



COMMUNITY MESSAGE

Authorized By: Sheriff Bill Prim, Chief John Birk, Chief John Bucci, Chief Dave Brey and Chief John Lieb

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McHenry County Law Enforcement Receives Temporary Restraining Order to Further Protect Our Officers and Community.

On Tuesday April 7th, 2020 Sheriff Bill Prim along with McHenry Chief John Birk, Algonquin Chief John Bucci, LITH Chief Dave Brey and Woodstock Chief John Lieb participated in a joint legal action to compel the McHenry County Health Department to provide the names of McHenry County residents who have tested positive for COVID-19 to law enforcement on a limited basis. The decision to take this action was not taken lightly and was only taken after exhausting all other means which included the McHenry County Health Department's decision to provide names on March 31st and then rescind this decision days later. . The request for names of COVID-19 residents is a unanimously support requested not just from the parties involved in this litigation but from the McHenry County Chiefs of Police Association and the McHenry County State's Attorney's Office.

McHenry County Law Enforcement as a profession believes in everyone's right to privacy and holds this right in the highest regard. It was because of this belief that the parties in this suit personally requested the use of the Premise Alert System and the Computer Automated Dispatch / RMS System with the McHenry County Emergency Telephone System Board (ETSB) as a way to compartmentalize and secure this sensitive information so it is not accessible to law enforcement except on an individual call basis and will be expunged in a timely manner when exposure risk goes away. Law enforcement would only receive a warning notification if they were on a call with a resident who tested positive. In addition law enforcement has also agreed to provide additional in-house training to all officers on the sensitivity and confidentiality requirements of the information so any and all information provided stay confidential.

On Friday, April 10th, 2020 the parties involved in this action filed for and were granted and emergency Temporary Restraining Order. Pursuant to the emergency court order entered late Friday night, the Health Department must disclose the names of those currently infected with COVID-19 to the ETSB within 24-hours of being notified. The court ordered further that any names received shall be purged from ETSB records "7 days after the Department of Public Health deems these individuals to no longer be contagious." Lastly, the court ordered that "all information received by the ETSB shall remain and be kept confidential."

Our position on the matter has always been as follows:

1. The ability to provide names and addresses of McHenry County residents that have tested positive for COVID-19 has been deemed an appropriate exception to the Health Insurance Portability and Accountability Act (HIPPA).
 - As published on March 25th, 2020 by the US Department of Health and Human Services (Office of Civil Rights) the names and addresses can be supplied to law enforcement.
<https://www.mwe.com/insights/ocr-issues-guidance-regarding-covid-19-hipaa-and-disclosures-to-first-responders-and-public-health-authorities/>
<https://www.hhs.gov/sites/default/files/covid-19-hipaa-and-first-responders-508.pdf>
 - On March 25th, 2020, the Illinois Attorney General similarly found that the names and addresses of COVID-19 affected individuals were not HIPPA protected.

- On March 26th, 2020 and March 30th, 2020 the McHenry County Health Department received correspondence from the McHenry County States Attorney's Office providing guidance and direction on the matter. This guidance was that names can and should be released to first responders.
2. As published on April 2nd by the Director of the Illinois Department of Health on behalf of Governor Pritzker, the Illinois Attorney General's Office has provided further guidance on the subject matter clearly stating that "disclosure is permissible".
 3. McHenry County law enforcement is still faced with a shortage of Personal Protective Equipment (PPE) and is forced to extend the use of masks up to 30 days unless there is a known exposure. PPE is not securely fixed in place on an officer when being used and is easily detached during physical encounters, pursuits and other unforeseen circumstances that police officers often encounter.
 4. Social distancing only works in semi-controlled or controlled environments, in other words environments that police rarely work in. More often than not, law enforcements must break the (6) foot rule in order to perform their duties. Per CDC guidelines, law enforcement activities often fall within the "close contact" range rather than 6 feet or more.
 5. As of April 13th, 2020, over 90 law enforcement agencies in Illinois have been hit by COVID-19 resulting in 229 positive cases, 379 quarantine officers and 2 deaths. These numbers are growing daily and clearly show the significant risk and disproportionate risk law enforcement officers face in being exposed to COVID-19.
 6. As of April 13th, 2020, over 36 Illinois jails and prisons have been hit by COVID-19 which has resulted in 145 positive cases and 2,974 inmates being quarantined.
 7. In requesting the names of COVID-19 residents law enforcement is:
 - a. Seeking to provide essential information to our responding officers only when responding to or after being dispatched to situations that involve infected individuals. To be clear this information is not being requested so that officers can avoid contact. Receiving this information before arriving on a scene or during early interaction will allow officers to take additional precautions to reduce risk of exposure and make informed determinations as to whether to use additional limited PPE.
 - b. Most importantly, gaining valuable information that allows every police department and our correctional facility to properly monitor and treat an exposed officer or correctional officer so they do not spread the exposure through the ranks, facilities, take it home to their families or worse spread it through the community. Remember, law enforcement is always out interacting with the public even with the Stay at Home Order in place. A potential exposure in the ranks will trigger certain protocols as suggested by the CDC when it comes to; supervisor screenings, decontamination of equipment, vehicles and uniforms, monitoring officers for symptoms, medical treatment, additional use of PPE and requiring a quarantine of an officer or jail staff member for a period of time to ensure they are not spreading the virus.
 - c. Informing officers with valuable information to assist them in real-time decision making. For example, knowing that a person is actively infected with COVID-19 is certainly something an officer can consider in determining to make an arrest and, thereby, potentially exposing other inmates to COVID-19.

As the nation and the State of Illinois has realized on a daily basis, the COVID-19 pandemic is a fluid situation that is in a state of constant change. We know more now that we knew in the beginning but we have much to learn as we move forward. McHenry County Law Enforcement is committed to maintaining the frontline in support of our citizens and businesses and we will continue to work side by side with all public safety organizations so that we can stop the spread of COVID-19.