate like comparable provisions elsewhere in the U.S. Code, under which interim fees

are clearly available." *Id.* at 725. The Ninth Circuit rejected the agency's sovereign immunity claim, and concluded that:

> principles of sovereign immunity do not shield the United States from interim fee awards in FOIA actions. The FOIA embodies the important federal policy of "broad disclosure of government documents and maximum feasible public access to government information."

Id. A prior decision within the Ninth Circuit confirms that interim fee awards are permissible against the BOP, as one was issued against it less than 15 years ago. *Raher v. Fed. Bureau of Prisons*, No. 09-cv-526-ST, 2013 U.S. Dist. LEXIS 1128 (D. Or. Jan. 2, 2013).

BOP's position is also at odds with the plain language of the FOIA as to this Court's remedial powers, including imposing attorney fees. FOIA explicitly states that "In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee." 5 U.S.C. § 552(a)(4)(G). Read in conjunction with the rest of the statute, Congress expressly waived sovereign immunity as it pertains to attorney fees under FOIA. *See* 5 U.S.C. § 552(a)(4)(E) ("The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed . . . for purpose of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through . . . a judicial order[.]") *See also Renegotiation Bd. V. Bannercraft Clothing Co*., 415 US 1, 20 (1974) ("With the express vesting of equitable jurisdiction in the district court by § 552(a), there is little to suggest . . . that Congress sought to limit the inherent powers of an equity court."); *see also*, *id*. at n.18 ("The Senate report which accompanied S. 1666 explains, 'The provision for enjoining an agency from further withholding is placed in the statute to make clear that the district courts shall have this power.' S. Rep. No. 1219, 88th Cong., 2d Sess., 7 (1964). In discussing the contempt provision, the Report states, 'This is another addition which has been made to avoid any possible misunderstanding as to the court's powers.'")

More recent case law makes clear that sovereign immunity is not a shield to agency misconduct or a district court's equitable powers. In *Landmark Legal Foundation v. EPA*, a FOIA case where the Court found that the very conduct exhibited by BOP here, failure to comply with the Court's Order, merited contempt and attorneys' fees. *See* 272 F. Supp. 2d 70 (D.D.C. 2003). Specifically, the Court found:

> [S]anctions are appropriate where there is prejudice to the judicial system in the form of 'an intolerable burden on a district court' requiring the court to modify its docket to accommodate delay caused by the contumacious party. . . [This dispute] has required the Court to hold several hearings and issue several orders. It has imposed a burden on the Court. . . It is well-established that courts may award attorneys' fees and expenses in conjunction with a civil contempt proceeding.

Id. at 85-86 (internal citations and quotation marks omitted). The court in *Landmark* also noted that an award of attorneys' fees can be appropriate "even absent a showing of willful disobedience by the contemnor." *Id*. at 86 (internal citations omitted). *See also Landmark v. EPA*, Civil No. 12-1726, Dkt. No. 69 at *24 (D.D.C. March 2, 2015) ("The Court is left wondering whether [the agency] has learned from its mistakes, or if it will merely continue to address FOIA requests in the clumsy manner that has seemingly become its custom.")

In *ACLU v. Dept of Def*, the CIA agreed to an order for fees and costs in a contempt proceeding. 1:04-cv-04151-AKH ECF 427 at *26 (S.D.N.Y. 2011) ("The parties agree, and I conclude, that I have the inherent authority to impose an award of attorneys' fees and costs, as a matter of fairness and equity, without finding the CIA in contempt."). *See also Jefferson v. Reno*, 123 F.Supp.2d 1, 4 (D.D.C. Mar. 29, 2000) (FOIA case discussing sanctions including attorney's fees: "[T]he Court will not hesitate to impose monetary penalties in the future if it finds that Defendant has delayed the production of any records 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'" (internal citation omitted)).

Defendant's position is also at odds with the DOJ's own materials. DOJ's U.S. Attorneys' Manual recognizes sanctions for violating FOIA in the form of attorney fees: "Action Against Individual Employees: Sanctions may be taken against individual agency employees who are found to have acted arbitrarily or capriciously in improperly withholding records. Additionally, the court must award attorney fees and other litigation costs against the government." Additionally, DOJ's own website notes a FOIA case where the Court imposed sanctions in the form of attorneys' fees. *See Islamic Shura Council v. FBI*, No. 07-1088, 2011 WL 5593132 (C.D. Cal. Nov. 17, 2011) (Carney, J.).

Defendant is not exempt from attorney fees for this motion under either sovereign immunity or the statute. Established precedent and the Department of Justice's own guidance make clear that the authorities on this point do not support Defendant's position. This Court should award Plaintiff attorney fees for the instant motion.

C. As the Court's Production Order Rests on Its Authority Under 5 U.S.C. § 552(a)(4)(B) and Not on Rule 37, the Procedural Conferral Requirements Governing Discovery Matters Are Inapplicable

FOIA's statutory judicial enforcement provision gives courts jurisdiction to "order production of any agency records improperly withheld from complainant," 5 U.S.C. § 552(a)(4)(B. This statutory authority take precedence in governing the procedure for enforcing the Court's May 30 Order, which directed record production as the statutory relief FOIA Plaintiff is statutorily entitled to (*not discovery*). FOIA's judicial enforcement provision grants courts jurisdiction to "order production of any agency records improperly withheld from complainant." 5 U.S.C. § 552(a)(4)(B) The Court denied discovery and styled its order as a FOIA scheduling and production order. Record production is the relief FOIA Plaintiff seeks (*not discovery production*). For this reason, Rule 37 does not apply to the Court's May 30 (*non-discovery*) Order, the authority for which comes from the FOIA statute (*not the federal discovery rules*). FOIA applies to Plaintiff's Motion for an Order to Show Cause why BOP should not be held in

contempt for violating the Court's scheduling and production Order (*not the Standing Civil Order governing discovery disputes*).

V. Relief Sought

Defendant has admitted sustained violations, refused to seek relief, and presented no immediate plan to comply. BOP also states it will "make every effort" to make up September–November by February 1, 2026, with no commitment to produce for December or January. BOP thus informs the Court it will remain in violation for at least five months and declines to propose an immediate compliance plan. BOP has not yet emailed Plaintiff's counsel with any proposals to comply or confer or draft any joint letter. Silence cannot satisfy the requirement to take "every reasonable step" toward compliance.

Plaintiff respectfully requests that the Court certify the facts under 28 U.S.C. § 636(e)(6), and recommend that Judge Gonzales Rodgers issue an Order to Show Cause, and award compensatory attorneys' fees necessary to enforce the May 30, 2025 Order. Plaintiff respectfully asks the Court to certify facts and recommend that Judge Gonzalez Rodgers

- Direct the Bureau of Prisons to show cause in writing why it should not be held in civil contempt for failing to comply with the May 30, 2025 Order.
- Require the Bureau of Prisons to submit a sworn Declaration explaining its failure to produce the September and October releases, identifying all steps taken to comply with the Order, describing in detail the files, records, and pages reviewed, specifying what remains outstanding, and setting out the steps necessary to achieve full compliance, including a definite timeline for completing the missing productions and a plan for compliance going forward.
- Produce the September, October, and November records by December 31, 2025.
- Produce January records by the end of January 2026.

- Produce February records by the end of February 2026.
- Require the Bureau of Prisons to file biweekly compliance reports, each supported by a sworn Declaration detailing its progress, the number of records and pages reviewed, the number remaining, and the actions taken toward compliance, with incomplete, late, or duplicative submissions deemed noncompliant.
- Require responsible official with authority over FOIA processing appear and provide sworn testimony regarding the Bureau's compliance efforts, and that monthly compliance hearings continue until the agency has fully complied with the Court's Order.
- Award attorney's fees.
- Sanction the Bureau of Prisons.

VI. Conclusion

Because Plaintiff's forthcoming reporting concerns ongoing abuses and failures in federal custody, further delay frustrates the core purpose of FOIA, which is to ensure timely public oversight. Timely disclosure here may assist counsel, advocates, and courts evaluating release applications after FCI Dublin's closure. The ongoing delay therefore, has direct consequences for the safety and liberty of individuals still held in federal and immigration detention.

BOP's statement that it "will make every effort" to make up the missed processing by February 1, 2026, does not use binding language and does not indicate whether December or January productions will occur. Nothing in the declarations identifies a plan to begin producing immediately or to accelerate review to catch up. As a result, even on BOP's telling, the agency does not expect to reach compliance with its FOIA obligations or this Court's Order until at least five months after the September violation, with no assurance the February date can or will be met.

Plaintiff respectfully submits that the Court should require production before February, or at a minimum require BOP to begin immediate rolling productions with firm interim deadlines. Plaintiff

respectfully requests that the Court grant the motion, certify to the District Court the facts on which contempt should be found, and recommend that Judge Gonzalez Rodgers issue and Order to Show Cause as to why the Defendant should not be held in contempt, and enter an updated order requiring the Defendant to appear in person before the District Judge to show cause why it should not be adjudged in civil contempt for failing to comply with the Order.

Respectfully submitted,

DATED: December 9, 2025

Signature: ____/s/_____

By: __Caitlin Kelly Henry, Esq._____