

at some point in the future. Plaintiffs have proposed additional language clarifying that a permanent injunction does not only apply to Plaintiffs' confinement at FMC Carswell but would continue to preclude Defendants from potentially housing Plaintiffs with male inmates at other facilities as well. Defendants continue to hold the position that they do not want to house any male inmates with female inmates (regardless of what the institution is), but they have some operational concerns about Plaintiffs' interpretation of the Court's Order (as well as Plaintiffs' proposed language) in relation to the scope of this case (which has focused on conditions at FMC Carswell) and based on questions about how, if adopted, Plaintiffs' language might apply at other institutions where the conditions are different than at FMC Carswell (for example, in some institutions there are locked doors on individual cells where inmates sleep and have toileting facilities, unlike in the general-population units at FMC Carswell).

Second, Plaintiffs believe the most efficient resolution of the injunctive relief as to Plaintiffs at FMC Carswell, including as to the Intervening Plaintiffs at FMC Carswell, would be to *require* Defendants to house all male inmates in a segregated unit at FMC Carswell. Under the current TRO as applied to Plaintiffs, Defendants instead have the option of *either* moving male inmates out of certain units *or* housing them in a segregated unit. The Parties agree that moving all male inmates currently incarcerated at FMC Carswell to a segregated unit seemingly would be the most straightforward way of addressing all plaintiffs' (including Intervening Plaintiffs') concerns in this case (short of removing the male inmates from FMC Carswell entirely). Plaintiffs believe that such an order would not conflict with the existing *Doe v. Bondi* injunction, which requires the government to "maintain and continue [the Doe plaintiffs'] housing status in women's

facilities . . . as it existed immediately prior to January 20, 2025,”¹ and that the *Doe v. Bondi* injunction cannot reasonably be read to require Defendants to keep all male federal inmates in the same cell or unit as female federal inmates; instead, it only requires that the *Doe v. Bondi* plaintiffs remain housed at a women’s federal facility unless that injunction is vacated on appeal or mooted. The government believes that the preliminary injunction currently in effect in *Doe v. Bondi* prohibits it from housing the male inmates in a “secure, segregated area” at FMC Carswell (which would essentially require activating a new, all male housing unit and then transferring male inmates there).

Plaintiffs have also suggested additional, minor tweaks to language from the original TRO. A draft Stipulated Order of Permanent Injunction and Final Judgment (the “Proposed Order”) is being filed concurrently with this Joint Status Report. Plaintiffs’ proposed modifications to the TRO’s language are included in the Stipulated Order in redline.²

Separately, with respect to Plaintiffs’ Administrative Procedure Act (“APA”) claim (“Fourth Cause of Action” in the amended complaint) that challenges certain provisions within 28 C.F.R. § 115.42 (specifically, subsections (c) through (g)), Defendants have no objection to those provisions being vacated, held unlawful, and set aside as to Plaintiffs. Plaintiffs believe that under 5 U.S.C. § 706(2) and established Fifth Circuit precedent, vacatur of these provisions should be applicable nationwide and not just to Plaintiffs. Plaintiffs will be prepared to present a condensed argument to the Court, based upon evidence already in the record and arguments previously submitted to the Court, at the January 30 hearing.

¹ See Order Granting Preliminary Injunction, *Doe v. Bondi*, No. 1:25-CV-286-RCL (D.D.C. Nov. 17, 2025) (a copy of which is attached).

² The redline shows the principal substantive modifications; there are also other minor differences in language that are not redlined that do things like change TRO references to the applicable language of a permanent injunction.

Finally, simultaneously with the filing of this Joint Status Report, Plaintiffs are also submitting proposed findings of fact and conclusions of law in support of their requests for injunctive relief and vacatur.

The Parties are hopeful that they can continue working through these and other related issues and believe the upcoming hearing will be productive to get the Court's input. The Parties will also be prepared to conduct a scheduling conference as to Plaintiffs' remaining causes of action.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(d)(1)(B), as amended, no certificate of service is necessary, because this document is being filed with the Court's electronic filing system.

from housing any male inmate within the general female population in any housing unit in which either Plaintiff is housed.

D. Defendants are permanently enjoined from permitting any male inmate to enter or remain in any ~~female-only~~ privacy area (including showers, restrooms, changing areas, and dormitory spaces) to which either Plaintiff has access, such that Plaintiffs are not exposed to male inmates while showering, toileting, dressing, or sleeping.

E. To comply with this order, defendants ~~may, in their discretion, (a) reassign male inmates away from Plaintiffs' housing and privacy areas; or (b) must~~ house ~~such male~~ inmates in a secure, segregated area at FMC Carswell (including the Hospital Unit or a comparable setting) that preserves access to programming and services while preventing access to female-only privacy areas. Nothing in this order requires disciplinary placement of any inmate.

E.F. For any federal prison facility other than FMC Carswell where Plaintiffs Rhonda Fleming and Miriam Crystal Herrera are or will be housed, defendants may, in their discretion, (a) reassign male inmates away from Plaintiffs' housing and privacy areas; or (b) house such inmates in a secure, segregated area at the facility that preserves access to programming and services while preventing access to female-only privacy areas.

F.G. If Defendants contend that compliance with this Stipulated Order of Permanent Injunction would conflict with a specific, existing federal court order protecting a non-party, Defendants shall promptly notify Plaintiffs and the Court in writing, identify the purported conflict, and propose an alternative means of compliance consistent with Plaintiffs' constitutional rights.

G.H. The Court finds that Plaintiffs are incarcerated individuals of limited means. Accordingly, the security requirement of Federal Rule of Civil Procedure 65(c) is waived.

H.I. The Court retains jurisdiction to enforce this Stipulated Order of Permanent Injunction.

SO ORDERED.

_____, 2026.

SIDNEY A. FITZWATER
SENIOR UNITED STATES DISTRICT JUDGE