

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

OSCAR SANCHEZ, MARCUS WHITE,
TESMOND MCDONALD, MARCELO
PEREZ, ROGER MORRISON, KEITH
BAKER, PAUL WRIGHT, TERRY
MCNICKELS, JOSE MUNOZ, KIARA
YARBOROUGH, OLIVIA WASHINGTON,
and IDEARE BAILEY, *on their own and on
behalf of a class of similarly situated persons,*

Petitioners/Plaintiffs,

v.

DALLAS COUNTY SHERIFF MARIAN
BROWN, *in her official capacity,* and
DALLAS COUNTY, TEXAS,

Respondents/Defendants.

Civil Action No. 3:20-cv-832-E

**REQUEST TO ENTER DALLAS COUNTY JAIL TO CONDUCT
SAFE AND CONSENSUAL TESTING OF CLASS MEMBERS FOR COVID-19**

TO: Defendants Dallas County Sheriff Marian Brown, in her official capacity, and Dallas County, Texas, by and through their counsel of record, Katharine David and Ben Stephens, Husch Blackwell LLP, 600 Travis Street, Suite 2350, Houston, Texas 77002

Dallas County Hospital District (dba Parkland Healthcare & Hospital System), by and through its counsel of record, Winston L. Borum, Watson, Caraway, Midkiff & Lunningham, LLP, 4311 Oak Lawn, Suite 530, Dallas, Texas 75219

Under Rules 26 and 34 of the Federal Rules of Civil Procedure, Oscar Sanchez and the other plaintiffs request defendants Dallas County Sheriff Marian Brown, in her official capacity, and Dallas County, Texas and the Dallas County Hospital District (dba Parkland Healthcare & Hospital System) (“Parkland”), to permit entry onto property, the Dallas County Jail (also known as Lew Sterrett Justice Center, at 111 West Commerce Street, Dallas, Texas 75202, including the

Suzanne Lee Kays Detention Facility, the North Tower Detention Facility, and the West Tower Detention Facility), possessed and controlled by defendants and/or Parkland, so that qualified medical professionals, with the cooperation of defendants and Parkland, conduct appropriate COVID-19 (SARS-CoV-2) testing for the purpose of determining incidence of COVID-19 infection among detained persons in the Dallas County Jail.¹ The COVID-19 testing will be conducted in accordance with the Interim Guidance for SARS-CoV-2 Testing in Correctional and Detention Facilities issued by the Centers for Disease Control and Prevention and updated on and after March 17, 2021 (the “CDC Guidance for COVID-19 Testing in Correctional and Detention Facilities”) at a time on or before April 20, 2021 or at such other time on which the parties may agree. The specific arrangements and conditions for the testing are to be agreed upon between plaintiffs and defendants, with any appropriate input and advice of qualified medical professionals engaged by plaintiffs and representatives of defendants and Parkland or, if plaintiffs, defendants, and Parkland do not agree on arrangements and conditions for the testing on or before April 20, 2021, as determined by the Court.²

¹ See, e.g., *Amos v. Taylor*, No. 4:20-cv-7, 2020 WL 618824, at *6 (S.D. Miss. Feb. 10, 2020) (ordering prison officials to allow plaintiffs seeking injunctive relief to “conduct medical evaluations” of detained persons under Rule 34 because “there is no question that their current health status is relevant to the resolution of the” request for injunction); see also *Alvarez v. LaRose*, No. 3:20-cv-782, 2020 WL 5594908, at *5, *6 & *11 (S.D. Cal. Sept. 18, 2020) (compelling “Rule 34 site inspection” of prison in case involving claim that prison “may not be acting in compliance with the relevant CDC guidelines regarding how to respond to the COVID-19 crisis in detention facilities” and directing that plaintiffs’ “expert shall be permitted to speak in confidence to detainees at [the prison] who are willing to speak to him”); *Chunn v. Edge*, No. 20-cv-1590, 2020 WL 1872523, at *1 & *2 (E.D.N.Y. Apr. 15, 2020) (holding that need for “firsthand observation of conditions at” city jail in case challenging “conditions of confinement . . . during the COVID-19 epidemic” justified inspection under Rule 34 by Dr. Homer Venters).

² See *Chunn v. Edge*, 2020 WL 1872523, at *2 (“The Court expects the parties to negotiate in good faith regarding the parameters of an inspection to permit petitioners to obtain relevant information while minimizing the burden on respondent.”); see also *Alvarez v. LaRose*, 2020 WL 5594908, at *11-*12 (prescribing conditions for Rule 34 inspection).

Dated: March 26, 2021

Respectfully submitted,

/s/ Henderson Hill

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via the Court's CM/ECF system on all counsel registered with that system, and via email, on March 26, 2021.

/s/Barry Barnett
Barry Barnett