

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Linda DeVooght, Tressa Sinha,
Jennifer Piper, Donna Tripi, Suzanne
Chaffin, and Cheryl Osowski,

Plaintiffs,

v.

City of Warren,

Defendant.

Case: 20-10812

Hon. George Caram Steeh
United States District Judge

Hon. David R. Grand
United States Magistrate Judge

**SUPPLEMENTAL NOTICE OF FACTS SUPPORTING PLAINTIFFS’
MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Plaintiffs Linda DeVooght, Tressa Sinha, Jennifer Piper, Donna Tripi, Suzanne Chaffin, and Cheryl Osowski, by and through their attorneys Pitt McGehee Palmer & Rivers, provide the following additional facts and legal argument in support of the Motion for Preliminary Injunctive Relief and Temporary Restraining Order (Dkt No. 2).

Plaintiffs’ counsel sought Defendant’s concurrence in filing this motion to supplement their motion and it was granted as to form.

Additional Relevant Facts:

On the evening of Monday, March 30, 2020, the Macomb Daily reported that a City of Warren police officer had tested positive for COVID-19 and had already been in quarantine for several days. (Ex. 1 Macomb Daily article.) Nine other patrol officers and one civilian employee are also in quarantine for possible exposure, according to this report. (*Id.*) Prior to that report, the infected officer had shared this news of his having contracted the virus with his union, the Warren Police Officers Association, and Union President Michael Sauger sent an email to the members informing them that an officer had tested positive and was in quarantine. (Ex. 2: Union Email.) Sauger advised his members, “At this point, assume that everyone we deal with is infected [with COVID-19] or a carrier.” (*Id.*) From then, the news spread informally through social networks and emails from the union members to inform Plaintiffs and the other dispatchers that there was exposure within the Police Department.

Following all this communication among the union members and the publication of the news in the Macomb Daily, on March 31, 2020, at 8:41 am, City of Warren Police Commission William Dwyer wrote to all personnel, including Plaintiffs, regarding the news that an officer had tested positive for COVID-19.¹

¹ Defendant has objected to public disclosure of this document. The parties can produce the document if requested.

Dwyer was quoted in the earlier Macomb Daily report that he had known for “several days” about the officer’s positive test and that he had spoken with the infected officer on Saturday, March 28, 2020. (Ex. 1.)

It is also the case that there has been an order in place since March 19, 2020, that the dispatch area be limited to “essential personnel and required inquiries” in order to limit the amount of exposure. (Ex. 3: March 19, 2020 Order.) Plaintiffs’ counsel and Defendant’s counsel have been in extensive communications seeking some interim agreement; however, at the time this notice is being filed, there is still no agreement in place.

Impact of These Additional Facts on Plaintiffs

As Plaintiffs argued in their Brief in Support of their Motion for a Preliminary Injunction and Temporary Restraining Order, Plaintiffs will suffer irreparable injury absent injunctive relief. (Pls Brief, Dkt 2 at PageID #53-55.)

At least one City of Warren police officer has now tested positive for COVID-19. At least nine other employees of the Warren Police Department are in quarantine for possible exposure. Plaintiffs face immediate and irreparable harm from the performance of their duties—namely, exposure to the COVID-19 virus from having to leave their secure communications area to work in close proximity to police officers, arrestees, and others who may have been exposed.

Adding to the urgency is the fact that when female dispatchers are summoned to the jail to perform searches, they are comingling with the rest of the employees as well as the arrestees. As the Union President explained, each individual should be treated as a potential carrier or infected person. Therefore, the risk to Plaintiffs is even more heightened than it was a few days ago. Moreover, when a male patrol officer comes to the Communication room to relieve the female dispatcher who is being ordered to conduct a search, he is further introducing potential exposure to the dispatchers. This violates the March 19 order to limit exposure to the personnel in the dispatch area.

The City of Warren has demonstrated by its actions that it will not act without a court order act to protect Plaintiffs from irreparable injury. Plaintiffs first reached out to the City of Warren on Thursday, March 26, 2020 to seek interim measures to protect Plaintiffs. (Dkt 2 at PageID #36-37.) These efforts failed on March 27, 2020 and Plaintiffs filed their Complaint and Motion for TRO later that day. (*Id.*) Shortly thereafter, likely on March 28, 2020, Defendant learned that an officer had contracted the COVID-19 virus and that several other members of the Police Department were also in quarantine for possible exposure.

Defendant, despite facing an emergency court action to protect Plaintiffs from imminent danger of exposure to COVID-19, failed to act to alleviate Plaintiffs' risk or even inform Plaintiffs in a timely way of their increased risks. Based on these new

facts, as well as all facts and arguments presented in Plaintiffs' Motion and Brief in Support of their Motion, Plaintiffs request the Court to grant them the emergency TRO and injunctive relief set forth in their Motion.

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Dated: April 1, 2020

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served upon counsel for Defendant via the Court's electronic filing system on April 1, 2020.

/s/ Kathy Prochaska

**UNITED STATES DISTRICT COURT
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**INDEX OF EXHIBITS TO
SUPPLEMENTAL NOTICE OF FACTS SUPPORTING PLAINTIFFS'
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- 1 Macomb Daily Article
- 2 Union mail
- 3 3-19 Directive

EXHIBIT 1

https://www.macombdaily.com/news/coronavirus/warren-police-officer-tests-positive-for-covid/article_2a714f92-72c4-11ea-b0ca-ffa09fa064d3.html

FEATURED

Warren police officer tests positive for COVID-19

By Norb Franz nfranz@medianewsgroup.com; @NorbFranz on Twitter
Mar 31, 2020



Warren Police Commissioner William Dwyer, foreground, at a press conference Jan. 23, 2020.

MACOMB DAILY FILE PHOTO

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A Warren police officer who has been under quarantine for several days has tested positive for COVID-19.

The officer, whose name was not revealed, had been on quarantine for several days while awaiting the outcome of his test result, which came back Saturday, Warren Police Commissioner William Dwyer said Monday.

The positive test for that coronavirus may be the first of its kind in the Macomb County law enforcement community.

"I talked to him Saturday. He's still (remaining) in quarantine for a period of time," Dwyer said. "We're concerned, obviously, about him."

Nine other Warren patrol officers plus one civilian employee are in various lengths of quarantine, he said. Not all of the officers have been tested for the coronavirus. A few have some symptoms consistent with COVID-19 but others have been quarantined for possible exposure.

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Among those in the latter group are two officers who went to the residence of a woman shortly after she died while under hospice care but police officials later learned the woman had contracted COVID-19, police said.

An unspecified number of Warren officers will remain off-duty for approximately seven to 10 days, Dwyer said. However, about three to four officers are scheduled to return to active duty late this week if they remain symptom-free, the police commissioner said.

“We’re taking all the safety precautions we can,” said Dwyer, noting the police administration has been working with the Warren Police Officers Association on safety measures.

At the start of each shift in the Police Department, a commander takes the temperature of each officer. Individuals with a temperature of 100 or higher are sent home and told to actively monitor their symptoms. They will not be allowed to return to work for at least seven days and until remaining fever-free for at least three days without the benefit of medication.

Offices also have been provided with masks – 1,500 surgical masks were delivered last week – plus gloves, hand sanitizer and spray disinfectant for wiping down the interior of each patrol vehicle twice per day.

Dwyer hopes the city can soon acquire full facial shields. Patrol officers are no longer riding in 2-man units, and the lobby of police headquarters and the police mini-station inside Civic Center South, on Van Dyke Avenue near Nine Mile Road, are closed to the public.

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“So far, I think we’ve been very fortunate. It’s unfortunate that we have the one that tested positive.” he added.

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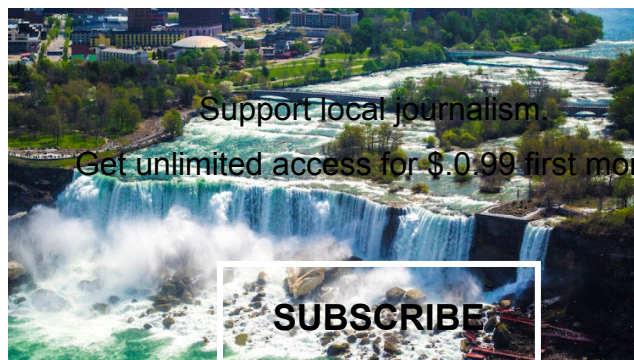
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Norb Franz is a multimedia journalist at The Macomb Daily.

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EXHIBIT 2



Good Evening –

By now many of you have seen the news article published this evening from the Macomb Daily which reported a Warren police officer who has been under quarantine for several days has tested positive for COVID-19.

The officer, whose name was not revealed, had been on quarantine for several days while awaiting the outcome of his test result, which came back Saturday, Warren Police Commissioner William Dwyer said Monday.

"I talked to him Saturday. He's still (remaining) in quarantine for a period of time," Dwyer said. "We're concerned, obviously, about him."

Nine other Warren patrol officers plus one civilian employee are in various lengths of quarantine, he said. Not all of the officers have been tested for the coronavirus. A few have some symptoms consistent with COVID-19 but others have been quarantined for possible exposure.

The CDC recommends that employers notify co-workers when someone has tested positive. However, because of privacy laws, employers must ensure such notices don't disclose the identity of the person.

Yes, a police officer has tested positive, and we are awaiting results on several more. At this point, assume that everyone we deal with is infected or a carrier. This is why it is important to watch out for yourself. Do NOT come to work when sick. Monitor your own symptoms several times a day. We have been working with the Department to disinfect the





cars several times a day, maintaining safe distances and separation when possible, and providing PPE's.

Unfortunately, the first officer who tested positive, will not be the last. We have to continue to watch over each other and together, we can all get through this. Safe distances. Wash your hands often. Use PPE's.

We want to thank those who took the time to reach out to us once this article posted, and we share your concerns and frustrations in how notifications were given, or not given. This is a scary time for all first responders and fear of the unknown is the worst fear there is.

If you have any questions or concerns, please let us know.



Michael Sauger

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EXHIBIT 3

Donna Tripi

From: Rick Scholz
Sent: Thursday, March 19, 2020 12:10 PM
To: Warren PD
Subject: Please limit contact in Dispatch Center

Please limit access to the dispatch center to essential personnel and required inquiries.

We want to limit the amount of exposure to all personnel as much as possible.

Thank you for your cooperation

Rick Scholz, Executive Lieutenant
Warren Police Department
Patrol Support Division
29900 Civic Center Dr
Warren, MI 48093
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