

1 Joe Shaeffer, WSBA #33273
MacDonald Hoague & Bayless
2 On behalf of The American Civil Liberties
Union of Washington Foundation
3 705 Second Avenue, Suite 1500
Seattle, WA 98104-1745
4 206-622-1604

5 Katherine M. Forster, CA Bar #217609
Munger, Tolles & Olson LLP
6 350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071
7 213-683-9538

8
9 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT RICHLAND

10 JOHN DOE 1; JOHN DOE 2; JANE
DOE 1; JANE DOE 2; JANE DOE 3;
11 and all persons similarly situated,

12 Plaintiffs,

13 v.

14 WASHINGTON STATE
DEPARTMENT OF CORRECTIONS;
15 STEPHEN SINCLAIR, Secretary of The
Department of Corrections, in his official
16 capacity,

17 Defendants,

18 and

19 BONNEVILLE INTERNATIONAL,
INC. a Utah Corporation, d.b.a KIRO
20 Radio 97.3 FM; THE MCCLATCHY
COMPANY, LLC, a California Limited
21 Liability Company, d.b.a. The Tacoma
News Tribune; and . ,
22 an individual,

23 Interested Parties.

No. 4:21-cv-05059-TOR

*EXPEDITED UNOPPOSED MOTION
FOR TEMPORARY RESTRAINING
ORDER TO PRESERVE THE
STATUS QUO*

April 8, 2021
Without Oral Argument

1 Come now Plaintiffs, by and through their counsel of record, and
2 respectfully move this Court for a Temporary Restraining Order preventing
3 disclosure of requested records during the briefing and consideration of the
4 contemporaneously filed Motion for Preliminary Injunction.

5 Plaintiffs' counsel has contacted the Assistant Attorney General representing
6 the Defendants in this matter to seek their agreement not to disclose records while
7 the Motion for Preliminary Injunction is pending, and in order to allow this Court
8 to consider this motion on a 30-day briefing schedule. Defense counsel has stated
9 that while Defendants do not *stipulate* to a temporary restraining order, she has
10 represented that the Defendants *do not oppose* a temporary restraining order
11 preserving the status quo during the briefing and consideration of the motion for
12 preliminary injunction. Because the Defendants will not agree to withhold records
13 during the pendency of this motion absent a court order enjoining them from doing
14 so, this Motion for Temporary Restraining Order is necessary.

15 The same standards that govern a Preliminary Injunction govern a motion
16 for Temporary Restraining Order. Plaintiffs are entitled to preliminary injunctive
17 relief on their constitutional claims if they can establish (1) a likelihood of success
18 on the merits; and (2) that irreparable harm will ensue if temporary relief is not
19 granted. The Court should also consider whether Plaintiffs have an adequate
20 remedy at law, and whether the balance of the equities tips in their favor. For the
21 same reasons set forth in their Motion for Preliminary Injunction, which is
22 incorporated here fully by reference, Plaintiffs meet this standard.

1 Plaintiffs have shown a substantial likelihood of prevailing on the merits of
2 their constitutional claims. As for irreparable harm, if released during the pendency
3 of the Motion for Preliminary Injunction will be rendered moot. Once records have
4 been released, there would be no turning back, and Plaintiffs' safety and lives
5 would be placed in great peril. Plaintiffs simply have *no* remedy at law if these
6 records are released, and the balance of the equities tips sharply in their favor.
7 Plaintiffs face irreparable and substantial harm in the absence of an injunction. By
8 contrast, DOC will not be prejudiced in any way by entry of a preliminary
9 injunction. Indeed, the public interest is served by keeping the requested records
10 confidential as they were intended to be, not by their disclosure. And, any public
11 interest in disclosure is vastly outweighed here by the irreparable harm Plaintiffs
12 face.

13 It is for these reasons that the Court should issue a brief Temporary
14 Restraining Order preventing the release of any records requested that are at issue
15 in this litigation. This will afford the parties (and interested parties, if they desire to
16 participate) to fully brief the issues, and will allow this Court to thoughtfully
17 consider the case before issuing its preliminary ruling.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

<p>MacDonald Hoague & Bayless</p> <p>By: <u>s/ Joe Shaeffer</u> Joe Shaeffer, WSBA #33273 joe@mhb.com Attorneys for Plaintiffs On behalf of The American Civil Liberties Union of Washington Foundation</p> <p>705 Second Avenue, Suite 1500 Seattle, WA 98104 Tel: 206.622.1604 Fax: 206.343.3961</p>	<p>Munger, Tolles & Olson LLP</p> <p>By: <i>Seeking Pro Hac Vice Admission</i> Katherine M. Forster, CA Bar #217609 Katherine.Forster@mto.com Attorneys for Plaintiffs</p> <p>350 South Grand Avenue, 50th Floor Los Angeles, CA 90071 Tel: 213.683.9538 Fax: 213.593.2838</p>
<p>American Civil Liberties Union of Washington Foundation</p> <p>By: <u>s/ Nancy Talner</u> Nancy Talner, WSBA #11196 TALNER@aclu-wa.org By: <u>s/ Lisa Nowlin</u> Lisa Nowlin, WSBA #51512 lnowlin@aclu-wa.org By: <u>s/ Antoinette M. Davis</u> Antoinette M. Davis, WSBA #29821 tdavis@aclu-wa.org</p> <p>Attorneys for Plaintiffs P.O. Box 2728 Seattle, WA 98111 Tel: 206.624.2184</p>	<p>Disability Rights Washington</p> <p>By: <u>s/ Ethan D. Frenchman</u> Ethan D. Frenchman, WSBA #54255 ethanf@dr-wa.org By: <u>s/ Danny Waxwing</u> Danny Waxwing, WSBA #54225 dannyw@dr-wa.org By: <u>s/ Heather McKimmie</u> Heather McKimmie, WSBA #36730 heatherm@dr-wa.org By: <u>s/ David Carlson</u> David Carlson, WSBA #35767 davidc@dr-wa.org</p> <p>Attorneys for Plaintiffs 315 5th Avenue S, Suite 850 Seattle, WA 98104 Tel: 206.324.1521</p>