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March 24, 2020

The Honorable Judge Robert E. Morin
Chief Judge
D.C. Superior Court
500 Indiana Avenue NW
Washington, DC 20001

Dear Honorable Chief Judge Morin,

Hogan Lovells US LLP represents the Network for Victim Recovery of D.C. (NVRDC). NVRDC has reviewed D.C. Superior Court's Criminal Standing Order of March 22, 2020 (the "Order"), which establishes procedures for defendants who file emergency motions for release from custody due to the COVID-19 Pandemic.

NVRDC appreciates the Court's concerns about COVID-19 and supports policies that protect the health and safety of all citizens in the District of Columbia. NVRDC is concerned that the Order may inadvertently result in the release of defendants without crime victims, as defined by federal law, receiving notice that defendants are seeking release or were actually released. We write on behalf of NVRDC to ensure that the Order and the procedures effectuating the Order comply with the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771, ensuring victims' rights are afforded during procedures related to emergency motions for a defendant's release.¹

In an effort to avoid unnecessary delays of release proceedings and congestion of court administration, NVRDC is respectfully requesting the Court amend the Order with the following instructions to ensure compliance with the CVRA's requirements regarding victims' rights to notice, to be reasonably heard, to be reasonably protected from the accused, and to be treated with fairness and with respect:²

1. Add the additional question, "What is the crime victim's position on your motion?" under Requirement 2;
2. Require that any Motion for Release from Detention Based on the COVID-19 Pandemic be contemporaneously served on the crime victim or the victim's counsel of record if represented; and

¹ See 18 U.S.C. § 3771(b)(1) ("In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a)."); *id.* at § 3771(e)(3) ("The terms 'district court' and 'court' include the Superior Court of the District of Columbia.").

² See 18 U.S.C. §§ 3771(a)(1)–(2), (4), (8); and D.C. Code Ann. §§ 23-1901(b)(1)–(4) (affording similar rights to crime victims).

3. Remind the United States Attorney's Office for the District of Columbia of their obligation to notify all victims when they receive a motion of this kind and the victim is not represented by counsel.³

These additions will help to avoid custody release hearings that take place unbeknownst to victims and their counsel in violation of the CVRA, which could then result in additional filings and delays during this particularly difficult time.

NVRDC represented 198 crime victims in asserting their crime victims' rights in D.C. Superior Court in last year alone. We strongly believe that the suggested amendments to the March 22, 2020 Standing Order will: 1) help ensure the Court's efforts to protect crime victims' rights when addressing emergency motions for release; and 2) help avoid unintended delays in the Court's administration of justice.

In the interim, NVRDC is actively working to file preemptive motions for notice in relevant cases under the Order and will seek systematic relief should the issue not be resolved. We are happy to discuss this issue at the Court's convenience.

Sincerely,

/s/ Allison Holt Ryan
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cc: Judge Juliet McKenna, Presiding Judge of the Criminal Division
Laura M.L. Wait, Associate General Counsel, District of Columbia Courts
William Agosto, Director, Domestic Violence Division

³ 18 U.S.C. § 3771(c)(1).