

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIA COALITION FOR WOMEN
PRISONERS, ET AL.,

Plaintiffs,

v.

UNITED STATES OF AMERICA BUREAU OF
PRISONS, ET AL.,

Defendants.

Case No.: 4:23-cv-4155-YGR

**ORDER EXTENDING PRELIMINARY
INJUNCTIVE RELIEF**

About six months ago and following both an evidentiary hearing and personal site visit, the Court ordered preliminary injunctive relief designed to safeguard the constitutional rights of the adults in custody (“AICs”) at the Bureau of Prisons (“BOP”)’s Federal Correctional Institution Dublin and its satellite camp (collectively, “FCI Dublin”).

FCI Dublin closed on May 1, 2024. However, FCI Dublin’s AICs continued to experience constitutional violations arising out of their time at the facility, even after transfer to other institutions. Among these were medical, mental health, and other concerns. The Court previously found that BOP was not relieved of its obligation to address such issues by virtue of having wound down operations at FCI Dublin. Based thereon, the Court extended the preliminary injunctive relief by ninety days. Such injunctive relief will expire, by operation of statute, on Wednesday, October 2, 2024.

As set forth in more detail below, the Court finds the need for court intervention to safeguard AICs’ constitutional rights persists and will not be addressed by next Wednesday. The BOP is making progress towards correcting constitutional violations that tie back to the AICs’ experiences at FCI Dublin but a significant amount of follow up remains outstanding. Accordingly, the Court **ORDERS** that the preliminary injunctive relief shall be extended beyond October 2, 2024. The new statutory expiration date is **Tuesday, December 31, 2024.**

United States District Court
Northern District of California

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1 **I. BACKGROUND**

2 On March 15, 2024, the Court granted in part and denied in part plaintiffs’ motion for a
3 preliminary injunction to safeguard the FCI Dublin AICs’ constitutional rights.¹ Shortly thereafter,
4 the Court appointed corrections expert Wendy Still and her team as Special Master. (Dkt. No. 248.)
5 Still subsequently (i) provided the Court on-the-ground visibility into the conditions at FCI Dublin,
6 including as the Court provided guidance to the BOP during the facility’s closure, and (ii) compiled
7 a report setting out her observations.

8 On May 20, 2024, the Court found Still had “completed her work on-site at FCI Dublin”
9 and that “the monitoring of the [AICs] who left the facility for other institutions” was therefore
10 required. (Dkt. No. 308 at 1.) The Court then “exercise[d] its inherent authority to appoint Still and
11 a subset of her team as Monitor of BOP’s compliance with court orders and to ensure that FCI
12 Dublin AICs receive appropriate follow up care and support in their new facilities.” (*Id.*) The Court
13 emphasized at the time that Still’s Special Master and Monitor roles were distinct. (*Id.* at 2.) The
14 Court expanded upon such distinctions in a later order. (Dkt. No. 385 at 16–17.)

15 As Monitor, Still has assisted and continues to assist the Court in overseeing the BOP’s
16 compliance with the corrective measures ordered by the Court. (*See, e.g.*, Dkt. No. 300 at 14
17 (identifying eight categories of additional steps BOP must take to ensure FCI Dublin AICs’
18 constitutional rights are protected).) By way of example, the Court created a mechanism, prior to
19 closure of FCI Dublin, for setting medical, mental health, medically assisted treatment (“MAT”),² and
20 other “alerts” for individual AICs who required follow up.³ The Court also required BOP to review

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22 ¹ Dkt. No. 222, Order Granting the Motion for Class Certification; Granting in Part and
23 Denying in Part the Motion for Preliminary Injunction; Granting the Related Sealing Motions.

24 ² MAT is a modality for treating substance use disorders.

25 ³ As the parties are aware, medical and mental health alerts have also been set for issues
26 raised post-closure but which present a “nexus” to FCI Dublin. The Court has advised as follows:
27 “[T]he Court clarifies that a medical or mental health issue has a ‘nexus’ to FCI Dublin where the
28 issue (i) was first raised, identified, or documented at FCI Dublin (whether by the AIC themselves,
the then-Special Master, and/or a member of her team); or (ii) where, based on a review of a more
recently filed grievance or complaint, the Monitor and/or a member of her team determine the issue
is directly tied to the AIC’s experiences at FCI Dublin.” Dkt. No. 372 at 2. The Court allowed that,

1 FCI Dublin AICs’ disciplinary infractions for, among others, due process and other deficiencies. As
2 initial reviews yielded a significant number of expungements, BOP was also required, again with
3 assistance from the Monitor, to conduct casework audits for impacted AICs. The processes of clearing
4 such alerts and reviewing expunged disciplinary infractions remains ongoing.

5 **II. LEGAL FRAMEWORK**

6 Section 3626 of Title 18 of the United States Code governs injunctive relief with respect to
7 prison conditions cases. It provides the following with respect to preliminary injunctive relief:

8 In any civil action with respect to prison conditions, to the extent otherwise
9 authorized by law, the court may enter . . . an order for preliminary injunctive relief
10 Preliminary injunctive relief shall automatically expire on the date that is 90
11 days after its entry, unless the court makes the findings required under subsection
12 (a)(1) for the entry of prospective relief and makes the order final before the
13 expiration of the 90-day period.

14 18 U.S.C. § 3626(a)(2).⁴

15 Subsection 3626(a)(1), in turn, concerns “prospective relief” relative to prison conditions,
16 which includes preliminary injunctive relief. It bars courts from approving such relief “unless the
17 court finds that such relief is narrowly drawn, extends no further than necessary to correct the
18 violation of the Federal right, and is the least intrusive means necessary to correct the violation of
19 the Federal right.” 18 U.S.C. § 3626(a)(1)(A). Courts must, in conducting such an assessment,
20 “give substantial weight to any adverse impact on public safety or the operation of a criminal
21 justice system caused by the relief.” *Id.*

22 **III. ANALYSIS**

23 The Court begins by assessing whether, under the above framework, injunctive relief remains
24 necessary to correct the constitutional violations identified in the preliminary injunction order and
25 which have formed the basis of the Court’s ongoing guidance to the BOP in the months since.

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27 “[i]f there is disagreement as to whether a particular grievance or complaint constitutes a ‘nexus’
28 case, the BOP may bring a motion to have the matter excluded from the list of nexus cases.” *Id.* No
such motions have been received.

⁴ The Court explained its understanding of this framework at length in other orders. *See* Dkt.
No. 336 at 3–7; Dkt. No. 385 at 7–15. The Court incorporates by reference that legal analysis
herein as to the framework’s requirements.

1 Preliminarily, the Court reiterates what it has advised the parties repeatedly over recent
2 months, namely, the closure of FCI Dublin does not mean this case is moot or that the FCI Dublin
3 AICs have lost the protection of the previously entered preliminary injunctive relief. The BOP's
4 decision to transfer the AICs previously located at FCI Dublin to facilities across the country
5 simply adds a layer of complexity to the process of correcting the previously identified
6 constitutional violations. Given past history and the record in this case, the Court is not inclined to
7 merely trust BOP to act on its own.

8 That said, the Court recounts the outstanding matters requiring BOP action. These include
9 but are not limited to: (i) Prison Rape Elimination Act ("PREA") follow up case conferences; (ii)
10 AICs' claims for property lost or damaged during transfers; and (iii) pending compassionate release
11 requests. (Dkt. No. 372 at 1, 2–3.) These concerns are directly related to FCI Dublin AICs' well-
12 being and the accurate computation of their terms of imprisonment.

13 While critical, these follow up items are less immediately pressing than two other categories of
14 tasks on which the Court and Monitor remain engaged, alongside counsel for both parties and the
15 BOP. These are: (i) clearing outstanding medical, mental health, and MAT alerts, as well as related
16 nexus matters; and (ii) addressing FCI Dublin's woefully inaccurate record of disciplinary infractions.
17 The Court addresses each of these in turn below.

18 First, the Court reiterates the importance of tracking and clearing alerts. As of September
19 20, 2024, there are six outstanding medical alerts and nine outstanding MAT alerts. Further, there
20 are nine nexus cases requiring BOP follow up. These are not just data points. Each represents a
21 discrete and tangible need on the part of an AIC, and each is directly tied to that AIC's experiences
22 at FCI Dublin. Of these, the alerts were placed prior to closure of the facility as part of the court-
23 ordered medical reviews to prepare AICs for transit. The nexus matters arose later but were
24 determined to tie back to experiences at FCI Dublin. The AICs' needs have therefore been
25 outstanding for months. Thus, prompt resolution of the remaining alerts and nexus matters is a
26 critical and ongoing concern of constitutional import.

27 Second, the Court underscores the ongoing constitutional violations tied to FCI Dublin's
28 disciplinary records. Put simply, the BOP Western Regional Hearing Administrator has completed

1 a review of disciplinary infractions issued to FCI Dublin AICs in recent years. The results are
2 shocking. Of 824 infractions reviewed, 373 were expunged for due process or other deficiencies.
3 Said differently, 45 percent of the infractions reviewed were declared void due to BOP's own
4 errors. Such deficiencies are having a domino effect. Insofar as disciplinary infractions are
5 expunged, the impacted AIC's case file must be reviewed and, in some cases, projected release
6 dates must be recalculated. The impact can be meaningful. The Monitor reports the expungements
7 already identified have resulted in over one hundred instances of credit restoration that have
8 impacted release dates. Given the inherent liberty interests involved, the constitutional dimensions
9 of the disciplinary errors made and necessity of timely reviews to remediate such issues are stark.

10 Notably, the task of clearing alerts and the need for proper disciplinary reviews were both
11 discussed at length at the last in-person hearing in this matter, which was held on August 2, 2024.
12 There, the Court had an extended colloquy with counsel for the BOP about the status of such
13 reviews. The Court walked through the alerts and disciplinary reviews to be addressed, and counsel
14 for defendants acknowledged that such items remained outstanding but would be addressed.
15 Similarly, the parties and the Court questioned BOP Deputy Director William W. Lothrop, who
16 appeared at the hearing as a declarant. In light of these conversations, the Court is satisfied both
17 that the BOP understands the necessity of addressing the outstanding items addressed herein and
18 that progress will continue to be made thereon.

19 While the Court is encouraged by the BOP's engagement on these areas of concern as well as
20 their stated commitment to addressing the matters discussed herein in a prompt manner, the Court
21 cannot conclude on the record before it that continued court intervention is unnecessary. Instead, the
22 Court finds that constitutional violations tied to AICs' experiences at FCI Dublin remain outstanding
23 and involvement by this Court in managing the preliminary injunctive relief remains essential to
24 correcting the violations of constitutional rights identified at FCI Dublin and that persist. The Court
25 further concludes the current preliminary injunctive relief is the least intrusive possible to correct the
26 constitutional violations identified. The targeted guidance provided by the Court, informed by the
27 Monitor's active communication with the parties, is as granular and limited as possible.

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1 The BOP's interests in the seamless operation of this nation's federal prisons do not compel
 2 a different result. The Court, as required, "give[s] substantial weight to any adverse impact on
 3 public safety or the operation of a criminal justice system caused by the relief."
 4 18 U.S.C. § 3626(a)(1)(A). However, any such potentially adverse impact arising out of this
 5 preliminary injunctive relief is mitigated in at least two ways: One, the Court has not and does not
 6 seek to micromanage this country's carceral system. The relief is targeted to the AICs who were
 7 previously located at FCI Dublin and constitutional injuries arising out of their experiences at that
 8 facility. The scope of the preliminary injunctive relief ordered has not been expanded to include, for
 9 instance, AICs located at receiving institutions who were not transferred from FCI Dublin or to
 10 former FCI Dublin AICs who experience new issues at their receiving institutions where such
 11 issues do not tie back to their time at FCI Dublin. Two, the record does not reflect a meaningfully
 12 adverse impact on the BOP. Certainly, the relief requires BOP to make adjustments as to the timing
 13 of certain processes as well as the staffing of particular teams. This is a far cry, however, from an
 14 "adverse impact on public safety or the operation of a criminal justice system."

15 IV. CONCLUSION

16 For the foregoing reasons, the Court determines the injunctive relief previously authorized
 17 **SHALL** be extended by 90 days, to expire on **Tuesday, December 31, 2024**.

18 In closing, the Court reiterates its desire that this litigation continue apace. The BOP
 19 complains, yet has declined the Court's previous (and repeated) offer to set an early trial date. In
 20 light of this, the Court reminds that the preliminary injunctive relief is intended as a temporary
 21 measure to address the extraordinary circumstances existing at FCI Dublin prior to its closure and
 22 which continue to impact the AICs previously located there. Additional extensions of such relief
 23 will not be granted absent sufficient justification.

24 **IT IS SO ORDERED.**

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 26 Date: September 27, 2024

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 28 YVONNE GONZALEZ ROGERS
 UNITED STATES DISTRICT COURT JUDGE