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No. 72159-3-I
(Consolidated with Nos. 72198-4-I, 72898-9-I, 72899-7-I)

IN THE COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

JANE DOES 1-15, *et al.*,

Plaintiffs/Appellants,
v.

KING COUNTY, *et al.*,

Defendants/Respondents

**ERRATA CORRECTIONS TO THE
JUNE 2015 REPLY OF THE PLAINTIFF/APPELLANT
STUDENTS
(JANE DOES 1-15 and JOHN DOES 1-15)**

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TO: The Clerk of the Court; and
AND TO: All Parties to this action and Counsel of Record

The June 2015 Reply of Plaintiff Appellant Students was filed on Friday, June 26, 2015. The Table Of Contents and Table Of Authorities inadvertently omitted some entries, and the first word on page 9 of the text (“that”) is extraneous. Please substitute the attached brief, with the corrected Table of Contents, Table of Authorities, and page 9 in place of the prior filing.

DATED this 29th day of June, 2015.



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JUNE 2015 REPLY OF THE PLAINTIFF/APPELLANT STUDENTS (with errata)

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I. **INTRODUCTION: THE 3 NARROW ISSUES REMAINING IN THE STUDENTS' APPEAL**

The Respondents' recent briefing has narrowed the matters in dispute with respect to the students' appeal.

With respect to the *facts* in the students' appeal, Respondents did not dispute the accuracy of the Statement Of The Case in the Students' April 2015 Brief.¹

And with respect to the *issues* in the students' appeal, Respondents limit their dispute to the first of the five categories of issues identified in the Students' April 2015 Brief – namely: “Do the students likely have a clear legal or equitable right under the specific PRA exemption to have more than just their faces blurred in the video footage?”² Since the students' appeal concerns the PRA's victim & witness exemption, privacy exemption, and law enforcement exemption,³ Respondents' recent briefing accordingly narrows this Court's decision in the students' appeal down to three straightforward issues:

¹ *April 2015 Brief Of The Plaintiff/Appellant Students (Jane Does 1-15 and John Does 1-15) [“Students' April 2015 Brief” or simply “April 2015 Brief”], at pp.3-7.*

² *Students' April 2015 Brief at p.3. Respondents' responsive briefing did not refute the other four categories of issues addressed in the student's April 2015 Brief – namely those relating to (2) fear of immediate invasion [p.3 (issue number 2) & p.22 (discussion of that issue 2)], (3) substantial harm [p.3 (issue number 3) & pp.22-23 (discussion of that issue 3)], (4) equities [p.3 (issue number 4) & p.23 (discussion of that issue 4)], and (5) appellate courts' authority to issue preliminary injunctions and remand for trial on the merits [p.3 (issue number 5) & pp.24-25 (discussion of that issue 5)].*

³ *Students' April 2015 Brief at p.2.*

1. Do the students likely have a clear legal or equitable right under the PRA's victim & witness exemption to have more than just their faces blurred in the video footage?
2. Do the students likely have a clear legal or equitable right under the PRA's privacy exemption to have more than just their faces blurred in the video footage?
3. Do the students likely have a clear legal or equitable right under the PRA's law enforcement exemption to have more than just their faces blurred in the video footage?

The following pages outline why the Respondents' response regarding these three issues lacks merit.

II. STUDENTS' REPLY

The Students' April 2015 Brief outlined our Washington courts' standard for issuing a *preliminary* as opposed to **permanent** injunction.⁴

As an initial matter, the plaintiff students note that the commercial media respondents suggest that the legislature's enactment of the PRA implicitly replaced that *preliminary* injunction standard with Washington courts' **permanent** injunction standard instead.

But that suggestion does not change the merit of the students' appeal for at least two reasons:

- (1) The legal authority upon which those respondents rely does not hold that the PRA enacted the legislative replacement they suggest; and

⁴ *Students' April 2015 Brief at pp.7-8. That Brief likewise noted that the de novo standard applies since the lower court's ruling was based on the pleadings and documents submitted by the parties. Students' April 2015 Brief at p.7.*

- (2) Whether or not it did is immaterial because, as the following discussion confirms, the plaintiff students showed more than just the preliminary injunction “likelihood” that blurring nothing more than their faces does not comply with the three PRA exemptions in the students’ appeal.

A. **The Students’ Right Under The PRA’s *Victim & Witness* Exemption To Have More Than Just Their Faces Blurred In The Video Footage.**

The commercial media’s response to the Students’ April 2015

Brief phrases this first issue as follows:

- (a) For the portion of the videos depicting individuals, is facial pixilation sufficient to comply with RCW 42.56.240(2)’s requirement that “information revealing [their] identity” be redacted?⁵

The plaintiff students agree with the media respondents’ assertion that the students’ appeal concerns only the portion of the videos that depict those students. Respondents’ arguments about other portions of the video footage – e.g., portions depicting other individuals such as police or paramedics – accordingly have no relevance to the students’ appeal.

And with respect to the video portions that depict the plaintiff students, Respondents’ arguments do not refute the showing in the Students’ April 2015 Brief that facial pixilation in a video does not redact out all information in the video footage that reveals the depicted students’

⁵ *May 2015 Supplemental Opening Brief Of News Media Respondents*, p.4 at ¶(a).

identity.⁶

Respondents do not dispute that the PRA's victim & witness exemption requires redactions in the SPU video footage – for that exemption is the legal basis for the facial pixilation Respondents defend.⁷

Nor do Respondents dispute that the PRA's victim & witness exemption prohibits the police and prosecutor from disclosing a record with information revealing the identity of a crime victim or witness if the victim or witness objects to that record's disclosure.⁸ And the Respondents do not dispute that the PRA expressly and unequivocally mandates that if a crime victim or witness indicates a desire for non-disclosure, "such desire shall govern." RCW 42.56.240(2) (underline added).⁹

⁶ That showing is focused in the Students' April 2015 Brief at pp.11-13.

⁷ Students' April 2015 Brief at pp.9-11.

⁸ Students' April 2015 Brief at pp.9-11 (citing RCW 42.56.240(2); Sargent v. Seattle Police Dep't, 179 Wn.2d 376, 394, 314 P.3d 1093 (2013); CP 77 at ¶1 (notice letter from police department's counsel in this case, stating "We . . . understand that those students have expressed a desire for nondisclosure of their identities. RCW 42.56.240(2) [of the Public Records Act] allows agencies to redact information 'revealing the identity of persons who are witnesses to or victims of crime' and the students' desire for nondisclosure 'shall govern.'")(underline added); and CP 183 at lines 19-20 (response brief of King County Prosecuting Attorney's Office ["PAO"], stating "The PAO has determined the facial images of certain victims and witnesses on the videos are exempt from disclosure under RCW 42.56.240(1) and RCW 42.56.240(2)."); accord CP 347-48 at lines 20-4 (response brief of Seattle Police Department). As also noted in the Students' April 2015 Brief (at p.10, n.23), the trial court (which reviewed the video in camera) verified the plaintiff students' objection under the PRA, stating: "All of the victims and witnesses portrayed in the videotape have requested that their identities not be disclosed." CP at 511.).

⁹ Students' April 2015 Brief at pp.9-11.

In short: the Respondents' responses to the Students' April 2015 Brief do not dispute that the PRA's victim & witness exemption grants the plaintiff students the right to have information **in the video footage** that identifies them removed before the video footage's PRA distribution.¹⁰

The underlined portion of that last sentence is important. It focuses the legal inquiry on the identifying information within the "four corners" of the document being released – which is the same "four corners" focus that the commercial media respondents insist this Court must use under the PRA's victim & witness exemption.¹¹ Thus, as the commercial media respondents' own response confirms, the application of this exception turns solely on the identifying information within the video footage itself. The commercial media respondents' complaint that some students' names or photos have been printed in other documents is therefore irrelevant to the legal inquiry under this exemption. The sole question is whether facial pixilation alone leaves information **in the video footage** that identifies the objecting victim or witness depicted in that video footage.

The question in the students' appeal under the victim & witness

¹⁰ See also *Students' April 2015 Brief* at p.11 ("no dispute exists that the PRA's victim & witness exemption grants the plaintiff students the right to have information in the video that identifies them removed before the footage's PRA distribution").

¹¹ *May 2015 Supplemental Opening Brief Of News Media Respondents*, p.21 (citing "four corners" language in *Predisik v. Spokane School District No. 81*, 182 Wn.2d 896, 346 P.3d 737, 741 (2015)).

exemption therefore remains a very simple and straightforward one: Does blurring out a student's face alone remove all information in the video footage identifying that student?

Respondents do not refute the showing in the Students' April 2015 Brief that the answer to that question is "no" – for you don't need to see a person's face to know who that person is.¹²

Respondents do not refute the common sense fact that this is especially true if that person is someone you've seen before in your school, workplace, neighborhood, church, etc. Respondents do not (because they cannot) dispute the high school and workplace examples in the Students' April 2015 Brief illustrating the fact that you can often identify the person walking in front of you without seeing that person's face.¹³ Instead, from the back you can recognize that person by seeing things other than his or her face – e.g., height, weight, body shape, manner of dress or specific clothing, gait, posture, skin color, tattoos or scars, mannerisms, etc.¹⁴

Respondents do not dispute the fact that when the plaintiff students' faces are pixilated, the video footage still shows viewers the students' height, weight, body shape, manner of dress, specific clothing,

¹² *Students' April 2015 Brief at pp.11-13.*

¹³ *Students' April 2015 Brief at p.11.*

¹⁴ *Students' April 2015 Brief at p.11.*

gait, posture, skin color, tattoos or scars, mannerisms, etc. Nor do Respondents dispute that to remove that non-facial identifying information from the challenged video, the student's entire body must be blacked out. Simply blurring the student's face with pixilation leaves other information **in the video footage** identifying that student.¹⁵

Respondents do not dispute the law enforcement testimony cited in the Students' April 2015 Brief confirming the fact that individuals are regularly identified by non-facial attributes shown in a facially pixilated video – attributes such as height, weight, body shape, manner of dress, specific clothing, gait, posture, skin color, tattoos/scars or lack thereof, mannerisms, etc.¹⁶

Nor do Respondents refute the lower court's own finding about whether pixilating a person's face alone obscures the other recognizable attributes of a person's body that reveal that person's identity:

Both the declarations of plaintiffs' experts and common sense establish that persons who know an individual depicted in a pixilated video may be able to deduce that person's identity from other cues, such as clothing, gait or body type. This is likely to be particularly true in a small community such as Seattle Pacific University.¹⁷

Nor do Respondents refute the logic of the *Lindeman* court's

¹⁵ *Students' April 2015 Brief at pp.11-12.*

¹⁶ *Students' April 2015 Brief at pp.12-13.*

¹⁷ *Students' April 2015 Brief at pp.1-2 (citing CP 1045 (December 15, 2014 Second Memorandum Opinion at p. 5 of 9, lines 6-10)).*

recognition that redacting all identifying information from a videotape requires redaction of not just a student's face, but also the student's body, clothing, and so forth.¹⁸

Instead, the commercial media respondents attempt to distinguish that case away by (1) claiming the recording in that case could not be pixilated since it was "video" rather than "digital" recording – a claim that has nothing to do with the court's recognition that attributes other than a student's face (such as body, clothing, and so forth) can identify that student, and (2) observing that the court's decision was reversed on other grounds – an observation that has nothing to do with the court's recognition that attributes other than a student's face (such as body, clothing, and so forth) can identify that student.

As noted in the opening paragraphs of this Section II.A, this appeal's question under the victim & witness exemption is a very simple and straightforward one: Does blurring out a student's face alone remove all information **in the video footage** identifying that student? And as the rest of this Section A explained, the Respondents' arguments and claims do not refute the showing in the Students' April 2015 Brief that the answer to that question is "no". Respondents' responses accordingly do not refute

¹⁸ *Students' April 2015 Brief at pp.12-13 (discussing Lindeman v. Kelso School Dist. No. 458, 127 Wn. App. 526, 541, 111 P.3d 1235 (2005), rev'd on other grounds, 162 Wn.2d 196, 172 P.3d 329 (2007)).*

the April 2015 Brief's showing that distributing the video footage with only the students' faces blurred, over the objecting students' objection, does not comply with the PRA's victim & witness exemption.

B. The Students' Right Under The PRA's *Privacy Exemption To Have More Than Just Their Faces Blurred In The Video Footage.*

The commercial media's response to the Students' April 2015 Brief phrases this second issue as follows:

(b) Is any portion of the DVDs exempt under the investigative records exemption's privacy prong (RCW 42.56.240(1)) – i.e., is it of no legitimate public concern, and highly offensive to a reasonable person?¹⁹

As noted earlier, the plaintiff students agree with the commercial media's prior acknowledgment that the students' appeal concerns only the portion of the videos that depict them. Arguments about other portions of the video footage accordingly have no relevance to the students' appeal.

As also noted earlier, the students' appeal is based on the fact that facial pixilation alone does not redact out all information **in the video footage** that reveals a depicted student's identity. And consistent with the commercial media respondents' above-quoted issue statement, Respondents do not dispute that the PRA's privacy exemption applies if publicly distributing that video footage of the objecting students with no

¹⁹ *May 2015 Supplemental Opening Brief Of News Media Respondents, p.4 at ¶(b).*

more than their faces blurred is (1) of no legitimate public concern and (2) highly offensive to a reasonable person in the depicted student's position.²⁰

But as the following paragraphs briefly explain, Respondents' arguments do not refute the showing in the Students' April 2015 Brief that leaving the non-facial identifying information in the video footage is (1) of no legitimate public concern and (2) highly offensive to a reasonable person in the depicted student's position.²¹

1. Respondents do not claim there is any legitimate public concern relating to the identity-revealing attributes of the objecting students.

Respondents do not dispute that to determine whether a record relates to a legitimate public concern under the Washington Public Records Act, Washington courts focus on whether the contents of that record relate to governmental conduct or functionality instead of simply whether the "matter" which that record relates to is of public concern.²²

²⁰ *Students' April 2015 Brief at pp.14-18.*

²¹ *That showing is focused in the Students' April 2015 Brief at pp.14-18.*

²² *Students' April 2015 Brief at pp.17-18 (citing Tiberino v. Spokane County, 103 Wn. App. 680, 690, 13 P.3d 1104 (2000) (the PRA's basic goal is to "keep the public informed so it can control and monitor governmental conduct") (underline added); Comaroto v. Pierce County Med. Examiner's Office, 111 Wn. App. 69, 72, 43 P.3d 539, 541 (2002) (the PRA's "purpose is to preserve the most central tenets of representative government, namely, the sovereignty of the people and the accountability to the people of public officials and institutions") (internal quotation marks omitted); and Cowles Publishing Co. v. Pierce County Prosecutor's Office, 111 Wn. App. 502, 510, 45 P.3d 620 (2002) (rejecting commercial media's claim that family information in a death penalty case's mitigation statement is subject to public disclosure: "We hold that while a*

And with respect to the specific content at issue here (the non-facial attributes of the depicted students' bodies that reveal their identity), Respondents do not claim that that specific content relates to governmental conduct or functionality.

Respondents assert instead that this general "matter" is of public concern because it relates to Mr. Ybarra's crime and prosecution. That assertion about this general "matter" may be true. But that assertion is not legally relevant to whether the specific content at issue in the students' appeal (non-facial, identity-revealing attributes of a depicted student's body) relates to governmental conduct or functionality. Respondents' assertion accordingly does not refute the fact that the non-facial, identity-revealing attributes of a depicted student's body is not of legitimate public concern under the Washington Public Records Act.

In short: Respondents do not refute the showing in the Students' April 2015 Brief that leaving the depicted students' non-facial identifying information in the video footage is of no legitimate public concern under Washington's Public Records Act.²³

prosecutor's death penalty decision is a matter of legitimate public concern, personal information about the defendant's family is not").

²³ *That showing is focused in the Students' April 2015 Brief at pp.17-18.*

2. Respondents do not refute the fact that publicly distributing video footage with the identity-revealing attributes of the depicted students is highly offensive to a reasonable person in these students' position.

Respondents do not dispute the practical reality in this case concerning videos and the internet. They do not dispute that if the police or prosecutor distribute the SPU video footage to PRA requestors with nothing more than the objecting students' faces blurred, that video footage will be permanently and irretrievably released into the global stream of internet communications and social media for the rest of the plaintiff students' lives.²⁴ Respondents also do not dispute the substantial harm caused to a young adult when photographic images of them are released against their will on the internet or in social media, or the severe consequences that unwanted internet and social media postings cause to the person whose image is posted against their will.²⁵

Nor do Respondents refute the privacy-related *fact* that videos of the plaintiff students being subjected to, and responding to, Mr. Ybarra's crime visually display an aspect of these students' lives that they've never intended to visually expose to the public eye.²⁶ Nor do Respondents dispute that these students accordingly want to keep the corresponding

²⁴ *Students' April 2015 Brief at pp.22-23.*

²⁵ *Students' April 2015 Brief at pp.22-23 & n.36.*

²⁶ *Students' April 2015 Brief at p.15.*

video images of them to themselves, rather than have the commercial media irretrievably inject them into the World Wide Web, YouTube, and social media.²⁷

And with respect to the *law*, Respondents do not dispute that the *Comarato* court explained the type of circumstances where disclosure of information would be considered “highly offensive” to a reasonable person under Washington’s Public Record Act:

Every individual has some phases of his life and his activities and some facts about himself that he does not expose to the public eye, but keeps entirely to himself or at most reveals only to his family or to close personal friends. Sexual relations, for example, are normally entirely private matters, as are family quarrels, many unpleasant or disgraceful or humiliating illnesses, most intimate personal letters, most details of a man’s life in his home, and some of his past history that he would rather forget.²⁸

Instead, Respondents suggest that the Washington PRA’s privacy exemption should be narrowly construed to apply only to the specific examples listed in the *Comarato* court’s above explanation of an individual’s privacy under this Washington statute. But that suggestion does not make sense. The court’s holding that “most details of a man’s life in his home” are part of the privacy protected by the Washington

²⁷ *Students’ April 2015 Brief at p.15.*

²⁸ *Students’ April 2015 Brief at pp.14-15 (quoting Comaroto v. Pierce County Med. Examiner’s Office, 111 Wn. App. 69, 77, 43 P.3d 539, 541 (2002) (quoting Restatement (Second) of Torts § 652D, at 386 (1977)).*

PRA's privacy exemption surely does not mean that details of a woman's life in her home are not part of the privacy protected by the Washington PRA's privacy exemption. And as the other Washington cases discussed in the Students' April 2015 Brief confirm, the Washington PRA's privacy exemption covers more than just the examples listed, as examples, in the *Comarato* case.²⁹

Respondents next suggest that the Washington court's above holding with respect to an individual's privacy under the Washington PRA does not apply to anything that happens in a "public place" (as the Respondents categorize the private property of SPU). But the Respondents' "public" place suggestion does not make sense either – for the *Comarato* court expressly specified "unpleasant or disgraceful or humiliating illnesses" as examples of PRA protected privacy. The court nowhere suggested that video footage of a person's unpleasant or disgraceful or humiliating illness is protected only in a "private" place (like a person's home) but not in a "public" place (such as Garfield Public High School, for example).

²⁹ *Students' April 2015 Brief at pp.14-16.*(discussing *Cowles Publishing Co. v. Pierce County Prosecutor's Office*, 111 Wn. App. 502, 510, 45 P.3d 620 (2002) (privacy protection for mitigation statements from family members about how they would feel if a relative were sentenced to death); *Tiberino v. Spokane County*, 103 Wn. App. 680, 689-90, 13 P.3d 1104 (2000) (privacy protection for personal emails); *Comaroto*, 111 Wn. App. at 78 (privacy protection for suicide notes).).

Respondents also cite some case law from other states and some case law involving government employees such as police officers engaging in deliberate conduct. But those cases do not address or nullify the fact that Washington's PRA statute protects a private citizen's privacy when that private citizen is involuntarily subjected to a personally traumatic situation – especially in a case like this involving subpoenaed video footage which the private citizen does not want the police or prosecutor to distribute for public (and irretrievable) broadcast throughout the internet, YouTube, and social media for the rest of that citizen's life.

The plaintiff students are not challenging the release of all portions of, or all images in, the SPU video footage. They are only challenging the release of video images which include the non-facial attributes that reveal their identity to internet, YouTube, and social media viewers. And for the reasons noted above, the Respondents' responses to the Students' April 2015 Brief do not address or refute the fact that publicly distributing such identity-revealing attributes in the challenged video footage – over the depicted students' objection – is highly offensive to a reasonable person in these students' position.

C. **The Students' Right Under The PRA's *Law Enforcement Exemption To Have More Than Just Their Faces Blurred In The Video Footage.***

The commercial media's response to the Students' April 2015

Brief phrases this third issue as follows:

(c) Are the DVDs exempt under the investigative records exception's "effective law enforcement" prong ([RCW 42.56.240(1)]), where the perpetrator has been charged and the investigation is not threatened?³⁰

As noted earlier, the plaintiff students agree with the commercial media's prior acknowledgment that the students' appeal concerns only the portion of the videos that depict them. They are not claiming an entire DVD (or even all parts of any segment on a DVD) is exempt.

Instead, as reiterated earlier, the plaintiff students' appeal is based on the fact that facial pixilation does not redact out all information in a video image that reveals the depicted student's identity. This third issue therefore turns on whether showing other parts of a student's body that reveal the student's identity in the video is exempt under the PRA's law enforcement exemption.

But Respondents' arguments do not refute the showing in the Students' April 2015 Brief that this non-facial identifying information in a video is exempt under the PRA's law enforcement exemption.³¹

³⁰ *May 2015 Supplemental Opening Brief Of News Media Respondents*, p. 4 at ¶(c).

³¹ *That showing is focused in the Students' April 2015 Brief at pp. 19-22.*

Instead, as the commercial media respondents' above-quoted statement of the issue in this appeal acknowledges, Respondents claim the PRA's law enforcement exemption does not apply if the perpetrator of a past crime has been charged and the investigation of that past crime is not threatened.

But that is not what this PRA exemption says. The PRA's law enforcement exemption does not turn on the investigation or prosecution of a particular previously-committed crime. Thus, for example, the *Haines-Marchel* court accordingly applied the PRA's law enforcement exemption when the objecting party submitted declaration testimony concerning the potential adverse effect on future law enforcement efforts by potentially chilling witness cooperation in the future.³²

And that is precisely what the un rebutted law enforcement officer declarations in this case specifically confirmed. That testimony specifically explained the adverse effect on future law enforcement efforts that will occur here by chilling crime victim and witness cooperation after

³² *Students' April 2015 Brief at p.20-21 & n.35 (citing Haines-Marchel v. State Dep't of Corrections, 183 Wn. App. 655, 334 P.3d 99, 106-107 (2014) ("Paul's declaration establishes that disclosure of information about prison informants would ... inhibit future informants from coming forward") (underline added)); also noting that the Haines-Marchel court confirmed the Supreme Court's Sargent decision did not reject this "chilling effect" doctrine, but rather held that merely asserting "[a] general contention of chilling future witnesses is not enough to exempt disclosure." Haines-Marchel, 183 Wn. App. 655, 334 P.3d at 106-107 (citing Sargent, 179 Wn.2d at 395).*

the police and prosecutor distribute the incompletely redacted videos over these students' objection to PRA requestors for eternal internet, YouTube, and social media propagation.³³

Respondents do not cite sworn testimony effectively refuting the law enforcement testimony submitted by the plaintiff students.

Nor do Respondents submit legal authority rejecting this law enforcement exemption's case law recognizing that effective law enforcement requires the active cooperation of victims and witnesses.³⁴

Nor do Respondents dispute that common sense dictates students will be more reluctant to report crimes or provide important information to police or prosecutors if they know their cooperation can lead to video footage of them being released over their objection to heightened social media scrutiny and intrigue about them and their relationship to the crime.³⁵

Nor do Respondents dispute that that chilling effect would impair law enforcement since police and prosecutors ordinarily rely on victim and

³³ *Students' April 2015 Brief at p.21 & n.35 (citing the law enforcement officer declarations at CP 780-781, ¶¶16-23 and at CP 786-787, ¶¶15-18); compare, e.g., Haines-Marchel, 183 Wn. App. 655, 334 P.3d at 106-107 ("Paul's declaration establishes that disclosure of information about prison informants would ... inhibit future informants from coming forward").*

³⁴ *Students' April 2015 Brief at p.20 (citing Cowles Publishing, 111 Wn. App. at 509).*

³⁵ *Students' April 2015 Brief at p.21.*

witness cooperation to investigate and prosecute crimes.³⁶

Respondents accordingly do not refute the objecting students' showing that blurring nothing more than just the objecting student's face in the video footage at issue does not comply with the PRA's law enforcement exemption.³⁷

III. CONCLUSION

Respondents' responses to the Students' April 2015 Brief do not rebut the central fact that facial pixilation alone does not redact out all information shown **in the video footage** that reveals a depicted student's identity.

Nor do the arguments and claims in the Respondents' responses refute the conclusion stated at the end of the Students' April 2015 Brief:

- If the trial court's preliminary injunction denial is allowed to stand, the challenged video footage of these students will be irretrievably released into the pervasive internet and social media world these students will live in for the rest of their lives.
- If the trial court's preliminary injunction denial is allowed to stand, the upcoming trial on the merits of the students' permanent injunction claims will be meaningless and irrelevant – for at trial, it will be too late to shut the barn door. The horse will already be gone.
- If the trial court's preliminary injunction denial is allowed to stand, the PRA's disclosure exemptions will be meaningless

³⁶ *Students' April 2015 Brief at p.21.*

³⁷ *Students' April 2015 Brief at pp.19-22.*

and irrelevant as well – for the rights and protections they establish for citizens such as the SPU students in this case will be of no import.

Since Respondents do not refute the showing made in the Students' April 2015 Brief, the students respectfully request that this Court grant their request that this Court enter a *preliminary* injunction enjoining release of the challenged video footage pending trial on the merits of the students' *permanent* injunction claims.

DATED this 26th day of June, 2015.



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COURT OF APPEALS
THE STATE OF WASHINGTON
DIVISION I

JANE DOES 1 through 15 and
JOHN DOES 1 through 15, victims
of and witnesses to the June 5, 2014
Seattle Pacific University shooting,
and SEATTLE PACIFIC
UNIVERSITY, a Washington
nonprofit corporation,

Appellants,

v.

KING COUNTY, a legal subdivision
of the state of Washington, CITY OF
SEATTLE, a Washington municipal
corporation, TRIBUNE
BROADCASTING SEATTLE, LLC
and its affiliates, d/b/a KCPQ-TV
and Q13 FOX, a Delaware
corporation, KIRO-TV, INC. and its
affiliates, d/b/a KIRO NEWS and
KIRO TV, a Delaware corporation,
SINCLAIR SEATTLE LICENSEE,
LLC, and its affiliates, d/b/a KOMO
TV and KOMO 4, a Nevada
corporation, KING
BROADCASTING COMPANY and
its affiliates, d/b/a KING 5
TELEVISION, a Washington
corporation, ARTHUR WEST, a
Washington resident, JOHN DOE
MEDIA ORGANIZATIONS 1
through 100,

Respondents.

Court of Appeals – Div. I
No. 72159-3-I

(Consolidated with Nos.
72198-4-I, 72898—9-I,
72899-7-I)

King County Superior Court
No. 14-2-18514-6 SEA

CERTIFICATE OF SERVICE

I certify that I am a citizen of the United States of America and a resident of the State of Washington. I am over the age of twenty-one years, and I am competent to be a witness herein.

On June 29, 2015, I caused the following document to be served on counsel as follows:

1. Errata corrections to the June 2015 reply of the Plaintiff/Appellant Students (Jane Does 1-15 and John Does 1-15); and
2. Certificate of Service.

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Executed in Seattle, Washington on this 29th day of June, 2015.



Jan Howell