

FILED

MAY 28 2020

**Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE: REPORTING TO THE U.S.
MARSHALS SERVICE OF COVID-19
STATUS OF DEFENDANTS DETAINED
PER ORDER OF THIS COURT AND
HOUSED IN THE D.C. DEPARTMENT OF
CORRECTIONS

Standing Order No. 20-30 (BAH)

Chief Judge Beryl A. Howell

ORDER

Upon consideration of ongoing circumstances relating to the Coronavirus Disease 2019 (COVID-19) pandemic and other pertinent factual and legal circumstances, including: (1) at least 193 residents at the District of Columbia Department of Corrections' Central Detention Facility and Central Treatment Facility (commonly referred to as "D.C. Jail") have tested positive for COVID-19; (2) some of these residents housed in the D.C. Jail are placed there by the United States Marshals Service due to charges pending in the United States District Court for the District of Columbia¹; (3) the United States Marshals Service requires information about the COVID-19 medical status of these District Court for the District of Columbia defendants ("D.D.C. defendants") housed at the D.C. Jail for reasons that include provisioning health care to these defendants and facilitating the transfer or movement of D.D.C. defendants in a manner that ensures the health and safety of D.D.C. defendants and the personnel responsible for transporting or transferring them; (4) the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996) ("HIPAA") contains an express exception allowing "covered entities" to disclose health information "to a correctional institution or a law

¹ *Public Safety Agency COVID-19 Case Data*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/page/public-safety-agency-covid-19-case-data> (last visited May 27, 2020).

enforcement official having lawful custody of an inmate,” which HIPAA exception applies here because the United States Marshals Service, which has lawful custody of the D.D.C. defendants, needs the specified health information for the reasons just stated²; and (5) through this cited exception, HIPAA poses no bar to D.C. Jail, or its medical staff, disclosing the COVID-19–related health information specified below about D.D.C. defendants to the United States Marshals Service;

Accordingly, it is hereby:

ORDERED that the District of Columbia Department of Corrections is **DIRECTED**, effective immediately, to submit daily, except on Saturday and Sunday, to the United States Marshals Service for the District of Columbia a report on the COVID-19 status of D.D.C. defendants housed in the D.C. Jail, including:

- (1) A list, updated daily, except on Saturday and Sunday, of all pertinent information about D.D.C. defendants who have been tested for COVID-19, that provides for each such individual at least the following information: (i) first name and last name, (ii) USMS identification number, (iii) age and date of birth, (iv) DCDC identification number, (v) contact investigation onset date, (vi) all COVID-19 test dates, (vii) all COVID-19 test result dates, (viii) the result of each COVID-19 test, (ix) whether the detainee is currently hospitalized, and (x) the date of discharge from isolation or date of recovery; and

² See 45 C.F.R. § 164.512(k)(5) (permitting disclosure where “protected health information is necessary for: (A) The provision of health care to such individuals; (B) The health and safety of such individual or other inmates; (C) The health and safety of the officers or employees of or others at the correctional institution; (D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another; (E) Law enforcement on the premises of the correctional institution; or (F) The administration and maintenance of the safety, security, and good order of the correctional institution.”)

(2) A list, updated daily, except on Saturday and Sunday, of all D.D.C. defendants in quarantine status, that provides for each such individual at least the following information: (i) first name and last name, (ii) USMS identification number, (iii) age, (iv) date of birth, and (v) DCDC identification number; and it is further

ORDERED that the United States Marshals Service shall provide a summary of these reports to the Court; and it is further

ORDERED that this Order shall be vacated or amended as circumstances warrant.

SO ORDERED.

Dated: May 28, 2020



Beryl A. Howell

Beryl A. Howell
Chief Judge