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2 BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General  
3 ELIZABETH J. SHAPIRO  
Deputy Branch Director  
4 CRISTEN C. HANDLEY, MO Bar No. 69114  
Trial Attorney  
5 United States Department of Justice  
Civil Division, Federal Programs Branch  
6 1100 L Street, NW  
Washington, D.C. 20005  
7 (202) 305-2677  
cristen.handley@usdoj.gov

8 *Counsel for Defendants*

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10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO/OAKLAND DIVISION**

13 Zachary NIGHTINGALE, *et al.*,

14 Plaintiffs,

15 v.

16 U.S. CITIZENSHIP AND IMMIGRATION  
17 SERVICES, *et al.*,

18 Defendants.  
19

No. 3:19-cv-03512-WHO

**DEFENDANTS' THIRTEENTH  
COMPLIANCE REPORT**

20 Pursuant to this Court's December 17, 2020 Order and Judgment, ECF Nos. 89 & 90, and its  
21 October 10, 2023 Minute Order, ECF No. 159, Defendants respectfully submit the following  
22 Thirteenth Compliance Report and accompanying declaration regarding the injunction issued in the  
23 above-captioned matter.

24 1. This is a certified class action brought under the Freedom of Information Act  
25 ("FOIA"). Plaintiffs and class members are noncitizens and attorneys who claim that the U.S.  
26 Department of Homeland Security ("DHS"), U.S. Citizenship and Immigration Services ("USCIS"),  
27 and U.S. Immigration and Customs Enforcement ("ICE") have engaged in an unlawful pattern or  
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1 practice of failing to make timely determinations on FOIA requests for Alien Files (“A-Files”).

2 **The Court’s Injunction**

3 2. On December 17, 2020, following briefing and oral argument, this Court entered  
4 summary judgment in favor of Plaintiffs on their FOIA pattern or practice claims and issued a  
5 nationwide injunction against Defendants. *See* ECF Nos. 89 at 27 & 90 at 1-2.<sup>1</sup> The injunction  
6 established the following three requirements:

- 7 (A) **Adhere to FOIA Timing Requirements:** Defendants are permanently  
8 enjoined from further failing to adhere to the statutory deadlines for  
9 adjudicating A-File FOIA requests, as set forth in 5 U.S.C. §§ 552(a)(6)(A)  
10 and (B);
- 11 (B) **Eliminate the Backlogs:** Within sixty (60) days of this order, defendants  
12 shall make determinations on all A-File FOIA requests in USCIS’s and ICE’s  
backlogs; [and]
- 13 (C) **Quarterly Compliance Reports:** Until further order, defendants shall  
14 provide this court and class counsel with quarterly reports containing  
15 information regarding the number and percentage of A-File FOIA requests  
16 that were filed and timely completed as well as the number and percentage of  
cases that remain pending beyond the twenty or thirty-day statutory periods,  
17 respectively 5 U.S.C. §§ 552(a)(6)(A) and (B). The first compliance report is  
due within ninety (90) days of this order.

18 ECF No. 89 at 27; ECF No. 90 at 1-2.

19 The Court made clear that Defendants are not required to achieve 100% compliance with the  
20 injunction, but instead must reach “substantial compliance within sixty (60) days” of the Order. ECF  
21 No. 89 at 24.

22 **Defendants’ Substantial Compliance in the Previous Reporting Period**

23 3. In the previous (twelfth) reporting period, USCIS remained in substantial compliance  
24 with the Court’s injunction. Specifically, while receiving approximately 119,140 new A-File

25 <sup>1</sup> Defendants filed a notice of appeal of this Court’s Judgment to the U.S. Court of Appeals for the  
26 Ninth Circuit. ECF No. 94. Defendants have since voluntarily dismissed the appeal. ECF No. 114.

1 requests, at the end of the previous period, USCIS’s backlog consisted of just 10 requests and its  
2 timely completion rate was approximately 99.27%. *See* Fourteenth Declaration of Tammy M.  
3 Meckley ¶¶ 7, 10. As in prior reporting periods, none of those backlogged requests was from a  
4 requester in Track 3—*i.e.* a requester with a scheduled immigration proceeding. *Id.* ¶ 6.

5 **Defendants’ Substantial Compliance in the Present Reporting Period**

6 4. USCIS has remained in substantial compliance notwithstanding receiving yet another  
7 unprecedented number of new A-File requests in the present reporting period. *See* Fifteenth  
8 Declaration of Tammy M. Meckley ¶¶ 5-6 (“15th Meckley Decl.”). Specifically, from December  
9 15, 2023 through March 14, 2024, USCIS received approximately 151,961 new A-File requests. *Id.*  
10 ¶ 6. This marks the most A-File requests received in any prior reporting period and the steepest  
11 increase USCIS has experienced from one reporting period to the next. *Id.* Still, USCIS has  
12 maintained a remarkably low backlog of approximately 11 requests, *id.* ¶ 10, none of which comes  
13 from a requester in Track 3, *id.* ¶ 7. For its part, ICE’s A-File backlog has continued to remain at  
14 zero.

15 5. Of the approximately 151,961 new A-File requests received in the current reporting  
16 period, approximately 102,856 were completed, and approximately 102,146 were timely completed.  
17 *Id.* ¶ 9. This reflects a timely completion rate of approximately 99.31% for the current reporting  
18 period. *Id.* Moreover, USCIS processed requests in an average of approximately 19.63 business  
19 days for Track 1 requests; approximately 20.72 business days for Track 2 requests; and  
20 approximately 7.42 business days for Track 3 requests. *Id.* ¶ 8. This demonstrates that USCIS is,  
21 on average, continuing to provide requestors with the greatest need—those in Track 3—responses  
22 substantially quicker than the FOIA requires. *See id.*

23 6. USCIS anticipates that its backlog will remain low and its timely completion rate will  
24 remain high in future reporting periods. *See id.* ¶ 17.

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7. For all these reasons, Defendants respectfully submit that they remain in substantial compliance with the Court’s injunction.

Dated: March 22, 2024

Respectfully submitted,  
  
BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General  
  
ELIZABETH J. SHAPIRO  
Deputy Branch Director

/s/Cristen C. Handley  
CRISTEN C. HANDLEY, MO Bar No. 69114  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street, NW  
Washington, D.C. 20005  
(202) 305-2677  
cristen.handley@usdoj.gov

*Counsel for Defendants*