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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

JOHN DOE A, a minor by and through his legal guardians Richard Roe and Jane Roe; and JOHN DOE B, a married man; as individuals and on behalf of others similarly situated;

Plaintiffs,

v.

WASHINGTON STATE PATROL,

Defendant

No. 13-2-41107-5 SEA

DECLARATION OF MAIA CHRISTOPHER IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

I, Maia Christopher, declare as follows:

1. I am the Executive Director of the Association for the Treatment of Sexual Abusers (ATSA) ATSA is an international, multi-disciplinary organization that utilizes research, education, public policy analysis and advocacy, and community-based strategies to prevent sexual abuse. Through the promotion of effective assessment, treatment and management of individuals who have sexually abused or are at risk to abuse, ATSA strives to enhance community safety, reduce sexual recidivism, protect victims and vulnerable populations, and transform the lives of everyone affected by sexual abuse.

2. As an international organization, ATSA serves as a meeting point for numerous professional disciplines that work to prevent sexual abuse. Professionals and experts in the fields of criminal justice and criminology, mental health, law enforcement, public health, juvenile justice, child welfare and protection, restorative justice, corrections, probation and parole, and victim advocacy both help to inform and seek out ATSA's opinions and positions on research, best practices, and policy regarding sex offender treatment and management. ATSA strives to be a conduit for this information and assist policy makers in developing and implementing best practice standards for sexual offender policies that maximizes community safety, holds offenders accountable, and facilitates the prevention of sexual abuse.
3. Prior to joining ATSA, I spend 19 years providing treatment to incarcerated individuals who had committed violent offenses both in Canada and the United States. I am well versed in the literature surrounding sex offender treatment and public access to sex offender registration information. I have provided training regarding treatment and prevention of sexual abuse at national and international conferences such as ATSA's Annual Research and Treatment Conference, the National Sexual Assault Conference, the National Center for Missing and Exploited Children Safe to Compete summit. As well, I am currently on the advisory committee of the National Sexual Violence Resource Center, PreventConnect, a project of the California Coalition Against Sexual Assault, and a peer reviewer for the National Center on Sexual Behavior of Youth.
4. Given the devastating impact that sexual abuse has on individuals and communities, it is ideal that the strategies being implemented to manage the behaviors of individuals who have perpetrated sexual abuse are informed by emerging research, evaluation and best practices to bolster public safety. Often times however, in an attempt to decrease the harm caused by individuals who offend, policies are put into practice that have

1 consequences that do not wholly support the goal of maximizing community safety. Sex
2 offender notification laws and level systems are both examples of policies that have had
unintended negative consequences.

- 3 5. The intent and purpose of a level system is to enhance community safety by
4 differentiating between offenders who present a high, moderate, or low risk for re-
5 offense. This then allows professionals to identify an appropriate level of supervision,
6 registration, and notification which enables better allocation and use of limited resources;
7 provides more informative and recognizable information to the public about the
8 individuals who offend within their communities; and provides guidance for law
9 enforcement and registries – identifying those individuals who should receive more
10 attention and why.

11 **Overview of Sexual Offender Level Systems**

- 12 6. There are two types of level systems for sexual offenders---conviction based systems and
13 risk assessment based systems. Although preliminary, research to date has shown that
14 conviction based systems are neither accurate nor effective for identifying a sexual
15 offender's risk for re-offense. This is due to factors such as the plea bargaining process,
16 which can result in a conviction that does not encapsulate the actual nature of the offense
17 (i.e. rape being pled down to assault), as well as offenders often being placed in higher
18 risk categories due to the name of the conviction that may not reflect the actual behavior
19 which was perpetrated. Thus, the resulting net widening effect of conviction based
20 systems does not allow for adequate differentiation between higher risk and lower risk
21 offenders in a meaningful way. Conviction based systems also typically overestimate or
22 underestimate an offender's risk due to the variability of sentencing practices; are far
23 more likely to obscure important differences among registered offenders; and endorse a
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“one size fits all” approach for classification of sexual offenders (Ackerman et al., 2011; Tabachnick & Klein, 2011).

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7. Washington is one of approximately 25 states that has developed a process to determine an offender’s risk level by utilizing validated risk assessment tools to make effective treatment and management decisions for high to low risk sexual offenders (Daly, 2008). The use of an actuarial risk assessment instrument to make decisions such as these is supported by the general criminogenic and risk assessment literature (Andrews & Bonta, 2006; Andrews & Bonta, 2007; Hanson et al., 2009). A risk assessment based system assists law enforcement and registries to appropriately allocate their limited resources, energy, and time to the higher risk offenders, while also providing useful information to the community on whom they should be aware of and why. This process helps maximize community safety as well as empowering the community with information to help prevent reoffending.
8. In Washington, sexual offenders are assessed by the End of Sentence Review Committee (ESRC) and placed within one of three categories: Level 1 = low risk of sexual re-offense within the community at large; Level 2 = moderate risk of sexual re-offense within the community at large; and Level 3 = high risk of sexual re-offense within the community at large. ESRC utilizes the Static-99R (Hanson & Thornton, 1999; Helmus, Thornton, Hanson & Babchishin, 2012) for all adult sexual offenders and the Washington State Sex Offender Risk Level Classification Tool for juvenile sexual offenders. The Static-99R is the most commonly used and most well-researched actuarial risk assessment instrument in the world and has demonstrated good predictive accuracy in multiple validation studies over the past several years. The utilization of empirically validated risk instruments to differentiate between offender groups, such as Washington’s level system, increases the effectiveness of supervision and management of those offenders. Risk assessment

1 procedures have consistently been shown to improve the accuracy of predictions by
2 setting thresholds for decision-making and by standardizing factors that professionals
3 readily recognize as key diagnostic indicators. Additionally, use of validated risk
4 assessment instruments increase the odds of successfully prognosticating future behavior
5 (Cullen et al., 2009).

6 **Risk and Recidivism in Sexual Offenders**

7 9. Some sexual offenders are going to reoffend and steps should be taken to do everything
8 possible to prevent that from happening. However, sexual offenders are a diverse
9 population with varying levels of risk and rates of re-offense reflect these differences.
10 Research has demonstrated that recidivism rates differ based upon the type of sexual
11 offending, the offender's age at time of release, and the length of time the offender has
12 been offense free in the community. A 2004 study showed that:

- 13 • Incest offenders recidivated at a rate of 6% after 5 years, 9% after 10 years
14 and 13% after 15 years
- 15 • Adults who offender against adults recidivated at a rate of 14% after 5 years,
16 21% after 10 years and 24% after 15 years; and
- 17 • Individuals who offended against boys recidivated at a rate of 23% after 5
18 years, 28% after 10 years and 35% after 15 years.
- 19 • When all sexual offender populations were combined, recidivism rates were
20 similar to those of rapists: 14% after 5 years, 20% after 10 years and 24%
21 after 15 years.
- 22 • Sexual offenders with prior sex offenses also had twice the rate of recidivism
than first time offenders, while older offenders (50+ at time of release)
recidivated at half the rate of younger offenders (Harris & Hanson, 2004).

23 10. It is also important to note that several studies have shown that the majority of new
24 sexual assaults resulting in arrest are not committed by registered sex offenders, rather by
25 first time offenders (Bureau of Justice Statistics, 2003; Sandler, Freeman, & Socia, 2008).
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1 Arrest data naturally underestimates true re-offense rates because some crimes are never
2 detected or reported to authorities; however, the available research suggests that after two
3 decades the majority of convicted sex offenders have not sexually recidivated.

4 **The Impact of Undifferentiated Identification of Sex Offenders to the General Public**

5 11. However, when all individuals are treated in the same manner (i.e. assessed only by the
6 legal designation of their offense or all individuals receive the same level of notification),
7 it is difficult for members of the community to distinguish between those offenders most
8 at risk of offending from lower risk offenders. Additionally, evidence is clear that more
9 than 80% of offenses are committed by perpetrators known to the victim (Snyder, 2000).
10 Although all forms of notifications have some risk that the survivors of sexual abuse can
11 be identified by their relationship to the perpetrator, the risk to the survivor continues to
12 rise as more offense categories and risk levels are added to the field of notification.

13 12. Further, all offender populations face re-entry difficulties and these problems are often
14 exacerbated for registered sexual offenders. Employment, social bonds, and housing
15 stability increase the likelihood of successful reintegration for criminal offenders into our
16 communities (Kruttschnitt, Uggen, & Shelton, 2000; Petersilia, 2003; Uggen, 2002;
17 Uggen, Manza, & Behrens, 2004; Willis & Grace, 2009), while obstacles to reintegration
18 reduce investment in conformity and increase the likelihood that a criminal offender will
19 resume a life of crime (Hirshi, 1969; Travis, 2005). Therefore, social policies, such as
20 overly broad community notification, tend to remove individuals from prosocial and
21 positive supports, as well as employment and housing opportunities, thus potentially
22 aggravating risk factors for lower risk offenders who may otherwise have successfully
23 reintegrated into the community. These policies are unlikely to be in the best interest of
24 public safety.
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13. Current research strongly indicates that individuals who sexually offend are an extremely heterogeneous population who differ in their risk to offending, their potential of reoffending, and the diversity of their criminal experiences. To maximize community safety, treatment and management of offenders is enhanced by providing more intensive services to those individuals at the highest risk of reoffending as determined by an empirically validated risk assessment tool and an assessment of the offender's individualized risk factors and community re-entry needs to ensure basic lifestyle stability. Conversely, overly broad application of strategies such as community notification of all offenders, including individuals assessed as having lower potential to reoffend, creates significant difficulties for those lower risk offenders to successfully re-integrate into the community in a manner which maximizes, rather than compromises, community safety.

14. The impact of notification laws are also felt by the families of convicted sexual offenders. Several studies have identified a variety of consequences for the families of registered sex offenders (RSOs) with the primary concerns related to RSO obtaining employment and for the family to maintain stable housing. Those who lived with an RSO were more likely to experience threats and harassment by neighbors. (Farkas & Miller, 2007; Levenson & Tewksbury, 2009). As noted, these factors tend to make it more difficult for individuals to successfully reintegrate into the community and may contribute to an increased risk of re-offense which has the unintended consequence of weakening, rather than strengthening, community safety.

15. Paradoxically then, the overly broad identification of sexual offenders to the community may be meant to enhance community safety but may actually contribute to factors that may lead to increased technical violations and new offences. For example, research by Prescott & Rockoff (2008) indicated that while some first time offenders are deterred by

1 notification sanctions, the imposition of community notification on convicted offenders
2 *ex post* may make them more likely to recidivate. Letourneau et al (2010) researched
3 whether South Carolina's sex offender registration and notification (SORN) policy was
4 associated with a general deterrent effect on adult sexual crimes and the results of this
5 study indicated that the 1995 SORN policy was associated with a general deterrent effect
6 on the commission of first-time sexual crimes. However, there was no indication of
7 deterrence after South Carolina implemented its online sex offender registry in 1999,
8 indicating that online notification did not influence general deterrence of adult sexual
9 crimes.

10 **Conclusion**

11 16. Research to date suggests that broad-based community notification for all sexual
12 offenders is not supported and often has the unintended consequences of creating
13 obstacles to community reentry that may actually compromise, rather than promote,
14 public safety. Empirically derived risk assessment models based on factors known to
15 correlate with recidivism should be used to identify those who pose the greatest threat to
16 public safety. In this way, the public is better informed about offenders likely to commit
17 new sexual offenses. At the same time, collateral consequences which create
18 destabilization and potentially aggravate risk factors for lower risk offenders could be
19 minimized leading to enhanced community safety.

22 17. Washington's current risk assessment based level system and community notification
23 practices adhere to empirically guided practices, resulting in a more informed public and
24 enhanced protection for the community while also minimizing the collateral
25 consequences of increasing the risk of reoffending for lower risk offenders. Generalized
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release of the names, residential addresses and other information related to sexual
offenders classified as low risk to reoffend would likely cause harm to those individuals
by making it more difficult for them to integrate safely into a community and would not
advance public safety or government interests.

I declare under penalty of perjury that the foregoing is true and correct.

Maia Christopher

Date and Place

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DECLARATION OF MAIA CHRISTOPHER
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CERTIFICATE OF SERVICE

The undersigned certifies as follows:

1. I am employed at Corr Cronin Michelson Baumgardner & Preece LLP, attorneys of record for Plaintiffs herein.
2. On this date I caused true and correct copies of the foregoing document to be served on the attorneys of record herein in the manner indicated below:

Shelley Williams
Assistant Attorney General
Office of the Attorney General
State of Washington
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
Via Email
Attorneys for Defendant
Washington State Patrol

3. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 9th day of December, 2013, at Seattle, Washington.

Donna Patterson