

1 EXPEDITE
2 No Hearing Set
3 Hearing is Set:
4 Date: August 18, 2023
5 Time: 1:30 p.m.
6 Honorable Mary Sue Wilson

7 STATE OF WASHINGTON
8 THURSTON COUNTY SUPERIOR COURT

9 WASHINGTON STATE
10 DEPARTMENT OF CORRECTIONS
11 and WASHINGTON STATE
12 PATROL,

13 Petitioners,

14 WASHINGTON STATE OFFICE OF
15 THE ATTORNEY GENERAL,

16 Intervenor,

17 v.

18 JULIAN TARVER,

19 Respondent.

NO. 12-2-01779-1

ORDER GRANTING PETITIONER'S
MOTION FOR A PRELIMINARY
INJUNCTION

~~(PROPOSED)~~

MSW

20 This Matter came before the Court for hearing on August 18, 2023, on Petitioner's
21 motion for a preliminary injunction. In reaching its decision, the Court considered the oral
22 arguments of Petitioner's counsel and Respondent as well as the pleadings and orders on file in
23 this matter, including:

- 24 1. Petitioner's motion for a preliminary injunction;
- 25 2. Declaration of Denise Vaughan;
- 26 3. Respondent's oral response to the motion;
- 4. Petitioner's Supplemental Brief Regarding Motion for Preliminary Injunction;
- 5. Declaration of Phyllis Barney;
- 6. Declaration of Heather Bates;

1 Tarver's incarceration. The Court hereby incorporates by reference the findings and conclusions
2 set forth in the December 7, 2012 Order for Permanent Injunction;

3 2. On April 3, 2015, the Court entered an Order Granting Petitioners' and
4 Intervenor's Motion for Additional Permanent Injunctive Relief in this matter. The purpose of
5 the permanent injunction was to prevent Respondent Julian Tarver, an individual who at that
6 time was an inmate in the Department of Correction's (Department or DOC) custody, from
7 abusing the PRA. Specifically, the Court found that Tarver was using the PRA to harass and
8 intimidate the Department, the Washington State Patrol, the Attorney General's Office, and their
9 employees through a request that Tarver had made to the Monroe Police Department for
10 information about a Department employee named Steven Sundberg. The Court also found that
11 the fulfillment of the request by Tarver to Monroe Police Department would likely threaten the
12 security of correctional facilities; threaten the safety or security of staff, inmates, family
13 members of staff, family members of other inmates; and assist Tarver in criminal activity. Based
14 on these findings, the Court permanently enjoined Tarver from receiving records from the
15 Monroe Police Department and submitting public records requests for the same information from
16 the Monroe Police Department. The Court hereby incorporates by reference the findings and
17 conclusions set forth in the December 7, 2012 Order for Permanent Injunction;

18 3. On July 18, 2016, Walla Walla County received a public records request from
19 Tarver for "copies of all election applications/data of Steven Sundberg, who is a county resident,
20 that would show his home mailing address." Steven Sundberg is a DOC staff member who
21 worked at the Washington State Penitentiary. Tarver was incarcerated at the Washington State
22 Penitentiary at the time and had also been housed there on multiple occasions in the past;

23 4. On October 7, 2016, this Court entered a preliminary injunction to prevent the
24 release of records by Walla Walla County to Julian Tarver. These records were related to a public
25 records request that Tarver had submitted to Walla Walla County for the home address of Steven
26 Sundberg. The Court found a preliminary injunction was necessary to prevent Tarver from using

1 the information to harass and intimidate DOC employees, and such disclosure would further
2 threaten correctional facility security as well as the safety of DOC employees and their families;

3 5. On April 17, 2017, this Court entered yet another permanent injunction against
4 Tarver under RCW 42.56.565. This injunction was based on additional requests that Tarver had
5 submitted to Walla Walla County, Clallam County, and Franklin County. The Court specifically
6 found that Tarver's "public records request activity is extensive and disbursed statewide against
7 various state and local agencies" and that given Tarver's history of abusing the PRA, a broad
8 injunction was necessary to protect the Department's staff. As a result, the Court permanently
9 enjoined Tarver from making any request to any state or local agency for the duration of Tarver's
10 incarceration;

11 6. Tarver was released to the Special Commitment Center in May 2023. Shortly
12 thereafter, Tarver began submitting public records requests to the Department and other state
13 agencies. The Department has received twenty-six public records requests since Tarver was
14 released;

15 7. A number of requests are extremely broad and seek records similar to those
16 requests that were the subject of this Court's prior permanent injunctions. In one request (P-
17 36618), Tarver sought all local and DOC headquarters records related to PRA monthly
18 retaliation monitoring reports for more than a decade. In another request (P-36626), Tarver
19 sought all communications between DOC and the Attorney General's Office about him. In
20 another request (P-36725), Tarver sought a public records log that showed requests submitted
21 by eight news organizations. This request is similar to some of the requests that were the subject
22 of the initial motion for a permanent injunction;

23 8. Tarver has also submitted requests to many other public agencies in the short time
24 since Tarver was released from the Department's custody. These agencies include the Attorney
25 General's Office, Evergreen State College, the House of Representatives, the Senate, the
26 Governor's Office, the Department of Health, the Department of Fish and Wildlife, the Office

1 of Financial Management; the Liquor and Cannabis Board, the Auditor's Office, the Office of
2 Correctional Ombuds, and the City of Bremerton. The scope of Tarver's request activity in such
3 a short amount of time demonstrates that Tarver intended to return to flooding various agencies
4 with public records requests once Tarver was released from Department custody;

5 9. The Court finds Tarver's explanation that their requests were limited to seeking
6 records about them to be not credible. A number of requests have no apparent relationship to
7 Tarver. These requests include, but are not limited to, a request for records about a former
8 Department doctor (P-36726); all PREA audit records from January 1, 2020 to present (P-
9 36728), and a copy of all records created on one employee's work computer and work cell phone
10 (P-36729);

11 10. Tarver's requests to other agencies rebut any notion that Tarver's request activity
12 is limited to seeking records about Tarver. For example, Tarver repeatedly sought copies of
13 public records logs of other agencies. In another request to the Attorney General's Office, Tarver
14 sought all records related to "paper checking" (i.e. incarcerated individuals researching another
15 incarcerated individual's legal convictions). In another request to the Attorney General's Office,
16 Tarver sought a complete breakdown of the salaries of staff in the Corrections Division and
17 records showing fines levied against the State of Washington. In a request to the Liquor and
18 Cannabis Board, Tarver sought "[a]ll internal and external emails related to the music concert at
19 the George called Beyond Wonderland"; and

20 11. The Department has demonstrated a likelihood of success in showing that
21 Tarver's requests meet the criteria in RCW 42.56.565(2)(c)(i).

22 II. CONCLUSIONS OF LAW

23 Based on the above findings, the Court concludes that:

24 1. Petitioner has met the requirements for a preliminary injunction. The Department
25 has shown that it has a clear and legal right to relief under RCW 42.56.565(2)(c)(i), RCW
26 71.09.120(3) and this Court's prior orders;

This order does not apply
to the ^{United States} Department of Justice.

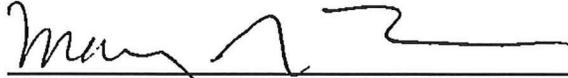
1 court approval pending a hearing on the Department's motion for a permanent injunction. Tarver
2 is also barred from inspecting, copying, or receiving any records not yet provided to Tarver that
3 are responsive to any and all PRA requests that Tarver has submitted to any state or local agency.

4 3. Tarver is prohibited from requesting and soliciting or directing others to request
5 information that Tarver is barred from receiving by this Order and the prior orders;

6 4. All persons who are aware of this order, have been served with this order, or
7 otherwise provided notice of this order, and who violate or assist or participate in the violation
8 of this order may be subject to contempt. Upon the motion of Petitioner or by the Court's own
9 initiative, any party found to be in willful violation of this order may be required to appear and
10 show cause why they should not be held in contempt; and

11 5. Petitioner's counsel will provide a copy of this Order to Respondent.

12 DATED this 18 day of August, 2023.

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14 _____
15 THE HONORABLE MARY SUE WILSON
Thurston County Superior Court Judge

16 Presented by:

17 ROBERT W. FERGUSON
18 Attorney General

19 Tim Feulner 8-18-2023
TIMOTHY J. FEULNER, WSBA #45396
20 KATHERINE J. FABER WSBA #49726
Assistant Attorneys General
21 Corrections Division

22 Tarver by Form 8-18-23
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