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8 Attorneys for Plaintiffs  
9 California Reform Sex Offender Laws  
10 and John Doe

11 **UNITED STATES DISTRICT COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 CALIFORNIA REFORM SEX OFFENDER  
14 LAWS, a California Non-Profit  
15 Organization, and JOHN DOE, an  
16 individual,

17 Plaintiffs,

18 vs.

19 CALIFORNIA DEPARTMENT OF  
20 CORRECTIONS AND REHABILITATION,  
21 and DOES 1 through 100,

22 Defendants.

Case No.: '15CV2295 JM JMA

**VERIFIED COMPLAINT  
FOR RELIEF**

42 U.S.C. § 1983 (First and  
Fourteenth Amendments)

**INTRODUCTION**

1. This civil rights action challenges an unwritten but enforced policy of the California Department of Corrections and Rehabilitation (“CDRC”) which requires parolees who are registered sex offenders (“Registrants”) in San Diego County, California, to post signs on the front doors of their residences on Halloween night that discourage trick-or-treaters from approaching their residences. This policy not only compels speech in violation of the First Amendment to the United States Constitution, but also compels speech that effectively forces Registrants to advertise their status as registered sex offenders, thereby inviting physical harm, property

1 damage, and other severe injury to Registrants and to those residing with them.  
2 Additionally, CDCR’s policy is enforced in an arbitrary and unreasonable manner  
3 that takes no account of the individual circumstances of each Registrant’s conviction,  
4 including the age of conviction or whether the conviction involved the type of  
5 conduct that the policy ostensibly seeks to prevent. CDCR’s policy therefore violates  
6 basic due process protections against arbitrary, unreasonable, and oppressive state  
7 action. See, e.g., In re Taylor, 60 Cal. 4th 1019, 1023 (2015).

8 **JURISDICTION AND VENUE**

9 2. This court has jurisdiction over this action under 28 U.S.C. Sections  
10 1331, 1343(a), and 2201, as well as 42 U.S.C. Section 1983.

11 3. Under 28 U.S.C. Section 1391(b), venue is proper in this district because  
12 defendant is a government agency with offices in this district, and the events giving  
13 rise to the claims occurred and occur in this district.

14 **PLAINTIFFS**

15 4. Plaintiff California Reform Sex Offender Laws (“CA RSOL”) is a  
16 statewide civil rights organization dedicated to protecting the U.S. Constitution by  
17 restoring the civil rights of individuals required to register as sex offenders in  
18 California pursuant to Penal Code section 290, *et seq.* (“Registrants”).

19 5. Plaintiff John Doe (“Doe”) is a resident of the City of Chula Vista,  
20 California, in the County of San Diego. Doe is required to register pursuant to  
21 California Penal Code section 290, *et seq.*, for a sex offense committed prior to 1985,  
22 that did not involve a child, and for which Doe is not currently on parole. Subsequent  
23 to his conviction for a sex offense, Doe has neither committed nor been convicted of  
24 another sex-related offense. Doe is currently on parole due to a drug-related  
25 conviction for which registration pursuant to Section 290 is not required. Doe brings  
26 this action pseudonymously because he fears for his safety and for the safety of the  
27 other occupants of his residence as well as fear of retaliation from CDCR.  
28

**DEFENDANTS**

1  
2           6. Defendant California Department of Corrections and Rehabilitation  
3 (“CDCR”) is a government agency created pursuant to the laws of the State of  
4 California, which supervises individuals on parole in the State of California.

5           7. Does 1 through 100 are individuals who are employed by CDCR as  
6 parole agents, probation officers, and in other capacities responsible for implementing  
7 and enforcing the terms and conditions of parole or probation imposed on individuals  
8 in the State of California, or who are otherwise employed by, or are agents of, CDCR  
9 and who are charged with implementing and enforcing the policies of CDCR. The  
10 true names and capacities of the Defendants sued as Does 1 through 100 are unknown  
11 to Plaintiffs, who therefore sue those Defendants pseudonymously. Plaintiffs will  
12 seek leave to amend this Complaint, if necessary, to reflect the true names once they  
13 have been ascertained.

14           8. Defendants CDCR and Does 1 through 10 will be referred to collectively  
15 herein as “Defendants.”

**FACTUAL ALLEGATIONS**

16  
17           9. Pursuant to California Penal Code section 290, *et seq.*, and 42 U.S.C.  
18 Sec. 16901, *et seq.* the State of California Department of Justice maintains a website,  
19 known as the “Megan’s Law” website, which provides information to the public  
20 regarding Registrants in California, including names and aliases, residence addresses,  
21 current photographs, and the nature of the conviction(s) for which those Registered  
22 Citizens were required to register pursuant to Section 290, *et seq.* 2004 Cal. Legis.  
23 Serv. Ch. 745 (A.B. 488). Because Section 290 mandates lifetime registration for all  
24 California Registrants, the Megan’s Law website includes information on all  
25 Registrants in California, regardless of the age of their convictions or whether they  
26 are currently on parole or probation.

27           10. On information and belief, since 1994, CDCR has imposed so-called  
28 “special restrictions” regarding Halloween festivities upon Registrants who are on

1 parole and supervised by CDCR. On information and belief, and pursuant to  
2 documents published by CDCR, these restrictions are enforced pursuant to a policy  
3 known as “Operation Boo” and currently include the following: (1) “A 5pm – 5am  
4 curfew during which sex-offender parolees must remain indoors;” (2) “All exterior  
5 lights of their homes must be turned off so that it looks as if no one is home, which  
6 discourages children from approaching;” (3) “No offering of Halloween candy and no  
7 Halloween decorations are allowed;” (4) “During the curfew, sex-offender parolees  
8 can only open the door to respond to law enforcement, such as parole agents who are  
9 patrolling their caseload to ensure compliance.” These four restrictions will be  
10 referred to collectively herein as the “Operation Boo Halloween Restrictions.”

11 11. On information and belief, CDCR publicizes both the existence of  
12 “Operation Boo” and the specific Operation Boo Halloween Restrictions to the  
13 public.<sup>1</sup> For example, on information and belief, in 2014, CDCR distributed a  
14 document entitled “OPERATION BOO 2014 – A PARENT’S GUIDE” which  
15 advertised the Operation Boo program and the Operation Boo Halloween  
16 Restrictions, and admonished parents and children to identify the homes of  
17 Registrants in the community, including Registrants who are not on parole or  
18 probation. For example, the “OPERATION BOO 2014 – A PARENT’S GUIDE”  
19 states:

- 20 (a) “Thanks for joining the CDCR Parent Patrol by taking part in this  
21 educational exercise to help us keep your kids safe. Together, we’ll teach  
22 California’s children how to spot and avoid potential sexual predators, not  
23 just on Halloween, but all the time.”
- 24 (b) “Parents need to know that only a small percentage of all sex offenders in  
25 California are under supervision by CDCR. . . . There are almost 92,000  
26 sex-offenders statewide in California; CDCR is responsible for supervising  
27 about 11% of them.”

28 <sup>1</sup> See, e.g., <http://www.cdcr.ca.gov/Parole/operation-boo-public-component.html>

1 (c) “AT LEAST A DAY BEFORE TRICK-OR-TREATING: [] Please go to  
2 the Megan’s Law website. . . . Once on the Megan’s Law website, follow  
3 the instructions to check the area in which you’ll be trick-or-treating so you  
4 can spot the homes of known sex offenders. If you’d like, map it out for  
5 yourself.” (Emphasis in original.)

6 A copy of “OPERATION BOO 2014 – A PARENT’S GUIDE” is attached hereto as  
7 Exhibit A.

8 12. Upon information and belief, CDCR is imposing additional restrictions  
9 on parolee-Registrants beyond the four above-referenced Operation Boo Halloween  
10 Restrictions. Specifically, CDCR is requiring parolee-Registrants to post a sign on  
11 the front door of their residences on Halloween, that is, October 31, which effectively  
12 advertises their status as registered sex offenders.

13 13. Upon information and belief, the sign that CDCR will require parolee-  
14 Registrants to post on their front doors on the evening of October 31, 2015 reads (in  
15 actual size) as follows:

16 **Please do NOT disturb.**

17 **WE DO NOT**  
18 **PARTICIPATE**  
19 **IN “TRICK OR**  
20 **TREATING”.**

21 **Please do NOT disturb.**

22 A copy of the sign is attached hereto as Exhibit B and shall be referred to herein as  
23 the “Operation Boo Front Door Sign Posting Mandate.”

24 14. Plaintiff Doe resides in the City of Chula Vista, California. Doe is  
25 required to register pursuant to California Penal Code section 290 because of an  
26 offense committed over 30 years ago that did not involve a child, and for which he is  
27 not currently on parole. However, Doe is currently on parole for a drug-related  
28 offense that does not require registration pursuant to Section 290.

1           15.    Despite the fact that Doe’s current parole does not arise from a sex-  
2 related conviction and did not involve an offense against a child, on or about  
3 October 12, 2015, CDCR informed Doe through his parole officer that he is required  
4 to comply with the Operation Boo Front Door Sign Posting Mandate on October 31,  
5 2015 by posting the sign attached hereto as Exhibit B on his front door. When Doe  
6 made an inquiry regarding the basis for imposing the Operation Boo Front Door Sign  
7 Posting Mandate in his case, a CDCR official provided to Doe a copy of the  
8 “OPERATION BOO 2014 – A PARENT’S GUIDE” attached hereto as Exhibit A.  
9 Exhibit A contains no reference to Exhibit B or any other sign-posting requirement.

10           16.    By imposing the Operation Boo Halloween Restrictions and the  
11 Operation Boo Front Door Sign Posting Mandate as a condition of parole, CDCR  
12 subjects Registrants to severe penalties for non-compliance, including revocation of  
13 parole and incarceration.

14           17.    In light of CDCR’s demand that Doe observe the Operation Boo Front  
15 Door Sign Posting Mandate, Doe fears for his safety and for the safety of others  
16 residing at his address because, among other fears, the Operation Boo Front Door  
17 Sign Posting Mandate effectively requires Doe to advertise that he is a Registrant who  
18 is an immediate threat to public safety and to the safety of children, when in fact his  
19 sex offense is over thirty years old and did not involve a child. Doe resides in a  
20 mobile home park which is densely populated and has been the site of violent acts.

21           18.    CDCR’s Operation Boo Front Door Sign Posting Mandate  
22 unconstitutionally compels speech by Registrants and by those living in their  
23 residences that they would not otherwise make, including messages that threaten and  
24 invite harm to themselves.

25           19.    CDCR’s Operation Boo Front Door Sign Posting Mandate forces  
26 Registrants to self-impose potentially severe burdens on their own safety, to the safety  
27 of any person who resides with them, and to the safety and security of their private  
28 property, by requiring parolee-Registrants to post a peculiar sign, created and

1 distributed by CDCR, on the front doors of their residences, which effectively  
2 advertises the Registrant's status as a sex offender to all neighbors and passersby, and  
3 which effectively forces each Registrant to communicate to the public that they and  
4 the other occupants of that residence are immediate threats to the public and to  
5 children.

6 20. On information and belief, as a matter of policy, CDCR and the other  
7 Defendants impose as a blanket restriction the Operation Boo Front Door Sign  
8 Posting Mandate even on parolee-Registrants whose convictions did not involve  
9 children, occurred more than 30 years ago, and have not re-offended.

10 21. CDCR's Operation Boo Halloween Restrictions and the Operation Boo  
11 Front Door Sign Posting Mandate, along with the various admonishments contained  
12 the "OPERATION BOO 2014 – A PARENT'S GUIDE" attached hereto as Exhibit A  
13 and CDCR's various other public information campaigns, encourage private  
14 individuals to confront, bully, harass, intimidate, and to otherwise take vigilante  
15 action against Registrants, who are forced by the Operation Boo Halloween  
16 Restrictions to remain in their homes for the twelve-hour period of 5 p.m. through  
17 5a.m., with no means of escape, and who are generally forbidden to possess any  
18 means of self-defense (such as firearms) by virtue of their felony convictions.

19 22. The threat to Doe posed by the Operation Boo Front Door Sign Posting  
20 Mandate is enhanced by the fact that Halloween evening is traditionally a time when  
21 significant numbers of people engage in mischievous activity throughout the  
22 neighborhood, including acts of vandalism (*i.e.*, "Tricks") against residences who  
23 decline to participate in trick-or-treating, or who apparently decline to participate, for  
24 example, by leaving off exterior lighting and not answer doors, which the Operation  
25 Boo Halloween Restrictions require of parolee-Registrants like Doe.

26 23. Furthermore, the extensive media coverage that routinely accompanies  
27 policies and programs such Operation Boo, and the media's particular interest in  
28 publicizing sign posting requirements like CDCR's Operation Boo Front Door Sign

1 Posting Mandate, further increase the risk of harm to parolee-Registrants like Doe  
2 because such media coverage informs the public that the sign posting requirements  
3 are required only of Registrants, and that such signs are therefore tantamount to  
4 public declarations that the occupants of that residence are Registrants.

5 24. CDCR's own efforts to publicize the Operation Boo Halloween  
6 Restrictions, including by distributing documents such as "OPERATION BOO 2014  
7 – A PARENT'S GUIDE" attached hereto as Exhibit A, are designed to and do ensure  
8 that the public equates the Operation Boo Front Door Sign Posting Mandate with a  
9 public declaration of one's status as a Registrant.

10 25. CDCR's Operation Boo Front Door Sign Posting Mandate  
11 unconstitutionally compels speech by Registrants that Registrants would not  
12 otherwise make. Specifically, the Operation Boo Front Door Sign Posting Mandate  
13 compels speech that effectively forces Registrants to advertise their status as  
14 registered sex offenders to a significant portion of the public, thereby inviting  
15 physical harm, property damage, and other severe injury to Registrants and to those  
16 residing with them.

17 26. CDCR's Operation Boo Front Door Sign Posting Mandate applies only  
18 to speech of Registrants in the context of Halloween celebration, while speech of a  
19 different content, even if expressed in the same time, place, and manner, is not  
20 proscribed or regulated.

21 27. CDCR lacks either a compelling or substantial legitimate governmental  
22 interest in compelling speech, or by otherwise regulating speech and expression in the  
23 manner accomplished by the Operation Boo Front Door Sign Posting Mandate.

24 28. CDCR's Operation Boo Front Door Sign Posting Mandate is not the  
25 least restrictive means of furthering any compelling or substantial governmental  
26 interest, and is not sufficiently narrowly tailored to achieve any legitimate  
27 government objective. For example, CDCR's Operation Boo Front Door Sign  
28 Posting Mandate ignores alternative means by which the public may determine the

1 identity of Registrants or otherwise protect themselves from legitimate threats,  
2 including the Megan’s Law website, which is readily accessible to any person with a  
3 legitimate interest or concern.

4 29. CDCR’s Operation Boo Front Door Sign Posting Mandate is overbroad,  
5 and compels and otherwise implicates substantially more speech than is necessary to  
6 further any governmental interest.

7 30. Imposition of CDCR’s Operation Boo Front Door Sign Posting Mandate  
8 on Doe and other similarly situated Registrants deprives them of their constitutionally  
9 protected liberty interests, including their right to be free from arbitrary, oppressive,  
10 and unreasonable state action that bears no rational relationship to the state’s goal of  
11 protecting residents.

12 31. Finally, CDCR’s Operation Boo Halloween Restrictions and the  
13 Operation Boo Front Door Sign Posting Mandate are arbitrary, motivated by political  
14 incentive in response to popular sentiment against Registrants, lending themselves to  
15 discriminatory enforcement and suppression of the constitutional rights of Registrants  
16 and the persons who reside with them; and they cannot meet the stringent standards  
17 required by the First Amendment on restrictions of free speech and association rights,  
18 and by the Fourteenth Amendment’s guarantees of Due Process of Law and of Equal  
19 Protection of the Law.

20 **FIRST CLAIM**

21 **(42 U.S.C. § 1983 --First and Fourteenth Amendments – Compelled Speech)**

22 32. Plaintiffs re-allege paragraphs 1 through 31 of this Complaint as though  
23 fully set forth herein.

24 33. By leaving in place, enforcing, and/or threatening to enforce the  
25 Operation Boo Front Door Sign Posting Mandate, and in particular by mandating that  
26 parolee-Registrants post a sign on their front door discouraging the public from  
27 approaching their residences, and which effectively advertises that the occupants are  
28 sex offender Registrants and are therefore immediate threats to public safety and the

1 safety of children, Defendants unconstitutionally compel the speech of Plaintiffs and  
2 other Registrants in violation of the First and Fourteenth Amendments. Furthermore,  
3 this compelled speech threatens and invites harm to Plaintiffs and other Registrants,  
4 including physical harm and property damage.

5 34. The injuries that Plaintiffs have suffered and will suffer as a result of  
6 Defendants' enforcement of the Operation Boo Front Door Sign Posting Mandate are  
7 severe, irreparable, and ongoing; and there is no plain, adequate, complete, or speedy,  
8 alternative remedies available to redress the violations of law committed by  
9 Defendants in this action, nor are there any available and non-futile administrative  
10 remedies available to redress the violations of law committed by Defendants.

## 11 **SECOND CLAIM**

### 12 **(42 U.S.C. § 1983 --First and Fourteenth Amendments --Due Process)**

13 35. Plaintiffs re-allege paragraphs 1 through 34 of this Complaint as though  
14 fully set forth herein.

15 36. By leaving in place, enforcing, and/or threatening to enforce the  
16 Operation Boo Front Door Sign Posting Mandate, and in particular through a policy  
17 of blanket enforcement that fails to account for the nature, circumstances, and age of  
18 each individual Registrant's conviction, Defendants deprive the Plaintiffs and other  
19 Registrants of rights guaranteed by the Fourteenth Amendment, including the Due  
20 Process right to be free from arbitrary, unreasonable, and oppressive state action that  
21 bears no rational relationship to the state's goal of protecting residents. See, e.g., In  
22 re Taylor, 60 Cal. 4th 1019, 1023 (2015).

23 37. The injuries that Plaintiffs have suffered and will suffer as a result of  
24 Defendants' enforcement of the Operation Boo Front Door Sign Posting Mandate are  
25 severe, irreparable, and ongoingl and there is no plain, adequate, complete, or speedy  
26 alternative remedies available to redress the violations of law committed by  
27 Defendants in this action, nor are there any available and non-futile administrative  
28 remedies available to redress the violations of law committed by Defendants.

**THIRD CLAIM**

**(42 U.S.C. § 1983 --First and Fourteenth Amendments –Equal Protection)**

38. Plaintiffs re-allege paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. By leaving in place, enforcing, and/or threatening to enforce the Operation Boo Front Door Sign Posting Mandate in a manner inconsistently among similarly situated persons, Defendants deprive the Plaintiffs and other Registrants of rights guaranteed by the Fourteenth Amendment, including the right to Equal Protection of the laws.

40. The injuries that Plaintiffs have suffered and will suffer as a result of Defendants’ enforcement of the Operation Boo Front Door Sign Posting Mandate are severe, irreparable, and ongoing; and there is no plain, adequate, complete, or speedy alternative remedies available to redress the violations of law committed by Defendants in this action, nor are there any available and non-futile administrative remedies available to redress the violations of law committed by Defendants.

**FOURTH CLAIM**

**(28 U.S.C. § 2201- Declaratory Relief)**

41. Plaintiffs re-allege paragraphs 1 through 40 of this Complaint as though fully set forth here.

42. An actual controversy exists between Plaintiffs and Defendants regarding the constitutionality and legal enforceability of the Operation Boo Front Door Sign Posting Mandate.

43. Plaintiffs are entitled to a declaration of their rights with regard to CDCR’s policies, including the Operation Boo Front Door Sign Posting Mandate.

**PRAYER FOR RELIEF**

Because of the actions alleged above, Plaintiffs seek judgment against Defendant as follows:

1 a. That Defendants, including CDCR, its officers, agents, and  
2 employees, be enjoined in perpetuity from requiring Plaintiffs and other Registrants  
3 to post signs, notices, and other material at their residences in connection with their  
4 status as California Penal Code section 290 registrants, including but not limited to  
5 the sign attached hereto as Exhibit B;

6 b. That Defendants be enjoined in perpetuity from enforcing the  
7 Operation Boo Front Door Sign Posting Mandate and other similar policies that  
8 compel speech;

9 b. That CDCR's Operation Boo Front Door Sign Posting Mandate,  
10 and other similar policies which compel speech, be declared null and void as  
11 unconstitutional in violation of the First and Fourteenth Amendments of the United  
12 States Constitution;

13 c. That Plaintiffs recover damages in an amount to be proved at trial;

14 d. That Plaintiffs recover from Defendants, under 42 U.S.C. Section  
15 1988, all of Plaintiffs' reasonable attorneys' fees, costs, and expenses of this  
16 litigation; and

17 e. That Plaintiffs recover such other relief as the Court deems just  
18 and proper.

19  
20 Dated: October 14, 2015

LAW OFFICE OF JANICE M. BELLUCCI

21  
22 By: /s/ Janice M. Bellucci  
23 Janice M. Bellucci  
24 Attorneys for Plaintiffs  
25 California Reform Sex Offender Laws  
26 and John Doe  
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