

**Guidance to Local Health Departments on Disclosure of****Information Regarding Persons with Positive Tests for COVID-19 to Law Enforcement****I. Background**

SARS-CoV-2 is a novel coronavirus that has emerged and caused coronavirus disease (abbreviated as COVID-19). Public health experts continue to learn about SARS-CoV-2, but based on current data and similar coronaviruses, spread from person-to-person happens most frequently among close contacts (those within about six feet) via respiratory droplets. Local health departments may be asked to disclose the identity of individuals who have tested positive for COVID-19 to first responders or law enforcement in an effort to guide the decision of whether or not to use personal protective equipment (PPE) when interacting with potentially COVID-19 positive individuals. **As discussed further below, providing first responders and law enforcement with the identity of positive COVID-19 cases has limited epidemiologic and infection control value and therefore IDPH does not recommend notification to law enforcement of individuals who have tested positive for COVID-19. Rather, IDPH recommends that first responders and law enforcement take appropriate protective precautions when responding to all calls.**

**II. Purpose**

This document provides legal and infection control guidance to inform the decisions of local health departments (LHDs) that may be asked to identify persons with COVID-19 positive tests to first responders or law enforcement.

**III. Health Insurance Portability and Accountability Act (HIPAA) and Additional Statutory Considerations**

Many questions have come up specific to legal authority and the role of the HIPAA Privacy Rule as to whether requested information can be disclosed (45 CFR Part 164). HIPAA may or may not apply to a health department, depending on whether it has any HIPAA covered functions and how it is designated.

HIPAA prohibits the use and disclosure of identifiable health information (known as “protected health information” or “PHI”) unless the rule requires or permits disclosure.

HIPAA also includes provisions that **permit, but do not require**, a HIPAA-covered entity to disclose PHI in certain instances, such as when necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public (45 CFR 164.512(j)). The disclosure must be consistent with applicable law and standards of ethical conduct and made to a person or persons reasonably able to prevent or lessen the threat. A covered entity **must make reasonable efforts to limit the information used or disclosed to that which is the “minimum necessary”** to accomplish the purpose for the disclosure (45 CFR 164.502(b)).

Additional Illinois laws apply to the disclosure of information related to COVID-19 cases by LHDs, including, but not limited to, the Department of Public Health Act, 20 ILCS 2305/2.1 (regarding sharing with law enforcement

for criminal or prosecution purposes), and the Communicable Disease Code, 77 Ill. Adm. Code 690 (regarding confidentiality of information that would identify patients).

#### **IV. Specific Guidance Regarding Infection Control Considerations**

At this time, COVID-19 is widespread in Illinois. Providing first responders and law enforcement with the identity of positive COVID-19 individuals has limited epidemiologic and infection control value, since there are likely a larger number of asymptomatic and cases that have not been confirmed by a laboratory in each community. Providing this information could also give first responders and law enforcement a false sense of security, as many people who are ill may not have been tested yet. Additionally, many who have tested positive are no longer contagious.

The safety of first responders and law enforcement is of paramount importance. **Because of these concerns, IDPH recommends that first responders and law enforcement take appropriate protective precautions for response to all calls instead of relying on reports of COVID-19 positive individuals. To that end, the CDC has issued [guidance for Modified Caller Queries](#) for first responders to assess the likelihood that the person may be experiencing symptoms of COVID-19 or may be under investigation for COVID-19.**

Efforts to protect the identity of individuals and prevent stigmatization of patients is also a priority. If information regarding an individual's COVID-19 status needs to be released, such disclosure should be minimized to only necessary individuals. Persons with a need to know this information should be provided with guidance on how to prevent further disclosure of the information.

#### **V. Resources**

<https://www.networkforphl.org/resources/covid-19-legal-technical-assistance-highlight/>

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-for-ems.html>

[Office for Civil Rights, U.S. Department of Health and Human Services BULLETIN: HIPAA Privacy and Novel Coronavirus](#)

<https://www.hhs.gov/sites/default/files/covid-19-hipaa-and-first-responders-508.pdf>