

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, SS

No. SJC-12926

COMMITTEE FOR PUBLIC COUNSEL SERVICES and MASSACHUSETTS
ASSOCIATION OF CRIMINAL DEFENSE LAWYERS,
Petitioners,

v.

CHIEF JUSTICE OF THE TRIAL COURT & Others,
Respondents.

**THE SHERIFFS' OF THE FOURTEEN COUNTIES OF THE COMMONWEALTH OF
MASSACHUSETTS OPPOSITION TO PETITIONERS' MOTION FOR
RECONSIDERATION OR MODIFICATION OF DECISION TO THE EXTENT THAT
A RESPONSE OF THE RESPONDENTS IS REQUIRED**

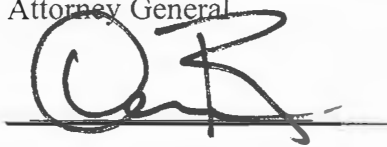
Petitioners have filed a Motion for Reconsideration of the Court's order of April 3, 2020, in the above referenced matter. In its motion, Petitioners imply by the statement "[t]he true extent of the outbreak is a mystery-because the Department of Corrections and the Sheriffs are scarcely testing anyone..." that the Sheriff's Offices have failed to test incarcerated individuals that require testing. (Petitioner's Motion, The Sheriffs deny this inference and respectfully state that they have and do test according the MEDICAL professionals, more specifically, Dr. Alysse G. Wurcel, whose resume and affidavit the Respondents attach. (Exhibit A) Dr Alysse Wurcel is an attending physician at Tufts Medical Center and is board certified in internal medicine and infectious diseases. (Exhibit A)

The Respondents submit that following the advice of the medical professional that is working with all the Sheriff's Offices, Dr. Wurcel, as to the testing of individuals, is consistent with both medical protocol and the Center for Disease Control (CDC) and further should outweigh the statement of the Petitioners who are non-medical professionals. Further,

Respondents attach the contact information for the individuals the petitioner have been advised to contact for each facility in order to get a message to their client. (Exhibit A) In conclusion, Respondents respectfully request the Court deny the Petitioners' Motion for Reconsideration.

**RESPECTFULLY SUBMITTED BY
RESPONDENTS, THE SHERIFFS OF
THE FOURTEEN COUNTIES OF
THE COMMONWEALTH OF
MASSACHUSETTS,**

By their Attorney
Maura Healy
Attorney General



Date: April 23, 2020

By:

Dan V. Bair II, Esq. (BBO# 654369)
Special Assistant Attorney General
Dan V. Bair II, Attorney at Law
15 Foster Street
Quincy, MA 02169
Tel: (508) 277-0720
Fax: (617) 770-4091
dbair@danbairlaw.com

Date: April 23, 2020

By:



Robert Harnais, Esq. (BBO# 557535)
Mahoney & Harnais
15 Foster Street
Quincy, MA 02169
Tel. 617-770-0000
Fax 617-770-0026
robert@harnaislaw.com

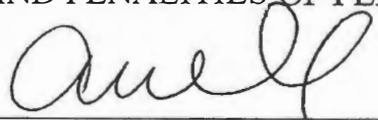
EXHIBIT A

AFFIDAVIT OF ALYSSE G. WARD

I, Alysse G. Wurcel, MD, MS, hereby depose and state the following:

1. I make the following statements herein based on my personal knowledge.
2. I am a physician licensed to practice in Massachusetts.
3. Currently, I am an Assistant Professor at Tufts Medical Center's Department of Medicine, Division of Geographic Medicine and Infectious Diseases.
4. I have been working with the Massachusetts Sheriffs' Association to provide guidance on COVID-19 best practices and policies in all correctional facilities operated by the fourteen (14) County Sheriffs of the Commonwealth of Massachusetts.
5. Consistent with current Center for Disease Control guidelines, I have advised against COVID-19 virus testing in inmates without symptoms.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS
23rd DAY OF APRIL 2020.



Alysse G. Wurcel, MD, MS

Suffolk County Sheriff's Department
Attorney / Client Teleconference Procedures
SJC Order 12926

Attorneys wishing to schedule a teleconference with their clients should send their request by email to:

FOR CLIENTS RESIDING AT THE SUFFOLK COUNTY **JAIL**
attorneycallsNSJ@scsdma.org

FOR CLIENTS RESIDING AT THE SUFFOLK COUNTY **HOUSE OF CORRECTION**
attorneycallsHOC@scsdma.org

- Requests received prior to 2:00PM, will be answered in a same day response, with teleconferences scheduled for the following day, (Monday – Friday), between the hours of 10:00AM – 4:00PM.
- Email requests should originate from a law office email address.
- Attorneys wishing to add their cellphone numbers to the attorney / client privileged call list should forward such requests to the appropriate email address listed above. Such requests are subject to Department verification.
- Issues involving scheduling conflicts or special requests will be handled on an individual case basis.
- Due to technology and security issues, requests for attorney / client videoconference will be strictly limited and available only upon demonstration of need.



Essex County Sheriff's Department



20 Manning Ave
P.O. Box 807
Middleton, MA 01949-2807

Kevin F. Coppinger
Sheriff

Telephone 978-750-1900
www.essexsheriffma.org

COVID-19 STATE OF EMERGENCY ANNOUNCEMENT FOR ATTORNEYS

Essex County Sheriff's Department (ECSD) has implemented the following protocol as a result of the existing COVID-19 state of emergency, to assist attorney/client communication with inmates in custody at Essex County Correctional Facilities (ECCF). This measure is to streamline the process and centralize information during the COVID-19 state of emergency. Please note personnel responding to the measures below are available during normal business hours only.

CHANGING OR ADDING PHONE NUMBER ON INMATE CALLING SYSTEM

Attorneys requesting to change or add telephone numbers (office and law firm landlines, cell phone numbers) in the inmate phone system must submit a request on official letterhead via email to the department's dedicated COVID-19 Inmate Inquiries email address, covid19inmateinquiries@essexsheriffma.org. Requests should include the following information:

- Name
- Board of Bar Overseers # (required)
- Representing/Inmate Name
- Inmate DOB (required)
- Inmate MSA number (requested)
- Previous phone number
- Updated phone number

A confirmation of receipt will be sent in response to all inquiries and phone numbers will be updated within one business day. Attorneys are required to follow this process to change or add a phone number to the calling system.

Phone numbers associated with attorneys and law firms will connect to a non-recorded phone line. ECSD expects any attorney/client phone calls are for official use only. Facilitation of three-way calls are prohibited.

Please note attorneys will encounter a charge from Securus inmate phone system following the phone call. This change of phone number(s) will only apply during the COVID-19 state of emergency.

Proudly serving the communities of Essex County

AMESBURY • ANDOVER • BEVERLY • BOXFORD • DANVERS • ESSEX • GEORGETOWN • GLOUCESTER • GROVELAND
HAMILTON • HAVERHILL • IPSWICH • LAWRENCE • LYNN • LYNNFIELD • MANCHESTER-BY-THE-SEA • MARBLEHEAD
MERRIMAC • METHUEN • MIDDLETON • NAHANT • NEWBURY • NEWBURYPORT • NORTH ANDOVER • PEABODY
ROCKPORT • ROWLEY • SALEM • SALISBURY • SAUGUS • SWAMPSCOTT • TOPSFIELD • WENHAM • WEST NEWBURY

CONTACTING CLIENT(S) IN ECSD CUSTODY

For client contact and to request a telephone call with clients housed in ECCF, attorneys are required to email covid19inmateinquiries@essexsheriffma.org with this request. Requests should include the following information:

- Name
- Board of Bar Overseers # (required)
- Representing/Inmate Name
- Inmate DOB (required)
- Inmate MSA number (requested)
- Phone number for inmate to call (number registered on Inmate Calling System)

The inmate will be given the message to call their attorney. The inmate will be allowed access to the unit phones to call during a pre-determined time period. All inmates have access to inmate phones seven (7) days per week.

All attorneys should ensure any updates or changes to phone numbers are submitted at least one (1) business day prior to the request for a phone call using the procedures above. This will ensure the most accurate number will be in the Inmate Calling System.

REQUEST FOR MEDICAL RECORDS

For request of medical records, attorneys are required to submit a request on official letterhead via email to:

Lauren Furlong, lfurlong@wellpath.us
Rachel Arundel, rarundel@wellpath.us
Katie Murphy, klmurphy@wellpath.us

Please forward your request to all three contacts above to ensure a timely response. Requests should include the following information:

- Name
- Board of Bar Overseers # (required)
- Representing/Inmate Name
- Inmate DOB (required)
- Inmate MSA number (requested)
- Request for emailed documents or facsimile, and the corresponding contact information

A confirmation of receipt will be sent in response to all requests. Please allow up to two (2) business days to process and return the request.

Please note that the operational changes described herein are intended to address issues during the COVID-19 emergency and are intended to apply during the emergency time period only. The ECSD reserves its right and retains its discretion to change these policies at any time during the COVID-19 emergency and these changes will expire at the end of the COVID-19 emergency.

HCSD Process for Contacting Clients By Telephone

I know there has been some confusion surrounding the process for attorneys to contact their clients. We had to make temporary changes to the process last week, as Lisa Deliz was out. Going forward please direct all requests to arrange to speak with your clients at Ludlow or Chicopee facilities to:

AttorneyContact@sdh.state.ma.us

Please provide them with your client's name, D.O.B and person number if you have it. They will get back to you by email with times that you can expect a call from your clients. We have limited staff right now due to the Governor's order regarding non-essential employees. Please be patient. Our staff will do the best that they can in getting back to you in a timely manner.

A few important things to know to ensure the smooth operation of this process and that you will be able to maintain confidentiality with your clients:

1. If you need your client to call you at a number that is not already in our system you should send an email with your phone number and BBO number to ICS@sdh.state.ma.us . Please do not email this link unless you are fairly certain your phone number is not already registered.
2. It is best to have your clients contact you from the blue phones on the housing units as opposed to using a counselor's phone. Neither would be recorded, but more privacy and time for the phone call will be afforded to your clients if they use the housing unit phones. If they need to use a counselor's phone, time is limited as they cannot have their phones tied up for large periods of time. Additionally, those calls have to occur with the staff member either in the office or in the doorway for security reasons.
3. Please make every effort to send your emails prior to 3 p.m. so that the call times can be set up for you on the day requested.

Thank you for your patience as we all navigate these highly unusual and difficult times.

Norfolk County Sheriff's Department
Attorney / Client Teleconference Procedures
SJC Order 12926

Attorneys wishing to schedule a teleconference with their clients should send their request by email to:

FOR CLIENTS RESIDING AT THE NORFOLK COUNTY HOUSE OF CORRECTION
dboomhower@norfolksheriffma.org

- Requests received prior to 2:00PM, will be answered in a same day response, with teleconferences scheduled for the following day, (Monday – Friday), between the hours of 9:00AM – 3:00PM.
- Email requests should originate from a law office email address.
- Attorneys wishing to add their cellphone numbers to the attorney / client privileged call list should forward such requests to the appropriate email address listed above. Such requests are subject to Department verification.
- Issues involving scheduling conflicts or special requests will be handled on an individual case basis.
- Due to technology and security issues, requests for attorney / client videoconference will be strictly limited and available only upon demonstration of need.

Plymouth County Sheriff's Department
Attorney / Client Teleconference Procedures
SJC Order 12926

Attorneys wishing to schedule a teleconference with their clients should send their request by email to: dpinto@pcsdma.org

- The email must contain the name of the client, the attorney's telephone number, and a preferred range of times for the teleconference.
- Please make every effort to send your email requests prior to 3pm, so that the Department can set up the call in the preferred range of times.
- Email requests should originate from a law office email address.
- Attorneys wishing to add their cellphone numbers to the attorney / client privileged call list should forward such requests to the email address listed above. Such requests are subject to Department verification.
- Issues involving scheduling conflicts or special requests will be handled on an individual case basis.
- Attorney-client calls are privileged and are not monitored or recorded.

Bristol County Sheriff's Office
Attorney / Client Teleconference Procedures
SJC Order 12926

Attorneys wishing to schedule a teleconference with their clients should send their request by email or fax to:

FOR CLIENTS RESIDING AT THE DARTMOUTH HOUSE OF
CORRECTIONS AND THE ASH STREET JAIL

graceouellette@bcso-ma.org

karensouza@bcso-ma.org

Fax: 508-995-3326

- Requests received prior to 2:00PM, will be transmitted to the client in a same day response, with teleconferences scheduled for the following day, (Monday – Friday), between the hours of 10:00AM – 4:00PM.
- Email / Fax requests should originate from a law office email address.
- The Email should contain the following information: 1) Name of client, 2) Name of Attorney, 3) BBO number, 4) Telephone number of attorney and 5) Preferred range of time that the attorney wishes to be called by client the next day or a subsequent date.
- If an attorney is using a phone number such as a cell number or home number that has not been registered with the inmate telephone system (Securus) the call will contain the recorded prompt that it is being recorded. To register a phone number send a request to the above email asking that a number be added. The BCSO staff will investigate to insure that the number is legitimate and then send the request for entry to the IT Department. Once the number is validated and entered into the system calls can be scheduled.

- Upon receipt of a teleconference request by the BCSO, the information will be delivered to the appropriate Watch Commander to notify the client. Once the message is delivered, the BCSO will notify the attorney by email or telephone that the call has been scheduled.
- Issues involving scheduling conflicts or special requests will be handled on an individual case basis.



Dukes County Sheriff's Office
Attorney / Client Teleconference Procedures
SJC Order 12926

Attorneys wishing to schedule a teleconference with their clients should send their request by email to:

kpachico@dcsoma.org

- The Dukes County Sheriff has installed dedicated telephone lines to facilitate confidential privileged teleconferences between attorneys and their clients.
- Attorneys who wish to communicate with their clients using one of these dedicated lines must email a request containing the name of the client, the attorney's telephone number and the **preferred time for the teleconference**.
- Requests received prior to 2:00PM, will be answered in a same day response, with teleconferences scheduled for the following day, (Monday – Friday), between the hours of 10:00AM – 4:00PM.
- Email requests should originate from a law office email address.
- Attorneys who need to have an interpreter or social worker included on the call should specify the need for the additional person in the email requesting a scheduled teleconference.
- Attorneys wishing to add their cellphone numbers to the attorney / client privileged call list should forward such requests to the email address listed above. Such requests are subject to Department verification.
- Issues involving scheduling conflicts or special requests will be handled on an individual case basis.
- The Dukes County Sheriff has also acquired technology to facilitate confidential privileged videoconferences between attorneys and their clients using the Zoom application.
- Due to technology capacity and security issues, requests for attorney / client videoconference will be limited. If an attorney requests a videoconference and the Dukes County Sheriff's Office is unable to provide a videoconference, the attorney will be scheduled for a teleconference at mutually agreeable time.
- All attorney-client calls are privileged and are not recorded.

Worcester County Sheriff's Office
Attorney / Client Teleconference Procedures
SJC Order 12926

Attorneys wishing to contact clients at the Worcester County Sheriff's Office (WCSO) should send an email request to:

WCSOAttorneyHelp@sdw.state.ma.us

- Attorneys can contact inmates via non-contact visits and first class legal mail. Masks are required for all visitors entering the WCSO.
- Attorneys that wish to set up a Securus account or add a line to the attorney/client privileged call list should submit a request to the above referenced email address. Please note that requests are subject to WCSO verification.
- If a client is housed in a specially designated unit (quarantine, lockdown, disciplinary, etc.), Inmate Services staff will coordinate with the housing unit staff to facilitate the call utilizing the inmate's Securus account at a designated time.
- If an attorney is unable to set up an account, phone is unable to take collect calls, or other communication issues are present, Inmate Services staff will facilitate a call between the attorney and client. Attorneys will be notified that such calls are recorded.

Berkshire County Sheriff's Office

Special Attorney/Client Telephone & Medical Records Procedures

SJC-12926

COVID-19 Motions

The following procedures are in place to help expedite the filing of COVID-19 motions. These procedures are temporary during this emergency period. The BCSO reserves its right to change these procedures at any time during the COVID-19 emergency and these changes will expire at the end of the COVID-19 emergency.

For attorneys who are working from home or an alternate location, if you need your client to call you at a number not already in the Securus system, you should send an email with your name, phone number, BBO number, and your client's full name and date of birth to Thomas.raymond@sdb.state.ma.us Such requests are subject to verification. These calls are not recorded. Third party calling is not permitted. If you need to have another person on the line (e.g. an interpreter), please make arrangements in advance by contacting Captain Thomas Raymond between the hours of 7 a.m. and 3 p.m. Monday through Friday.

If there is a particular time range in which it is best to call you, please indicate that. Be advised that 11:00 a.m. – Noon and 4:00-5:15 p.m. are not available for calls as headcounts and inmate meals are occurring. We will attempt to accommodate time preferences within our capability.

We are currently in the process of installing hardware to enable video visits for personal and professional visits. We hope to have this up and running within a week or so.

Attorneys who elect to come to the jail for a non-contact visit must come into the lobby wearing a suitable mask over their nose and mouth and keep the mask in place until they exit the building. They will also have their temperatures taken upon entry. Attorneys having any symptoms of COVID should not visit the facility in person.

If you need to have documents signed by your client in the presence of a notary, please contact Assistant Superintendent Dan Sheridan at (413) 443-7220 or daniel.sheridan@sdb.state.ma.us

If you need to obtain medical records pertaining to your client, please send an e-mail to **all** of the following individuals to help insure the most expedient response:

daniel.sheridan@sdb.state.ma.us
nancv.pieraccini@sdb.state.ma.us
lisa.st.john@sdb.state.ma.us

Please indicate whether you are willing to accept e-mail transmission of the records.



Commonwealth of Massachusetts
Office of the Sheriff

DIRECTIVE

Attorney/Client Telephone and Teleconference
Procedures

DATE: March 13, 2020

ISSUED BY: Superintendent Lori M. Streeter: _____

Attorneys wishing to schedule telephone or teleconference calls with their clients should send their request to:

Sergeant Jayson Yuryan – 413-774-4014, Ext. 2191
Email Address: jyuryan@fcsso-ma.us

- Phone call requests will be answered same day with arrangement for direct call access to inmate or message delivered to inmate with attorney's request for call.
- Teleconference requests received prior to 2:00 PM will be answered in a same day response, with teleconferences scheduled for the following day. (M-F between the hours of 8:00 AM-4:00 PM).
- Email requests should originate from law office email address.
- Scheduling conflicts or special arrangements will be handled on a case-by-case basis.
- Telephone calls to attorneys who are listed with the telephone access provider shall not be monitored.
- Attorneys not listed with telephone access provider can request to be added by notifying the contact above.
- Due to technology and security issues, response for attorney/client videoconference will be limited and available only upon demonstration of need.

Middlesex Sheriff's Office
Attorney / Client Teleconference Procedures
SJC Order 12926

Attorneys wishing to contact clients at the Middlesex Sheriff's Office (MSO) should send an email request to:

jgoggins@sdm.state.ma.us

- Attorneys can contact inmates via non-contact visits and first class legal mail. Masks are required for all visitors entering the MSO.
- Attorneys that wish to set up a Securus account or add a line to the attorney/client privileged call list should submit a request to the above referenced email address. Please note that requests are subject to MSO verification.
- If a client is housed in a specially designated unit (quarantine, lockdown, disciplinary, etc.), Inmate Services staff will coordinate with the housing unit staff to facilitate the call utilizing the inmate's Securus account at a designated time.
- If an attorney is unable to set up an account, phone is unable to take collect calls, or other communication issues are present, Inmate Services staff will facilitate a call between the attorney and client. Attorneys will be notified that such calls are recorded.

Hampshire Sheriff's Office

Attorney Telephone Calls

Attorneys wishing to speak to their clients should schedule through Lieutenant Brian Teixeira. The protocol is as follows:

- Contact Lt. Teixeira either through email or by telephone to schedule the telephone call.
- Lt. Teixeira should be provided with an approximate time frame for the call to occur and the telephone number that the attorney can be reached at.
- Contact numbers provided must be enrolled in the **Do Not Record** status through our telephone service provider ICS. If the number is not enrolled the call will be recorded. Attorney cell phones are not enrolled unless steps have previously been taken to specifically enroll said number.
- Depending upon circumstances and schedules most attorney telephone calls can be accomplished within 2-3 hours. Often times even less than that.
- Emergency telephone calls should be scheduled by the Shift Supervisor through the facility's main phone number.

Lt Teixeira contact information:

Telephone: 413 584-5911 ext. 1277

Email: brian.teixeira@hsd.state.ma.us

Questions or enrollment for **Do Not Record** status should be directed to Major John Bonafini at:

Telephone: 413 582-7735

Email: john.bonafini@hsd.state.ma.us



OFFICE OF THE SHERIFF BARNSTABLE COUNTY

The Commonwealth of Massachusetts

6000 Sheriff's Place, Bourne, MA 02532

508.563.4300 Fax: 508.563.4574

BCSO@bsheriff.net



Sheriff

James M. Cummings

ACCREDITED



American
Correctional
Association

Temporary Attorney/Client Communication Process – SJC Order 12926

The Barnstable County Sheriff's Office has implemented the following protocol to assist communication between attorneys and their clients within the custody of the Barnstable County Correctional Facility during the COVID 19 emergency. This is a TEMPORARY protocol in accord with SJC-12926. Notice will be provided when the normal and customary attorney/client communications process is restored.



Commission on
Accreditation of
Rehabilitation
Facilities

Any attorney wishing to make contact with an inmate at the BCCF should send an email to specialoperations@bsheriff.net and include the inmate's name, the attorney's full name, their normal office/business telephone number, and any new phone number they would like to register.

The attorney should indicate the date and time range Monday through Friday 7:00AM-3:00PM period during which the inmate can call the attorney.

We will try to facilitate the call as close to the preferred time range as is possible.

Our special operations staff will confirm receipt of the attorney email and will deliver the information to the inmate.

INTEGRITY

PROFESSIONALISM

COMPASSION

TEAMWORK

BARNSTABLE - BOURNE - BREWSTER - CHATHAM - DENNIS - EASTHAM - FALMOUTH - HARWICH
MASHPEE - ORLEANS - PROVINCETOWN - SANDWICH - TRURO - WELLFLEET - YARMOUTH

MASSACHUSETTS SHERIFFS' ASSOCIATION
AGENCY CONTACT INFORMATION FOR ATTORNEY'S TO CONTACT THEIR CLIENTS DURING COVID-19

COUNTY:	AGENCY CONTACT:
BARNSTABLE	specialoperations@bsheriff.net
BERKSHIRE	daniel.sheridan@sdb.state.ma.us (413) 443-7220 ext. 1402
BRISTOL	graceouellette@bcso-ma.org karensouza@bcso-ma.org Fax: 508-995-3326
DUKES	kpachico@dcsoma.org
ESSEX	covid19inmateinquiries@essexsheriffma.org
FRANKLIN	iyuryan@fcso-ma.us (Sgt. Jason Yuryan) (413) 774-4014 Ext. 2191
HAMPDEN	AttorneyContact@sdh.state.ma.us
HAMPSHIRE 1277	Brian.teixeira@hsd.state.ma.us (Lt. Brian Teixeira) (413) 584-5911 ext.
MIDDLESEX	JGoggin@sdm.state.ma.us (John Goggin) 978-932-3201
NORFOLK	dboomhower@norfolksheriffma.org (Danielle Boomhower)
PLYMOUTH	dpinto@pcsdma.org (Dilma Pinto)
SUFFOLK: JAIL HOC	attorneycallsNSJ@scsdma.org attorneycallsHOC@scsdma.org
WORCESTER	wcoattorneyhelp@sdw.state.ma.us