1	□ EXPEDITE □ No Hearing Set			
2	 ✓ Hearing is Set: Date: August 18, 2023 Time: 1:30 p.m. Honorable Mary Sue Wilson 			
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6	STATE OF WASHINGTON THURSTON COUNTY SUPERIOR COURT			
7	WASHINGTON STATE	NO. 12-2-01779-1		
8	DEPARTMENT OF CORRECTIONS			
9	and WASHINGTON STATE PATROL,	ORDER GRANTING PETITIONER'S MOTION FOR A PRELIMINARY	•	
10	Petitioners,	INJUNCTION MS	N	
11	WASHINGTON STATE OFFICE OF	,-(FROPUSED)		
12	THE ATTORNEY GENERAL,			
13	Intervenor,		-	
14	v. .			
15	JULIAN TARVER,			
16	Respondent.			
17	This Matter came before the Court for hearing on August 18, 2023, on Petitioner's			
18	motion for a preliminary injunction. In reaching its decision, the Court considered the oral			
19	arguments of Petitioner's counsel and Respondent as well as the pleadings and orders on file in			
20	this matter, including:			
21	1. Petitioner's motion for a preliminary injunction;			
22	2. Declaration of Denise Vaughan;			
23	3. Respondent's oral response to the	motion;		
24	4. Petitioner's Supplemental Brief R	egarding Motion for Preliminary Injunction;		
25	5. Declaration of Phyllis Barney;	5. Declaration of Phyllis Barney;		
26	6. Declaration of Heather Bates;			
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1	7.	Declaration of Michael Fulmer;	
2	8.	Declaration of Angela Hoover;	
3	9.	Declaration of LaDona Jensen;	
4	10.	Declaration of Mary Leider;	
5	11.	Declaration of Tina Lymath;	
6	12.	Declaration of Katherine MacKinnon;	
7	13.	Declaration of Anne Marie Masia;	
8	14.	Declaration of Samina Mays;	
9	15.	Declaration of Missy Norton;	
10	16.	Declaration of Patricia Smith;	
11	17.	Declaration of Andrea Sterzer; and	
12	18.	Declaration of Randi Stratton.	
13	I. FINDINGS OF FACT		
14	Based on the arguments of Petitioner's counsel and Respondent and the evidence		
15	presented by the parties, the Court finds:		
16	1.	On December 7, 2012, the Court entered an Order Granting Petitioner's and	
17	Intervenor's Motion for Permanent Injunction in this matter. The purpose of the permanent		
18	injunction was to prevent Respondent Julian Tarver, an individual who at that time was an inmate		
19	in the Department of Correction's (Department or DOC) custody, from abusing the Public		
20	Records Act (PRA). Specifically, the Court found that Tarver was using the PRA to harass and		
21	intimidate the Department, the Washington State Patrol, the Attorney General's Office, and their		
22	employees. The Court also found that the fulfillment of the requests to the Department and the		
23	Washington State Patrol would likely threaten the security of correctional facilities; threaten the		
24	safety or security of staff, inmates, family members of staff, family members of other inmates;		
25	and assist Tarver in criminal activity. Based on these findings, the Court permanently enjoined		
26	Tarver from submitting PRA requests to Petitioners, absent court approval, for the duration of		

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Tarver's incarceration. The Court hereby incorporates by reference the findings and conclusions
 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 Intervenor's Motion for Additional Permanent Injunctive Relief in this matter. The purpose of 4 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 information about a Department employee named Steven Sundberg. The Court also found that 10 the fulfillment of the request by Tarver to Monroe Police Department would likely threaten the 11 12 security of correctional facilities; threaten the safety or security of staff, inmates, family members of staff, family members of other inmates; and assist Tarver in criminal activity. Based 13 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;

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

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

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the information to harass and intimidate DOC employees, and such disclosure would further
 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 Tarver under RCW 42.56.565. This injunction was based on additional requests that Tarver had 4 submitted to Walla Walla County, Clallam County, and Franklin County. The Court specifically 5 found that Tarver's "public records request activity is extensive and disbursed statewide against . 6 various state and local agencies" and that given Tarver's history of abusing the PRA, a broad 7 injunction was necessary to protect the Department's staff. As a result, the Court permanently 8 enjoined Tarver from making any request to any state or local agency for the duration of Tarver's 9 10 incarceration;

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

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

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

of Financial Management; the Liquor and Cannabis Board, the Auditor's Office, the Office of
 Correctional Ombuds, and the City of Bremerton. The scope of Tarver's request activity in such
 a short amount of time demonstrates that Tarver intended to return to flooding various agencies
 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 (P9 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).

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II. CONCLUSIONS OF LAW

Based on the above findings, the Court concludes that:

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

2. Petitioner has demonstrated that it has a well-grounded fear of an immediate
 invasion of that right based on the release of records to Tarver by the Department;

3. Petitioner has demonstrated that a preliminary injunction is necessary to prevent
irreparable injury. Applying the standard in RCW 42.56.565(2)-(5), Petitioner has demonstrated
that it is entitled to a preliminary injunction preventing the release of the records pending a
hearing on a motion for a permanent injunction;

The standard in *Tyler Pipe Industries, Inc. v. State Department of Revenue*, 96
Wn.2d 785, 792, 638 P.2d 1213 (1982), has been superseded by the more specific injunction
provision in RCW 42.56.565(2)-(5). As such, the Court does not need to evaluate the motion
under *Tyler Pipe*. However, even if *Tyler Pipe* did apply this case, Petitioner would still be
entitled to an injunction under that standard. Petitioner has a clear legal right under RCW
42.56.565. Petitioner has also demonstrated that it has a well-grounded fear of an immediate
invasion of that right based on the release of records to Tarver;

14 5. Petitioner has demonstrated that the release of these records to Tarver will result
15 in actual and substantial injury and will cause irreparable harm;

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The equities and public interest favor granting injunctive relief; and

17 7. Given Tarver's history and ongoing use of the PRA to harass and intimidate the
18 Department and its employees, it is necessary and appropriate to issue a preliminary injunction
19 to preserve the status quo until Petitioner's motion for a permanent injunction can be heard.

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III. PRELIMINARY INJUNCTION

Based on the above findings, it is hereby ORDERED:

The prior permanent injunctions remain in full force and effect and the prior
 findings of fact and conclusions of law are incorporated herein by reference;

24 2. Tarver is prohibited from requesting to inspect, copy, or receive public records
25 pursuant to the PRA from the Chief Clerk of the House, the Secretary of the Senate, any state or
26 local agency, and any other entity subject to the Washington Public Records Act absent prior

This order does not upply united states to the Department of Justice. court approval pending a hearing on the Department's motion for a permanent injunction. Tarver 1 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. ż. Tarver is prohibited from requesting and soliciting or directing others to request 4 5 information that Tarver is barred from receiving by this Order and the prior orders; 4. 6 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 5. Petitioner's counsel will provide a copy of this Order to Respondent. 11 DATED this / 6 day of Manual 2023. 12 13 14 THE HONORABLE MARY SUE WILSON Thurston County Superior Court Judge 15 16 Presented by: 17 **ROBERT W. FERGUSON** Attorney General 18 8-18-2023 19 HY J. FEULNER, WSBA #45396 KATHERINE J. FABER WSBA #49726 20 Assistant Attorneys General **Corrections Division** 21 22 Tarver by 20m 8-18-23 23 24 25 26

ORDER GRANTING PETITIONER'S MOTION FOR A PRELIMINARY INJUNCTION