

1 EXPEDITE
2 No Hearing Set
3 Hearing is Set:
4 Date: April 28, 2017
5 Time: 1:30 p.m.
6 Honorable James J. Dixon

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 PETITIONERS'
MOTION FOR ADDITIONAL
PERMANENT INJUNCTIVE RELIEF

~~(PROPOSED)~~

[Clerk's Action Required]

20 This Matter came before the Court for hearing on April 28, 2017, on Petitioners'
21 motion for a permanent injunction. In reaching its decision, the Court considered the oral
22 arguments of Petitioners' counsel and Respondents as well as the pleadings and orders on file
23 in this matter, including; *but not limited to:*

- 24 1. Petitioners' motion for a permanent injunction;
- 25 2. Petitioners' motion for a temporary restraining order dated 8/9/2016;
- 26 3. The Declaration of Berna Bronwyn;
4. Petitioners' motion for a preliminary injunction dated 9/27/16;
5. Petitioners' motion for a temporary restraining order dated 11/21/16;

- 1 6. Declaration of Denise Vaughn;
- 2 7. Declaration of Tammy Kennedy;
- 3 8. Petitioners' motion for a permanent injunction;
- 4 9. Respondent's response to motion for a permanent injunction; and
- 5 10. Petitioners' reply to response to motion for permanent injunction.

6 I. FINDINGS OF FACT

7 Based on the arguments of counsel for Petitioners and Respondent and the evidence
8 presented by the parties, the Court finds:

9 1. On December 7, 2012, the Court entered an Order Granting Petitioners' and
10 Intervenor's Motion for Permanent Injunction in this matter. The purpose of the permanent
11 injunction was to prevent Respondent Julian Tarver, an inmate in the Department of
12 Correction's (Department or DOC) custody, from abusing the Public Records Act (PRA).
13 Specifically, the Court found that Mr. Tarver was using the PRA to harass and intimidate the
14 Department, the Washington State Patrol, the Attorney General's Office, and their employees.
15 The Court also found that the fulfillment of the requests to the Department and the Washington
16 State Patrol would likely threaten the security of correctional facilities; threaten the safety or
17 security of staff, inmates, family members of staff, family members of other inmates; and assist
18 Mr. Tarver in criminal activity. Based on these findings, the Court permanently enjoined Mr.
19 Tarver from submitting PRA requests to Petitioners, absent court approval, for the duration of
20 his incarceration. The Court hereby incorporates by reference the findings and conclusions set
21 forth in the December 7, 2012 Order for Permanent Injunction.

22 2. On April 3, 2015, the Court entered an Order Granting Petitioners' and
23 Intervenor's Motion for Additional Permanent Injunctive Relief in this matter. The purpose of
24 the permanent injunction was to prevent Respondent Julian Tarver, an inmate in the
25 Department's custody, from abusing the PRA. Specifically, the Court found that Mr. Tarver
26 was using the PRA to harass and intimidate the Department, the Washington State Patrol, the

1 Attorney General's Office, and their employees through a request that he had made to the
2 Monroe Police Department for information about a Department employee named Steven
3 Sundberg. The Court also found that the fulfillment of the request by Mr. Tarver to Monroe
4 Police Department would likely threaten the security of correctional facilities; threaten the
5 safety or security of staff, inmates, family members of staff, family members of other inmates;
6 and assist Mr. Tarver in criminal activity. Based on these findings, the Court permanently
7 enjoined Mr. Tarver from receiving records from the Monroe Police Department and
8 submitting public records requests for the same information from the Monroe Police
9 Department. The Court hereby incorporates by reference the findings and conclusions set forth
10 in the December 7, 2012 Order for Permanent Injunction.

11 3. On July 18, 2016, Walla Walla County received a public records request from
12 Mr. Tarver for "copies of all election applications/data of Steven Sundberg, who is a county
13 resident, that would show his home mailing address." Steven Sundberg is a DOC staff
14 member who currently works at the Washington State Penitentiary. Mr. Tarver is currently
15 incarcerated at the Washington State Penitentiary and has also been housed there on multiple
16 occasions in the past. Records will be released by Walla Walla County if no action is taken.

17 4. On October 7, 2016, this Court entered a preliminary injunction to prevent the
18 release of records by Walla Walla County to Julian Tarver. These records were related to a
19 public records request that Mr. Tarver had submitted to Walla Walla County for the home
20 address of Steven Sundberg. The Court found a preliminary injunction was necessary to
21 prevent Mr. Tarver from using the information to harass and intimidate DOC employees, and
22 such disclosure would further threaten correctional facility security as well as the safety of
23 DOC employees and their families.

24 5. On October 19, 2016, Clallam County Auditor's Office received a public
25 records request from Mr. Tarver. In this request, Mr. Tarver sought the home addresses of a
26 number of Department employees. Additionally, Franklin County Auditor's Office received

1 public records request from Mr. Tarver on October 31, 2016. In this request, Mr. Tarver
2 sought the home addresses of a number of Department employees.

3 6. The possession of personal information about staff by offenders can
4 compromise facility safety and security of the Department's institutions and its staff.
5 Offenders can use personal information of staff to attempt to manipulate these staff members.
6 The gathering of such personal information can encourage staff to treat offenders disparately,
7 either by avoidance or disproportionately intense supervision.

8 7. The Court finds the Petitioners have met the requirements for injunctive relief
9 under RCW 42.56.565, as set forth above. Without further injunctive relief, disclosure of the
10 information requested of Walla Walla County, Clallam County, and Franklin County would
11 enable Mr. Tarver to use the information to harass and intimidate DOC employees, and such
12 disclosure would further threaten correctional facility security, as well as the safety of DOC
13 employees and their families.

14 8. Petitioners' public records request activity is extensive and disbursed statewide
15 against various state and local agencies. Given Plaintiff's history of abusing the PRA to target
16 Department of Corrections' staff, a broad injunction is necessary to protect its staff.

17 *9. Respondent did not file and serve a Brief, as required per Case Schedule*
II. CONCLUSIONS OF LAW order entered March 23, 2017.

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

19 1. Petitioners have met the requirements for a permanent injunction under RCW
20 42.56.565(2)(a);

21 2. Petitioners have shown by a preponderance of the evidence that these requests
22 to the Walla Walla County, Clallam County, and Franklin County were made to harass and/or
23 intimidate Department employees;

24 3. Petitioners have shown by a preponderance of the evidence that these requests
25 to the Walla Walla County, Clallam County, and Franklin County would threaten the safety
26 and security of correctional facilities;

1 4. Petitioners have shown by a preponderance of the evidence that these requests
2 would threaten the safety and security of Department employees and their families;

3 5. Petitioners have satisfied the grounds for issuing an injunction under RCW
4 42.56.565(c)(i)-(iii). Each ground is independently sufficient to justify permanent injunctive
5 relief pursuant to RCW 42.56.565 and CR 65. Even if the one of the grounds were found not
6 to meet this standard by a higher court, the remaining ones either individually or cumulatively
7 would meet this standard; and

8 5. Given Mr. Tarver's past and ongoing use of the PRA to harass and intimidate
9 DOC and its employees despite the Court's prior orders, it is necessary and appropriate to issue
10 additional permanent injunctive relief to preserve to prevent Mr. Tarver from abusing the PRA.

11 6. Petitioners have shown by a preponderance of the evidence that an injunction
12 barring Mr. Tarver from making requests to any state or local agency absent court approval and
13 subject to limited exceptions outlined below is necessary to protect the Petitioners' and their
14 employees from continued harassment and intimidation; to protect against disclosure of
15 information that would threaten correctional facility security; and to protect against disclosure
16 of information that would threaten the safety and security of Petitioners' employees and their
17 families.

18 **III. PERMANENT INJUNCTION**

19 Based on the above findings, it is hereby **ORDERED**:

20 1. The prior permanent injunctions remain in full force and effect and is
21 incorporated herein by reference. Under this Order, the Court permanently enjoined Mr.
22 Tarver from submitting PRA requests to Petitioners, absent court approval, for the duration of
23 his incarceration;

24 2. Mr. Tarver is prohibited from requesting to inspect, copy, or receive public
25 records pursuant to the PRA from any state or local agency absent prior court approval for the
26 duration of his incarceration. However, this does not prevent Mr. Tarver, two times a year, at

1 | least six months apart by date of request from inspecting his own DOC central file under the
2 | rules in effect at the time of such request that allow inmates to inspect their own central file. A
3 | request to review his own personal records, to the extent allowed by any other inmate, may
4 | also be made by Mr. Tarver at any time upon a showing of good cause to the DOC. Mr. Tarver
5 | is also barred from inspecting, copying, or receiving any records not yet provided to him that
6 | are responsive to any and all PRA requests that he has submitted to any state or local agency.

7 | 3. Mr. Tarver is prohibited from requesting and soliciting or directing others to
8 | request information that he is barred from receiving by this Order and the prior orders;


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

14 | 5. Petitioners will provide a copy of this Order to Respondent.

15 | DATED this 25 day of July, 2017.

16 | 6. *the hearing scheduled for April 28, 2017, at 1:30 p.m. is stricken*

JJD

17 | 
18 | HONORABLE JAMES J. DIXON
19 | Thurston County Superior Court Judge

19 | Presented by:

20 | ROBERT W. FERGUSON
21 | Attorney General

22 | TIMOTHY J. FEULNER, WSBA #45396
23 | KATHERINE J. FABER WSBA #49726
24 | Assistant Attorneys General
25 | Corrections Division

JJD