

JESSE LASLOVICH
 United States Attorney
 MADISON L. MATTIOLI
 MT Bar No. 36411284
 ABBIE J.N. CZIOK
 MT Bar No. 55781377
 Assistant U.S. Attorneys
 U.S. Attorney's Office
 901 Front Street, Suite 1100
 Helena, MT 59626
 Phone: (406) 457-5269 – Madison
 (406) 457-5268 – Abbie
 Fax: (406) 457-5130
 Email: madison.mattioli@usdoj.gov
 abbie.cziok@usdoj.gov

Attorneys for Federal Defendants and
 Defendant United States of America.

MARK STEGER SMITH
 MT Bar No. 4160
 TIMOTHY A. TATARKA
 CA Bar No. 277219
 Assistant U.S. Attorneys
 U.S. Attorney's Office
 James F. Battin Federal Courthouse
 2601 2nd Ave. North, Suite 3200
 Billings, MT 59101
 Phone: (406) 247-4667 – Mark
 (406) 247-4642 – Tim
 Fax: (406) 657-6058
 Email: mark.smith3@usdoj.gov
 timothy.tatarka@usdoj.gov

**IN THE UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CALIFORNIA COALITION FOR WOMEN
 PRISONERS; R.B.; A.H.R.; S.L.; J.L.; J.M.;
 G.M.; A.S.; and L.T., individuals on behalf of
 themselves and all others similarly situated,

Plaintiffs

v.

UNITED STATES OF AMERICA FEDERAL
 BUREAU OF PRISONS, a governmental entity;
 BUREAU OF PRISONS DIRECTOR
 COLETTE PETERS, in her official capacity;
 FCI DUBLIN WARDEN N.T. MCKINNEY, in
 her official capacity; OFFICER BELLHOUSE,
 in his individual capacity; OFFICER GACAD, in
 his individual capacity; OFFICER JONES, in his
 individual capacity; LIEUTENANT JONES, in
 her individual capacity; OFFICER LEWIS, in his
 individual capacity; OFFICER NUNLEY, in his
 individual capacity; OFFICER POOL, in his
 individual capacity; LIEUTENANT PUTNAM,
 in his individual capacity; OFFICER
 SERRANO, in his individual capacity;
 OFFICER SHIRLEY, in his individual capacity;
 OFFICER SMITH, in his individual capacity;
 and OFFICER VASQUEZ, in her individual
 capacity,

Defendants.

CASE NO. 4:23-CV-04155-YGR

**UNITED STATES' ANSWER TO
 PLAINTIFFS' FIRST AMENDED
 COMPLAINT**

1 Defendants United States of America, Colette Peters, in her official capacity, and N.T.
2 McKinney, in her official capacity, hereby respond to Plaintiffs' first amended complaint (dkt. 152). The
3 numbering below corresponds with the numbering in the first amended complaint.

4 1-2. The United States admits that through May 1, 2024, FCI Dublin housed female inmates
5 in its low security prison and adjacent Satellite Camp, but denies the remaining allegations in paragraphs
6 1 and 2 of the first amended complaint.

7 3. The United States admits that computers used to access confidential reporting systems
8 were located in common spaces at FCI Dublin and the adjacent Satellite Camp, but denies all remaining
9 allegations in paragraph 3 of the first amended complaint.

10 4. The United States admits that the Permanent Subcommittee on Investigations issued a
11 report in December 2022 (the Senate Report). The Senate Report has been reduced to writing and
12 constitutes the best evidence of its contents. The United States denies all remaining allegations in
13 paragraph 4 of the first amended complaint.

14 5. The United States admits that eight former FCI Dublin employees have been charged
15 with various crimes related to sexual misconduct at the facility from 2019 to 2021, but lacks information
16 sufficient to form a belief as to the truth of the remaining allegations in paragraph 5 of the first amended
17 complaint and therefore denies them.

18 6. The United States admits that numerous civil actions have been filed against former FCI
19 Dublin employees, but currently lacks information sufficient to form a belief as to the truth of the
20 remaining allegations in paragraph 6 of the first amended complaint therefore denies them.

21 7-10. The United States denies the allegations in paragraphs 7 through 10 of the first amended
22 complaint.

23 11. The United States denies the allegations in paragraph 11 of the first amended complaint.

24 12-13. Responding to the allegations in paragraphs 12 and 13 of the first amended complaint, the
25 United States admits that federal district courts: have original jurisdiction over all civil actions arising
26 under the Constitution; in a case of actual controversy within its jurisdiction, may declare the rights and
27 other legal relations of any interested party seeking such declaration; have exclusive jurisdiction over
28 claims brought against the United States under 28 U.S.C. § 1346(b) and §§ 2671 -80 (the Federal Tort

1 Claims Act), and admits that the FTCA provides a limited waiver of the United States' sovereign
2 immunity when its employees are negligent in limited circumstances. But the United States denies
3 Plaintiffs' have established jurisdiction in this case. The United States denies that venue is appropriate in
4 this Court. Finally, the United States denies that 28 U.S.C. §§ 1332 or 1367(a) apply to claims brought
5 under the FTCA.

6 14. The United States admits that the California Coalition for Women Prisoners (CCWP) is
7 an organizational Plaintiff in this matter, but currently lacks information sufficient to form a belief as to
8 the truth of the remaining allegations in paragraph 14 of the first amended complaint and therefore
9 denies them.

10 15. The United States denies the allegations in paragraph 15 of the first amended complaint.

11 16. The United States currently lacks information sufficient to form a belief as to the truth of
12 the allegations in paragraph 16 of the first amended complaint and therefore denies them.

13 17. The United States denies the allegations in paragraph 17 of the first amended complaint.

14 18. The United States currently lacks information sufficient to form a belief as to the truth of
15 the allegations in paragraph 18 of the first amended complaint and therefore denies them.

16 19. The United States admits that Plaintiff R.B. was in the custody and control of BOP while
17 incarcerated at FCI Dublin from 2013 to 2024, but currently lacks information sufficient to form a belief
18 as to the truth of the remaining allegations in paragraph 19 of the first amended complaint and therefore
19 denies them.

20 20. The United States admits that Plaintiff A.H.R. was in the custody and control of BOP
21 while incarcerated at FCI Dublin from 2019 to 2024, and that he is a transgender man and uses he/him
22 pronouns, but currently lacks information sufficient to form a belief as to the truth of the remaining
23 allegations in paragraph 20 of the first amended complaint and therefore denies them.

24 21. The United States admits that Plaintiff S.L. was in the custody and control of BOP while
25 incarcerated at FCI Dublin from 2016 to 2024, but currently lacks information sufficient to form a belief
26 as to the truth of the remaining allegations in paragraph 21 of the first amended complaint and therefore
27 denies them.

1 22. The United States admits that Plaintiff J.L. was in the custody and control of BOP while
2 incarcerated at FCI Dublin from 2020 to 2024, but currently lacks information sufficient to form a belief
3 as to the truth of the remaining allegations in paragraph 22 of the first amended complaint and therefore
4 denies them.

5 23. The United States admits that Plaintiff J.M. was in the custody and control of BOP while
6 incarcerated at FCI Dublin from 2018 to 2024, but currently lacks information sufficient to form a belief
7 as to the truth of the remaining allegations in paragraph 23 of the first amended complaint and therefore
8 denies them.

9 24. The United States admits that Plaintiff G.M. was in the custody and control of BOP while
10 incarcerated at FCI Dublin from 2020 to 2023, but currently lacks information sufficient to form a belief
11 as to the truth of the remaining allegations in paragraph 24 of the first amended complaint and therefore
12 denies them.

13 25. The United States admits that Plaintiff A.S. was in the custody and control of BOP while
14 incarcerated at FCI Dublin from 2020 to 2024, but currently lacks information sufficient to form a belief
15 as to the truth of the remaining allegations in paragraph 25 of the first amended complaint and therefore
16 denies them.

17 26. The United States admits that Plaintiff L.T. was in the custody and control of BOP while
18 incarcerated at FCI Dublin from 2019 to 2023, but currently lacks information sufficient to form a belief
19 as to the truth of the remaining allegations in paragraph 26 of the first amended complaint and therefore
20 denies them.

21 27. The United States admits that it is in possession and control of FCI Dublin and adjacent
22 Satellite Camp, and that it has waived sovereign immunity for certain claims under the FTCA, but
23 currently lacks information sufficient to form a belief as to whether it has waived sovereign immunity
24 for Plaintiffs' claims, and therefore denies that allegation. The United States denies the remaining
25 allegations in paragraph 27 of the first amended complaint.

26 28. Responding to paragraph 28 of the first amended complaint, the United States admits
27 that, pursuant to 18 U.S.C. § 4042(a)(1)-(3), "[t]he Bureau of Prisons, under the direction of the
28 Attorney General, shall have charge of the management and regulation of all Federal penal and

1 correctional institutions; provide suitable quarters and provide for the safekeeping, care, and subsistence
2 of all persons charged with or convicted of offenses against the United States, or held as witnesses or
3 otherwise; [and] provide for the protection, instruction, and discipline of all persons charged with or
4 convicted of offenses against the United States.” The United States further admits that authority has
5 been delegated to the Federal Bureau of Prisons to develop and enforce policies consistent with the
6 United States Constitution and to ensure that employees of the Federal Bureau of Prisons comply with
7 this policy. The United States denies all remaining allegations in paragraph 28 of the first amended
8 complaint.

9 29. The United States admits the first sentence of paragraph 29 of the first amended
10 complaint. The United States admits that, until May 1, 2024, FCI Dublin operated as a federal female
11 low security correctional institution with an adjacent minimum security Satellite Camp located at 5701
12 8th Street, Dublin, California.

13 30. The United States admits the allegations in paragraph 30 of the first amended complaint.

14 31. The United States denies that Art Dulgov is the current Warden of FCI Dublin.

15 32-43. The United States admits the first sentences of paragraphs 32 through 43. As the
16 remaining allegations in paragraphs 32 through 43 are directed toward individual capacity defendants,
17 no response from the United States is required. To the extent a response is required, the United States
18 currently lacks information sufficient to form a belief as to the truth of the remaining allegations in
19 paragraphs 32 through 43, and therefore denies them.

20 44. The United States currently lacks information sufficient to form a belief as to the truth of
21 the allegations in paragraph 44 of the first amended complaint, and therefore denies them.

22 45. The United States denies the allegations in paragraph 45 of the first amended complaint.

23 46. The allegations in paragraph 46 of the first amended complaint are directed toward
24 individual capacity defendants, no response from the United States is required. To the extent a response
25 is required, the United States denies the allegations paragraph 46 of the first amended complaint.

26 47-58. Responding to the allegations in paragraphs 47 through 58 of the first amended
27 complaint, the United States asserts that all individual damage claims are presently stayed pursuant to
28 this Court’s Order at Dkt. 64, and no response is required. To the extent a response is required, the

1 United States currently lacks information sufficient to form a belief as to the truth of the allegations
2 contained in paragraphs 47 through 58 of the first amended complaint and therefore denies them.

3 59-68. The allegations in paragraph 59 through 68 of the first amended complaint contain
4 statements of law to which no response is required. To the extent a response is required, the United
5 States denies the allegations in paragraph 59 through 68 of the first amended complaint.

6 69. The United States denies the allegations in paragraph 69 of the first amended complaint.

7 70. Responding to the allegations in paragraph 70 of the first amended complaint, the United
8 States admits that former FCI Dublin Warden Ray Garcia was charged and convicted in *United States v.*
9 *Garcia*, No. CR-21-429-YGR (N.D. Cal.). Any statements made during that trial were transcribed and
10 reduced to writing, and those transcripts are the best evidence of their contents. The United States denies
11 the remaining allegations in paragraph 70 of the first amended complaint.

12 71. The United States denies the allegations in paragraph 71 of the first amended complaint.

13 72. Responding to the allegations in paragraph 72 of the first amended complaint, the United
14 States denies Plaintiffs' characterizations of court documents from the 1990s and 2000s as referenced in
15 the Senate Report. The court documents are reduced to writing and constitute the best evidence of their
16 contents. The United States denies the remaining allegations in paragraph 72 of the first amended
17 complaint.

18 73. Responding to the allegations in paragraph 73 of the first amended complaint, the United
19 States denies Plaintiffs' characterizations of *Lucas v. White*, 63 F. Supp. 2d 1046, 1051 (N.D. Cal.
20 1999). Any agreements resulting from that lawsuit have been reduced to writing and constitute the best
21 evidence of their contents. The United States denies the remaining allegations in paragraph 73 of the
22 first amended complaint.

23 74. Responding to the allegations in paragraph 74 of the first amended complaint, the United
24 States admits that the Subcommittee on National Security issued a memorandum titled "Majority Staff
25 Memorandum, Independent Investigations and Employee Discipline at the Bureau of Prisons" on Jan. 2,
26 2019 (National Security Memorandum). This memorandum has been reduced to writing and constitutes
27 the best evidence of its contents. The United States denies the remaining allegations in paragraph 74 of
28 the first amended complaint.

1 75. Responding to the allegations in paragraph 75 of the first amended complaint, the United
2 States denies Plaintiffs' characterizations of the April 2005 Department of Justice, Office of the
3 Inspector General report. This memorandum has been reduced to writing and constitutes the best
4 evidence of its contents.

5 76. Responding to the allegations in paragraph 76 of the first amended complaint, the United
6 States denies Plaintiffs' characterizations of the media reports referenced in the Senate Report. The
7 Senate Report has been reduced to writing and constitutes the best evidence of its contents.

8 77. Responding to the allegations in paragraph 77 of the first amended complaint, the United
9 States denies Plaintiffs' characterizations of the 2019 Congressional House Subcommittee on National
10 Security Memorandum. This memorandum has been reduced to writing and constitutes the best evidence
11 of its contents.

12 78. Responding to the allegations in paragraph 78 of the first amended complaint, the United
13 States admits that beginning several years ago, currently and formerly incarcerated people came forward
14 with allegations of staff sexual abuse at FCI Dublin, and that Victoria R. Peterson sued William
15 Martinez, et al., in *Peterson v. Martinez*, No. 3:19-CV-1447-WHO (N.D. Cal.). The United States denies
16 all remaining allegations in paragraph 78 of the first amended complaint.

17 79. Responding to the allegations in paragraph 79 of the first amended complaint, the United
18 States admits that it prosecuted former FCI Dublin chaplain James Highhouse in *United States v.*
19 *Highhouse*, No. 4:22-CR-16-HSG (N.D. Cal.). Court documents from that prosecution constitute the
20 best evidence of the facts Highhouse admitted to and the sentence he received.

21 80. Responding to the allegations in paragraph 80 of the first amended complaint, the United
22 States admits that DOJ has indicted eight BOP employees, including the former warden and chaplain,
23 for sexual abuse of inmates housed at FCI Dublin. Court documents from those prosecutions constitute
24 the best evidence of the facts admitted to or proven at trial and the sentences imposed. The United States
25 admits that BOP has placed additional FCI Dublin staff members on administrative leave pending
26 investigations into various allegations, including sexual abuse.

27 81-83, 85-87. Responding to the allegations in paragraphs 81 through 83 and 85 through 87 of
28 the first amended complaint, the United States admits that it prosecuted former FCI Dublin employees

1 Ross Klinger, Ray Garcia, John Bellhouse, Enrique Chavez, Darrell Smith, Andrew Jones, and Nakie
2 Nunley for various crimes related to the sexual abuse of inmates housed at FCI Dublin. Court documents
3 from those prosecutions constitute the best evidence of the facts admitted to or proven at trial and the
4 sentences imposed. The United States denies the remaining allegations in paragraphs 81 through 83 and
5 85 through 87 of the first amended complaint.

6 84. Responding to the allegations in paragraph 84 of the first amended complaint, the United
7 States admits that Nicholas Ramos died by suicide while on administrative leave pending investigation
8 into allegations of sexual abuse of incarcerated women. The United States denies the remaining
9 allegations in paragraph 84 of the first amended complaint.

10 88-91. Responding to the allegations in paragraphs 88 through 91 of the first amended
11 complaint, the United States admits only that FCI Dublin was the subject of a 2022 Associated Press
12 investigation into conditions at the prison. The conclusions of this investigation have been reduced to
13 writing in various articles, and these articles constitute the best evidence of their contents. The United
14 States denies the remaining allegations in paragraphs 88 through 91 of the first amended complaint.

15 92. Responding to the allegations in paragraph 92 of the first amended complaint, the United
16 States admits that U.S. Senators Dick Durbin (D-IL), Chuck Grassley (R-IA), Dianne Feinstein (D-CA)
17 and Alex Padilla (D-CA), sent a letter to Attorney General (AG) Merrick Garland and Deputy Attorney
18 General (DAG) Lisa Monaco on December 12, 2022. This letter has been reduced to writing and
19 constitutes the best evidence of its contents. The United States denies the remaining allegations in
20 paragraph 92 of the first amended complaint.

21 93-98. Responding to the allegations in paragraphs 93 through 98 of the first amended
22 complaint, the United States admits that DAG Monaco ordered the creation of a DOJ Working Group
23 “to review the Department’s approach to rooting out and preventing sexual misconduct by BOP
24 employees.” The Working Group issued a report in November 2022, which constitutes the best evidence
25 of its contents. The United States denies any remaining allegations in paragraphs 93 through 98 of the
26 first amended complaint.

27 99-101. Responding to the allegations in paragraphs 99 through 101 of the first amended
28 complaint, the United States admits that the Permanent Subcommittee on Investigations issued a report

1 in December 2022 (the Senate Report). The Senate Report has been reduced to writing and constitutes
2 the best evidence of its contents. The United States denies all remaining allegations in paragraphs 99
3 through 101 of the first amended complaint.

4 102-103. Responding to the allegations in paragraphs 102 and 103 of the first amended
5 complaint, the United States admits that Inspector General Michael Horowitz sent a Management
6 Advisory Memo to BOP Director Colette Peters on October 12, 2022. This memorandum has been
7 reduced to writing and constitutes the best evidence of its contents. The United States denies the
8 remaining allegations in paragraphs 102 and 103 of the first amended complaint.

9 104. Responding to the allegations in the first sentence of paragraph 104 of the first amended
10 complaint, the United States admits that the Subcommittee on National Security issued a memorandum
11 titled “Majority Staff Memorandum, Independent Investigations and Employee Discipline at the Bureau
12 of Prisons” on Jan. 2, 2019 (National Security Memorandum). This memorandum has been reduced to
13 writing and constitutes the best evidence of its contents. The United States denies the remaining
14 allegations in paragraph 104 of the first amended complaint.

15 105-107. Responding to the allegations in paragraphs 105 through 107 of the first amended
16 complaint, the United States admits only that BOP has placed numerous FCI Dublin staff members on
17 administrative leave pending investigations into various allegations, including sexual abuse. The United
18 States denies the remaining allegations in paragraphs 105 through 107 of the first amended complaint.

19 108-113. Responding to the allegations in paragraphs 108 through 113 of the first amended
20 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and
21 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in
22 paragraphs 108 through 113 contain Plaintiffs’ legal conclusions, subjective opinions, speculation, or
23 characterizations of fact, to which no response is required. To the extent a response is required, the
24 United States currently lacks information sufficient to form a belief as to the truth of the remaining
25 allegations in paragraphs 108 through 113 of the first amended complaint and therefore denies them.

26 114-118. Responding to the allegations in paragraphs 114 through 118 of the first amended
27 complaint, the United States admits that former FCI Dublin Officer Nakie Nunley was prosecuted and
28 sentenced in *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.), and that former FCI Dublin

1 Officer Darrell Smith has been placed on administrative leave and that there is an ongoing criminal
2 proceeding in which Officer Darrell Wayne Smith is named as Defendant in *United States v. Smith*, Case
3 No: 23-CR-00110. The remaining allegations in paragraphs 114 through 118 of the first amended
4 complaint contain Plaintiffs' legal conclusions, subjective opinions, speculation, or characterizations of
5 fact, to which no response is required. To the extent a response is required, the United States currently
6 lacks information sufficient to form a belief as to the truth of the remaining allegations in paragraphs
7 114 through 118 of the first amended complaint and therefore denies them.

8 119-121. Responding to the allegations in paragraphs 119 through 121 of the first amended
9 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on
10 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne
11 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining
12 allegations in paragraphs 119 through 121 of the first amended complaint contain Plaintiffs' legal
13 conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is
14 required. To the extent a response is required, the United States currently lacks information sufficient to
15 form a belief as to the truth of the remaining allegations in paragraphs 119 through 121 of the first
16 amended complaint and therefore denies them.

17 122-127. Responding to the allegations in paragraphs 122 through 127 of the first amended
18 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on
19 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne
20 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining
21 allegations in paragraphs 122 through 127 of the first amended complaint contain Plaintiffs' legal
22 conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is
23 required. To the extent a response is required, the United States currently lacks information sufficient to
24 form a belief as to the truth of the remaining allegations in paragraphs 122 through 127 of the first
25 amended complaint and therefore denies them.

26 128-132. Responding to the allegations in paragraphs 128 through 132 of the first amended
27 complaint, the United States admits that FCI Dublin Officer Lawrence Gacad resigned on June 14, 2022.
28 The remaining allegations in paragraphs 128 through 132 of the first amended complaint contain

1 Plaintiffs' legal conclusions, subjective opinions, speculation, or characterizations of fact, to which no
2 response is required. To the extent a response is required, the United States currently lacks information
3 sufficient to form a belief as to the truth of the remaining allegations in paragraphs 128 through 132 of
4 the first amended complaint and therefore denies them.

5 133-141. Responding to the allegations in paragraphs 133 through 141 of the first amended
6 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and
7 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.), former FCI Dublin Officer John
8 Bellhouse was prosecuted and sentenced in *United States v. Bellhouse*, No. 4:22-CR-66-YGR (N.D.
9 Cal.), and Officer Nydia Vasquez has been placed on administrative leave. The remaining allegations in
10 paragraphs 133 through 141 of the first amended complaint contain Plaintiffs' legal conclusions,
11 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
12 extent a response is required, the United States currently lacks information sufficient to form a belief as
13 to the truth of the remaining allegations in paragraphs 133 through 141 of the first amended complaint
14 and therefore denies them.

15 142-144. Responding to the allegations in paragraphs 142 through 144 of the first amended
16 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and
17 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in
18 paragraphs 142 through 144 of the first amended complaint contain Plaintiffs' legal conclusions,
19 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
20 extent a response is required, the United States currently lacks information sufficient to form a belief as
21 to the truth of the remaining allegations in paragraphs 142 through 144 of the first amended complaint
22 and therefore denies them.

23 145-146. The United States currently lacks information sufficient to form a belief as to the truth
24 of the allegations in paragraphs 145 and 146 of the first amended complaint, and therefore denies them.

25 147-152. Responding to the allegations in paragraphs 147 through 152 of the first amended
26 complaint, the United States admits that Officer Ronald St. Clair remains on administrative leave. The
27 remaining allegations in paragraphs 147 through 152 of the first amended complaint contain Plaintiffs'
28 legal conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is

1 required. To the extent a response is required, the United States currently lacks information sufficient to
2 form a belief as to the truth of the remaining allegations in paragraphs 147 through 152 of the first
3 amended complaint and therefore denies them.

4 153-161. The United States currently lacks information sufficient to form a belief as to the truth
5 of the allegations in paragraphs 153 through 161 of the first amended complaint, and therefore denies
6 them.

7 162. Responding to the allegations in paragraph 162 of the first amended complaint, the
8 United States admits that former FCI Dublin Officer Nakie Nunley was prosecuted and sentenced in
9 *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.). The United States currently lacks
10 information sufficient to form a belief as to the truth of the remaining allegations in paragraph 162 of the
11 first amended complaint and therefore denies them.

12 163. Responding to the allegations in paragraph 163 of the first amended complaint, the
13 United States admits that pursuant to BOP policy, inmates are to be searched after all in-person visits
14 with the public. The United States currently lacks information sufficient to form a belief as to the truth
15 of the remaining allegations in paragraph 163 of the first amended complaint and therefore denies them.

16 164. The allegations in Paragraph 164 of the first amended complaint contain Plaintiffs' legal
17 conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is
18 required. To the extent a response is required, the United States currently lacks information sufficient to
19 form a belief as to the truth of the allegations in paragraph 164 of the first amended complaint and
20 therefore denies them.

21 165-172. The United States currently lacks information sufficient to form a belief as to the truth
22 of the allegations in paragraphs 165 through 172 of the first amended complaint, and therefore denies
23 them.

24 173-174. The allegations in paragraphs 173 and 174 of the first amended complaint contain
25 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.
26 To the extent a response is required, the United States currently lacks information sufficient to form a
27 belief as to the truth of the allegations in paragraphs 173 and 174 of the first amended complaint and
28 therefore denies them.

1 175. The United States currently lacks information sufficient to form a belief as to the truth of
2 the allegations in paragraph 175 of the first amended complaint, and therefore denies them.

3 176. The allegations in paragraph 176 of the first amended complaint contain Plaintiffs'
4 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
5 extent a response is required, the United States currently lacks information sufficient to form a belief as
6 to the truth of the allegations in paragraph 176 of the first amended complaint and therefore denies them.

7 177. The United States currently lacks information sufficient to form a belief as to the truth of
8 the allegations in paragraph 177 of the first amended complaint, and therefore denies them.

9 178. Responding to the allegations in paragraph 178 of the first amended complaint, the
10 United States admits that former FCI Dublin Warden Ray Garcia was convicted of sexually abusive
11 conduct in December 2022. The United States currently lacks information sufficient to form a belief as
12 to the truth of the remaining allegations in paragraph 178 of the first amended complaint and therefore
13 denies them.

14 179-180. The United States currently lacks information sufficient to form a belief as to the truth
15 of the allegations in paragraphs 179 and 180 of the first amended complaint, and therefore denies them.

16 181-182. The allegations in paragraphs 181 and 182 of the first amended complaint contain
17 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.
18 To the extent a response is required, the United States currently lacks information sufficient to form a
19 belief as to the truth of the allegations in paragraphs 181 and 182 of the first amended complaint and
20 therefore denies them.

21 183. The United States currently lacks information sufficient to form a belief as to the truth of
22 the allegations in paragraph 183 of the first amended complaint, and therefore denies them.

23 184-185. The allegations in paragraphs 184 and 185 of the first amended complaint contain
24 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.
25 To the extent a response is required, the United States currently lacks information sufficient to form a
26 belief as to the truth of the allegations in paragraphs 184 and 185 of the first amended complaint and
27 therefore denies them.
28

1 186-194. The United States currently lacks information sufficient to form a belief as to the truth
2 of the allegations in paragraphs 186 through 194 of the first amended complaint, and therefore denies
3 them.

4 195-196. The allegations in paragraphs 195 and 196 of the first amended complaint contain
5 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.
6 To the extent a response is required, the United States currently lacks information sufficient to form a
7 belief as to the truth of the allegations in paragraphs 195 and 196 of the first amended complaint and
8 therefore denies them.

9 197-205. The United States currently lacks information sufficient to form a belief as to the truth
10 of the allegations in paragraphs 197 through 205 of the first amended complaint, and therefore denies
11 them.

12 206. The allegations in paragraph 206 of the first amended complaint contain Plaintiffs'
13 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
14 extent a response is required, the United States currently lacks information sufficient to form a belief as
15 to the truth of the allegations in paragraph 206 of the first amended complaint and therefore denies them.

16 207-208. The United States currently lacks information sufficient to form a belief as to the truth
17 of the allegations in paragraphs 207 and 208 of the first amended complaint, and therefore denies them.

18 209. The allegations in paragraph 209 of the first amended complaint contain Plaintiffs'
19 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
20 extent a response is required, the United States currently lacks information sufficient to form a belief as
21 to the truth of the allegations in paragraph 209 of the first amended complaint and therefore denies them.

22 210-222. The United States currently lacks information sufficient to form a belief as to the truth
23 of the allegations in paragraphs 210 through and 222 of the first amended complaint, and therefore
24 denies them.

25 223-224. The allegations in paragraph 223 and 224 of the first amended complaint contain
26 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.
27 To the extent a response is required, the United States currently lacks information sufficient to form a
28

1 belief as to the truth of the allegations in paragraph 223 and 224 of the first amended complaint and
2 therefore denies them.

3 225. Responding to the allegations in paragraph 225 of the first amended complaint, the
4 United States admits that: a recent survey conducted at FCI Dublin’s adjacent Satellite Camp reflected
5 presence of mold and asbestos; the asbestos found is “non-friable;” and that mold remediation is
6 anticipated to commence in forthcoming weeks. The remaining allegations in paragraph 225 of the first
7 amended complaint contain Plaintiffs’ subjective opinions, speculation, or characterizations of fact, to
8 which no response is required. To the extent a response is required, the United States currently lacks
9 information sufficient to form a belief as to the truth of the allegations in paragraph 225 of the first
10 amended complaint and therefore denies them.

11 227-229. The allegations paragraphs 227 through 229 of the first amended complaint contain
12 Plaintiffs’ subjective opinions, speculation, or characterizations of fact, to which no response is required.
13 To the extent a response is required, the United States currently lacks information sufficient to form a
14 belief as to the truth of the allegations in paragraphs 227 through 229 of the first amended complaint and
15 therefore denies them.

16 230-236. The United States currently lacks information sufficient to form a belief as to the truth
17 of the allegations in paragraphs 230 through and 236 of the first amended complaint, and therefore
18 denies them.

19 237. The allegations in paragraph 237 of the first amended complaint contain Plaintiffs’
20 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
21 extent a response is required, the United States currently lacks information sufficient to form a belief as
22 to the truth of the allegations in paragraph 237 of the first amended complaint and therefore denies them.

23 238-244. The United States currently lacks information sufficient to form a belief as to the truth
24 of the allegations in paragraphs 238 through and 244 of the first amended complaint, and therefore
25 denies them.

26 245. Responding to the allegations in paragraph 245 of the first amended complaint, the
27 United States admits that: former FCI Dublin Officer Nakie Nunley was prosecuted and sentenced in
28 *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.), former FCI Dublin Warden Ray Garcia

1 was prosecuted and sentenced in *United States v. Garcia*, 4:21-CR-429-YGR (N.D. Cal.), former FCI
2 Dublin Officer Andrew Jones was prosecuted and sentenced in *United States v. Jones*, No. 4:23-CR-
3 212-HSG (N.D. Cal.), and former FCI Dublin Chaplain James Highhouse was prosecuted in *United*
4 *States v. Highhouse*, No. 4:22-CR-16-HSG (N.D. Cal.). The remaining allegations in paragraph 245 of
5 the first amended complaint contain Plaintiffs' subjective opinions, speculation, or characterizations of
6 fact, to which no response is required. To the extent a response is required, the United States currently
7 lacks information sufficient to form a belief as to the truth of the remaining allegations in paragraph 245
8 of the first amended complaint and therefore denies them.

9 246. The allegations in paragraph 246 of the first amended complaint contain Plaintiffs'
10 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
11 extent a response is required, the United States currently lacks information sufficient to form a belief as
12 to the truth of the allegations in paragraph 246 of the first amended complaint and therefore denies them.

13 247-252. Responding to the allegations in paragraphs 247 through 252 of the first amended
14 complaint, the United States admits that the Court certified a class action in this case on March 15, 2024.
15 Insofar as Plaintiffs' allegations in 247 through 252 of the first amended complaint contain subjective
16 opinions, speculation, or characterizations of fact, no response is required. To the extent any further
17 response is required, the United States currently lacks information sufficient to form a belief as to the
18 truth of the allegations in paragraphs 247 through 252 of the first amended complaint of the first
19 amended complaint and therefore denies them.

20 253. The United States incorporates by reference its responses to paragraphs 1 through 252 of
21 the first amended complaint as if fully set forth herein.

22 254. The United States admits it has a non-delegable duty to ensure that the conditions of
23 confinements in facilities operated by BOP employees and contractors are constitutionally adequate.

24 255-257. The United States denies the allegations in paragraphs 255 through 257 of the first
25 amended complaint.

26 258. The United States incorporates by reference its responses to paragraphs 1 through 257 of
27 the first amended complaint as if fully set forth herein.

1 259. The United States admits it has a non-delegable duty to ensure that the conditions of
2 confinements in facilities operated by BOP employees and contractors are constitutionally adequate.

3 260-262. The United States denies the allegations in paragraphs 260 through 262 of the first
4 amended complaint.

5 263. The United States incorporates by reference its responses to paragraphs 1 through 263 of
6 the first amended complaint as if fully set forth herein.

7 264. The United States admits it has a non-delegable duty to ensure that the conditions of
8 confinements in facilities operated by BOP employees and contractors are constitutionally adequate.

9 265-267. The United States denies the allegations in paragraphs 265 through 267 of the first
10 amended complaint.

11 268. The United States incorporates by reference its responses to paragraphs 1 through 267 of
12 the first amended complaint as if fully set forth herein.

13 269-271. The United States denies the allegations in paragraphs 269 through 271 of the first
14 amended complaint.

15 272. The allegations in paragraph 246 of the first amended complaint contain Plaintiffs'
16 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
17 extent a response is required, the United States denies this is a cognizable claim under *Bivens v. Six*
18 *Unknown Named Agents*, 403 U.S. 388 (1971).

19 273. The allegations in paragraph 273 of the first amended complaint set forth Plaintiffs'
20 Prayer for Relief, to which no response is required. To the extent these paragraphs are deemed to contain
21 allegations of fact or an entitlement to relief, the United States denies that Plaintiffs are entitled to the
22 requested relief, or to any relief.

23 274. The United States incorporates by reference its responses to paragraphs 1 through 273 of
24 the first amended complaint as if fully set forth herein.

25 275. Responding to the allegations in paragraph 275 of the first amended complaint, the
26 United States admits that former FCI Dublin Officer Lawrence Gacad resigned on June 14, 2022. The
27 remaining allegations in paragraph 275 of the first amended complaint contain Plaintiffs' subjective
28 opinions, speculation, or characterizations of fact, to which no response is required. To the extent any

1 further response is required, the United States currently lacks information sufficient to form a belief as
2 to the truth of the allegations in paragraph 275 of the first amended complaint of the first amended
3 complaint and therefore denies them.

4 276. Responding to the allegations in paragraph 276 of the first amended complaint, the
5 United States admits that FCI Dublin Lieutenant Stephen Putnam retired on December 29, 2023, without
6 the Office of the Inspector General finding that he had committed any wrongdoing during his BOP
7 tenure. The remaining allegations in paragraph 276 of the first amended complaint contain Plaintiffs'
8 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the
9 extent any further response is required, the United States currently lacks information sufficient to form a
10 belief as to the truth of the allegations in paragraph 276 of the first amended complaint and therefore
11 denies them.

12 277. The allegations in paragraph 277 of the first amended complaint contain Plaintiffs'
13 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent a
14 response is required, the United States currently lacks information sufficient to form a belief as to the
15 truth of the allegations in paragraph 277 of the first amended complaint and therefore denies them.

16 278. The United States denies the allegations in paragraph 278 of the first amended complaint.

17 279. The allegations in paragraph 279 of the first amended complaint set forth Plaintiffs'
18 Prayer for Relief, to which no response is required. To the extent these paragraphs are deemed to contain
19 allegations of fact or an entitlement to relief, the United States denies that Plaintiffs are entitled to the
20 requested relief, or to any relief.

21 280. The United States incorporates by reference its responses to paragraphs 1 through 279 of
22 the first amended complaint as if fully set forth herein.

23 281. Responding to the allegations in paragraph 281 of the first amended complaint, the
24 United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and sentenced in
25 *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in paragraph 281
26 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and legal conclusions,
27 to which no response is required. To the extent any further response is required, the United States
28

1 currently lacks information sufficient to form a belief as to the truth of the allegations in paragraph 281
2 of the first amended complaint and therefore denies them.

3 282. Responding to the allegations in paragraph 282 of the first amended complaint, the
4 United States admits: that FCI Dublin Officer Patrick Pool has been on administrative leave since March
5 8, 2022; and that FCI Dublin Lieutenant Stephen Putnam retired on December 29, 2023, without the
6 Office of the Inspector General finding that he had committed any wrongdoing during his BOP tenure.
7 The remaining allegations in paragraph 282 of the first amended complaint contain Plaintiffs'
8 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent
9 any further response is required, the United States currently lacks information sufficient to form a belief
10 as to the truth of the allegations in paragraph 282 of the first amended complaint and therefore denies
11 them.

12 283. The allegations in paragraph 283 of the first amended complaint contain Plaintiffs'
13 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent a
14 response is required, the United States currently lacks information sufficient to form a belief as to the
15 truth of the allegations in paragraph 283 of the first amended complaint and therefore denies them.

16 284. The United States denies the allegations in paragraph 284 of the first amended complaint.

17 285. The allegations in paragraph 285 of the first amended complaint set forth Plaintiffs'
18 Prayer for Relief, to which no response is required. To the extent these paragraphs are deemed to contain
19 allegations of fact or an entitlement to relief, the United States denies that Plaintiffs are entitled to the
20 requested relief, or to any relief.

21 286. The United States incorporates by reference its responses to paragraphs 1 through 285 of
22 the first amended complaint as if fully set forth herein.

23 287-299. The allegations in paragraphs 287 through 299 of the first amended complaint contain a
24 summation of the Trafficking Victims Protection Act ("TVPA"), to which no response is required;
25 however, the text of the statute is the best evidence of its contents. To the extent a response is required,
26 the United States denies the allegations contained in paragraphs 287 through 299 of the first amended
27 complaint, or that Plaintiffs are entitled to relief based on this statute.
28

1 300-310. Responding to the allegations in paragraphs 300 through 310 of the first amended
2 complaint, the United States admits that FCI Dublin Officer Lawrence Gacad resigned on June 14, 2022.
3 The remaining allegations in paragraphs 300 through 310 of the first amended complaint contain
4 Plaintiffs' characterizations of this lawsuit and legal conclusions, to which no response is required. To
5 the extent any further response is required, the United States currently lacks information sufficient to
6 form a belief as to the truth of the allegations in paragraphs 300 through 310 of the first amended
7 complaint and therefore denies them.

8 311. Responding to the allegations in paragraph 311 of the first amended complaint, the
9 United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December 29, 2023,
10 without the Office of the Inspector General finding that he had committed any wrongdoing during his
11 BOP tenure; that FCI Dublin Officer Nydia Vasquez was placed on administrative leave on March 19,
12 2023; that FCI Dublin Officer Kayla Serrano is presently working; and that FCI Dublin Lieutenant
13 Cynthia Jones was placed on administrative leave on April 10, 2023. The remaining allegations in
14 paragraph 311 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and
15 legal conclusions, to which no response is required. To the extent any further response is required, the
16 United States currently lacks information sufficient to form a belief as to the truth of the allegations in
17 paragraph 311 of the first amended complaint and therefore denies them.

18 312-313. The allegations in paragraphs 312 and 313 of the first amended complaint contain
19 Plaintiffs' characterization of this lawsuit and legal conclusions, to which no response is required. To the
20 extent a response is required, the United States currently lacks information sufficient to form a belief as
21 to the truth of the allegations in paragraphs 312 and 313 of the first amended complaint and therefore
22 denies them.

23 314-327. Responding to the allegations in paragraphs 314 through 327 of the first amended
24 complaint, the United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December
25 29, 2023, without the Office of the Inspector General finding that he had committed any wrongdoing
26 during his BOP tenure; that FCI Dublin Officer Nydia Vasquez was placed on administrative leave on
27 March 19, 2023; that FCI Dublin Officer Kayla Serrano is presently working; and that FCI Dublin
28 Lieutenant Cynthia Jones was placed on administrative leave on April 10, 2023. The remaining

1 allegations in paragraphs 314 through 327 of the first amended complaint contain Plaintiffs'
2 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent
3 any further response is required, the United States currently lacks information sufficient to form a belief
4 as to the truth of the allegations in paragraphs 314 through 327 of the first amended complaint and
5 therefore denies them.

6 328-336. Responding to the allegations in paragraphs 328 through 336 of the first amended
7 complaint, the United States admits that former FCI Dublin Officer John Bellhouse was prosecuted and
8 sentenced in *United States v. Bellhouse*, No. 4:22-CR-66-YGR (N.D. Cal.), and former FCI Dublin
9 Officer Andrew Jones was prosecuted and sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG
10 (N.D. Cal.). The remaining allegations in paragraphs 328 through 336 of the first amended complaint
11 contain Plaintiffs' characterization of this lawsuit and legal conclusions, to which no response is
12 required. To the extent any further response is required, the United States currently lacks information
13 sufficient to form a belief as to the truth of the allegations in paragraphs 328 through 336 of the first
14 amended complaint and therefore denies them.

15 337-342. Responding to the allegations in paragraphs 337 through 342 of the first amended
16 complaint, the United States admits that FCI Dublin Officer Kayla Serrano is presently working. The
17 remaining allegations in paragraphs 337 through 342 of the first amended complaint contain Plaintiffs'
18 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent
19 any further response is required, the United States currently lacks information sufficient to form a belief
20 as to the truth of the allegations in paragraphs 337 through 342 of the first amended complaint and
21 therefore denies them.

22 343-353. Responding to the allegations in paragraphs 343 through 353 of the first amended
23 complaint, the United States admits that former FCI Dublin Officer Nakie Nunley was prosecuted and
24 sentenced in *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.). The remaining allegations in
25 paragraphs 343 through 353 of the first amended complaint contain Plaintiffs' characterization of this
26 lawsuit and legal conclusions, to which no response is required. To the extent any further response is
27 required, the United States currently lacks information sufficient to form a belief as to the truth of the
28 allegations in paragraphs 343 through 353 of the first amended complaint and therefore denies them.

354-365. Responding to the allegations in paragraphs 354 through 365 of the first amended complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining allegations in paragraphs 354 through 365 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and legal conclusions, to which no response is required. To the extent any further response is required, the United States currently lacks information sufficient to form a belief as to the truth of the allegations in paragraphs 354 through 365 of the first amended complaint and therefore denies them.

366-371. Responding to the allegations in paragraphs 366 through 371 of the first amended complaint, the United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December 29, 2023, without the Office of the Inspector General finding that he had committed any wrongdoing during his BOP tenure; that FCI Dublin Officer Nydia Vasquez was placed on administrative leave on March 19, 2023; that FCI Dublin Officer Kayla Serrano is presently working; that FCI Dublin Officer Denzil Shirley is presently working; and that FCI Dublin Lieutenant Cynthia Jones was placed on administrative leave on April 10, 2023. The remaining allegations in paragraphs 366 through 371 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and legal conclusions, to which no response is required. To the extent any further response is required, the United States currently lacks information sufficient to form a belief as to the truth of the allegations in paragraphs 366 through 371 of the first amended complaint and therefore denies them.

372-392. Responding to the allegations in paragraphs 372 through 392 of the first amended complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining allegations in paragraphs 372 through 392 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and legal conclusions, to which no response is required. To the extent any further response is required, the United States currently lacks information sufficient to form a belief

1 as to the truth of the allegations in paragraphs 372 through 392 of the first amended complaint and
2 therefore denies them.

3 393-398. Responding to the allegations in paragraphs 393 through 398 of the first amended
4 complaint, the United States admits: that FCI Dublin Officer Darren Lewis is presently working; and
5 that FCI Dublin Lieutenant Cynthia Jones was placed on administrative leave on April 10, 2023. The
6 remaining allegations in paragraphs 393 through 398 of the first amended complaint contain Plaintiffs'
7 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent
8 any further response is required, the United States currently lacks information sufficient to form a belief
9 as to the truth of the allegations in paragraphs 393 through 398 of the first amended complaint and
10 therefore denies them.

11 399-420. Responding to the allegations in paragraphs 399 through 420 of the first amended
12 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and
13 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in
14 paragraphs 399 through 420 of the first amended complaint contain Plaintiffs' characterization of this
15 lawsuit and legal conclusions, to which no response is required. To the extent any further response is
16 required, the United States currently lacks information sufficient to form a belief as to the truth of the
17 allegations in paragraphs 399 through 420 of the first amended complaint and therefore denies them.

18 421-426. Responding to the allegations in paragraphs 421 through 426 of the first amended
19 complaint, the United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December
20 29, 2023, without the Office of the Inspector General finding that he had committed any wrongdoing
21 during his BOP tenure; that FCI Dublin Officer Patrick Pool has been on administrative leave since
22 March 8, 2022; and that former FCI Dublin Officer Andrew Jones was prosecuted and sentenced in
23 *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in paragraphs 421
24 through 426 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and legal
25 conclusions, to which no response is required. To the extent any further response is required, the United
26 States currently lacks information sufficient to form a belief as to the truth of the allegations in
27 paragraphs 421 through 426 of the first amended complaint and therefore denies them.
28

1 427-447. Responding to the allegations in paragraphs 427 through 447 of the first amended
2 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on
3 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne
4 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining
5 allegations in paragraphs 427 through 447 of the first amended complaint contain Plaintiffs'
6 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent
7 any further response is required, the United States currently lacks information sufficient to form a belief
8 as to the truth of the allegations in paragraphs 427 through 447 of the first amended complaint and
9 therefore denies them.

10 448. The United States incorporates by reference its responses to paragraphs 1 through 447 of
11 the first amended complaint as if fully set forth herein.

12 449-458. The allegations in paragraphs 449 through 458 of the first amended complaint contain a
13 summation of the TVPA, to which no response is required; however, the text of the statute is the best
14 evidence of its contents. To the extent a response is required, the United States denies the allegations
15 contained in paragraphs 449 through 458 of the first amended complaint, or that Plaintiffs are entitled to
16 relief based on this statute.

17 459. The United States incorporates by reference its responses to paragraphs 1 through 458 of
18 the first amended complaint as if fully set forth herein.

19 460-464. The United States denies the allegations in paragraphs 460 through 464 of the first
20 amended complaint.

21 465. The United States incorporates by reference its responses to paragraphs 1 through 464 of
22 the first amended complaint as if fully set forth herein.

23 466-472. The United States denies the allegations in paragraphs 466 through 472 of the first
24 amended complaint.

25 473. The United States incorporates by reference its responses to paragraphs 1 through 472 of
26 the first amended complaint as if fully set forth herein.

27 474-480. The United States denies the allegations in paragraphs 474 through 480 of the first
28 amended complaint.

1 481. The United States incorporates by reference its responses to paragraphs 1 through 480 of
2 the first amended complaint as if fully set forth herein.

3 482. The United States denies the allegations in paragraph 482 of the first amended complaint.

4 483. The allegations in paragraph 483 of the first amended complaint contain a summation of
5 the Tom Bane Civil Rights Act under California law, to which no response is required; however, the text
6 of the Act is the best evidence of its contents. To the extent a response is required, the United States
7 denies the allegations contained in paragraph 483 of the first amended complaint.

8 484-487. The United States denies the allegations in paragraphs 484 through 487 of the first
9 amended complaint.

10 488. The United States incorporates by reference its responses to paragraphs 1 through 487 of
11 the first amended complaint as if fully set forth herein.

12 489-494. The United States denies the allegations in paragraphs 489 through 494 of the first
13 amended complaint.

14 495. The United States incorporates by reference its responses to paragraphs 1 through 494 of
15 the first amended complaint as if fully set forth herein.

16 496. The United States denies the allegations in paragraph 496 of the first amended complaint.

17 497. The allegations in paragraph 483 of the first amended complaint contain Plaintiffs'
18 characterization of the elements of invasion of privacy under California law, to which no response is
19 required; however, the text outlining the elements is the best evidence of its contents. To the extent a
20 response is required, the United States denies the allegations contained in paragraph 497 of the first
21 amended complaint.

22 498-501. The United States denies the allegations in paragraphs 498 through 501 of the first
23 amended complaint.

24 502. The United States incorporates by reference its responses to paragraphs 1 through 501 of
25 the first amended complaint as if fully set forth herein.

26 503. The United States denies the allegations in paragraph 503 of the first amended complaint.

27 504. The United States admits the allegations in Paragraph 504.

28 505. The United States admits the allegations in Paragraph 505.

506. The United States denies the allegations in paragraph 506 of the first amended complaint.

507. The United States admits the allegations in Paragraph 507.

508-523. The United States denies the allegations in paragraphs 508 through 523 of the first amended complaint.

524. The United States incorporates by reference its responses to paragraphs 1 through 523 of the first amended complaint as if fully set forth herein.

525-529. The United States denies the allegations in paragraphs 525 through 529 of the first amended complaint.

530-537. Responding to the allegations in paragraphs 530 through 537 of the first amended complaint, the United States admits that this Court certified a class action for those FCI Dublin Adults-in-Custody (AIC) on March 15, 2024 (dkt. 222) or transferred anytime thereafter to FCI Dublin until the last AIC left the facility on May 1, 2024. The remaining allegations in paragraphs 530 through 537 of the first amended complaint set forth Plaintiffs' prayer for relief, to which no response is required. To the extent a response is required, the United States denies that Plaintiffs are entitled to the requested relief, or any relief.

AFFIRMATIVE DEFENSES

1. Plaintiffs' first amended complaint fails to state a claim upon which relief can be granted.

2. The Court lacks subject matter jurisdiction over some or all of Plaintiffs' claims.

3. Some or all of Plaintiffs' claims are barred by the doctrine of sovereign immunity.

4. Plaintiffs' claims are barred to the extent that they are based on the exercise or performance, or the failure to exercise or perform, a discretionary function or duty. 28 U.S.C. § 2680(a).

5. Plaintiffs' claims are barred to the extent they arise out of misrepresentation or deceit. 28 U.S.C. § 2680(h).

6. Claims arising more than two years prior to the filing of the administrative claim, if any, are time barred.

7. The United States is not liable for any pre-existing, intervening, or superseding acts or occurrences that caused, compounded, or created the injuries alleged.

1 8. The United States, through its employees, agents, and servants, acted at all relevant times
2 with due care and diligence in all matters alleged in the first amended complaint and acted within the
3 applicable standard of care.

4 9. The United States did not breach any legal duty owed to Plaintiff.

5 10. The United States is not liable for any negligence of independent contractors who may
6 have treated Plaintiffs. 28 U.S.C. § 2671.

7 11. Any injury, damage, or loss to Plaintiffs was not proximately caused or contributed to by
8 any wrongful or negligent act or omissions on the part of an agent or employee of the United States.

9 12. In the event the United States is found to have been negligent, which negligence is
10 denied, the superseding and intervening negligence of third parties or cross-defendants, for whom the
11 United States cannot be held liable, broke any causal connection between the United States' negligence
12 and Plaintiffs' alleged injuries, cutting off the legal effect of the United States' negligence.

13 13. In the event that the United States is found to have been negligent, which negligence is
14 denied, the negligence of Plaintiff, third parties, or cross-defendants was the proximate cause of and
15 contributed to any alleged injuries or damages sustained, thereby barring recovery, or alternatively,
16 mandating that any recovery be proportionately reduced.

17 14. Plaintiffs' damages, if any, are limited to the extent they have failed to mitigate damages.

18 15. The United States is entitled to an offset for any medical care it provided to Plaintiffs or
19 any benefits as a result of the subject matter of this action.

20 16. Pursuant to 28 U.S.C. § 2675(b), Plaintiffs' damages, if any, are limited to the amount of
21 the sum certain demanded in their administrative claims.

22 17. Plaintiffs' recovery is limited to the damages recoverable under the FTCA.

23 18. The United States is not liable for pre-judgment interest under 28 U.S.C. § 2674.

24 19. Under 28 U.S.C. §§ 2412(d)(1)(A), 2678, Plaintiffs cannot recover attorney's fees from
25 the United States, and attorneys' fees may not exceed 25 per centum of any judgment or settlement.

26 20. Plaintiff's damages, if any, must be offset by any benefits provided to Plaintiffs by the
27 United States or funded by the United States through any other entity.

28 21. Plaintiffs are not entitled to a jury trial. 28 U.S.C. § 2402.

22. The United States further alleges that it has insufficient knowledge or information on which to form a belief as to whether it has any additional defenses available, and reserves the right to amend its answer to Plaintiffs' first amended complaint to assert additional defenses in the event discovery or other developments indicate it would be appropriate.

ANSWER TO CROSS-COMPLAINT (DKT. 35)

1. The United States currently lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the cross-complaint and therefore denies them.

2-3. The United States admits the allegations in paragraphs 2 and 3 of the cross-complaint.

4. The United States denies the allegations in paragraph 4 of the cross-complaint.

5-15. The United States admits the first sentences of paragraphs 5 through 15 of the cross-complaint. The United States denies the second sentences of paragraphs 5 through 15 of the cross-complaint.

16-17. The allegations in paragraphs 16 and 17 of the cross-complaint contain cross-defendant Gacad's characterization of this lawsuit to which no response is required. To the extent a response is required, the United States denies the allegations in paragraphs 16 and 17 of the cross-complaint.

18-22. Responding to the allegations in paragraphs 18 through 22 of the cross-complaint, the United States admits that federal district courts: have original jurisdiction over all civil actions arising under the Constitution; in a case of actual controversy within its jurisdiction, may declare the rights and other legal relations of any interested party seeking such declaration; have exclusive jurisdiction over claims brought against the United States under 28 U.S.C. § 1346(b) and §§ 2671 -80 (the Federal Tort Claims Act), and admits that the FTCA provides a limited waiver of the United States' sovereign immunity when its employees are negligent in limited circumstances. But the United States denies Plaintiffs' have established jurisdiction in this case. The United States denies that venue is appropriate in this Court. Finally, the United States denies that 28 U.S.C. §§ 1332 or 1367(a) apply to claims brought under the FTCA.

23-365. The allegations in paragraphs 23 through 365 of the cross-complaint contain quotes from Plaintiffs' Complaint (doc. 1), which is the best evidence of its contents, and to which no response is required. To the extent a response is required, the United States refers the Court to its responses to the

1 quoted allegations and requests for relief. The United States specifically denies any allegations in
2 paragraphs 23 through 365 of the cross-complaint not specifically admitted.

3 366. The United States incorporates by reference its responses to paragraphs 1 through 365 of
4 the cross-complaint as if fully set forth herein.

5 367-368. Responding to the allegations in paragraphs 367 and 368, the United States admits that
6 cross-defendant Gacad is entitled to seek contribution from individual cross-defendants and cross-
7 defendant United States.

8 369. The United States denies the allegations and prayer for relief in paragraph 369 of the
9 cross-complaint.

10 370. The United States incorporates by reference its responses to paragraphs 1 through 369 of
11 the cross-complaint as if fully set forth herein.

12 371-374. Responding to the allegations in paragraphs 371 and 374, the United States admits that
13 cross-defendant Gacad is entitled to seek indemnification from individual cross-defendants and cross-
14 defendant United States.

15 375. The United States denies the allegations and prayer for relief in paragraph 375 of the
16 cross-complaint.

17 376. The United States incorporates by reference its responses to paragraphs 1 through 375 of
18 the cross-complaint as if fully set forth herein.

19 377-379. The United States denies the allegations and prayer for relief in paragraphs 377-379 of
20 the cross-complaint.

21 The United States specifically denies that cross-defendant Gacad is entitled to any relief
22 requested in his prayer for relief.

23 The United States denies any allegation not specifically admitted herein.

24 WHEREFORE, having fully answered, the United States respectfully requests that:

- 25 1. Plaintiffs take nothing by reason of their first amended complaint;
26 2. Judgment be entered in favor of the United States and against Plaintiffs; and
27 3. The Court grant such other relief as it deems just and proper.
28

DATED this 6th day of May, 2024.

JESSE A. LASLOVICH
United States Attorney

/s/ Madison L. Mattioli
MADISON L. MATTIOLI
ABBIE J.N. CZIOK
MARK STEGER SMITH
TIMOTHY A. TATARKA
Assistant U.S. Attorneys
Attorneys for Defendant United States.