

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE TWENTIETH
JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III

HENRY HODGES)
)
 Plaintiff,)
)
 vs.) **C a s e N o . 2 2 - 1 4 4 0 - I I I**
)
 LISA HELTON, in her official capacity)
 as Tennessee’s Interim)
 Commissioner of Correction,)
)
 Dr. KENNETH WILLIAMS, in his Official)
 capacity as Asst. Commissioner)
 Of Clinical Services, Chief Medical Officer)
 Tennessee Department of Correction,)
)
 Defendants.)

**ORDER TO UNSEAL CERTAIN PORTIONS OF THE JUDICIAL RECORD. TO
CONDUCT FURTHER *IN CAMERA* REVIEW OTHER PORTIONS OF THE JUDICIAL
RECORD. AND AN ORDER OF PROTECTION RELATIVE TO PORTIONS OF THE
JUDICIAL RECORD THAT REMAIN UNDER SEAL**

This matter came to be heard before this Honorable Court on December 16, 2022, on Defendant’s Motion for a Protective Order and the Motions of two Intervening Plaintiffs, The Associated Press and the Nashville Banner. The Nashville Banner moved to intervene to unseal the records currently on file with the Court, while The Associated Press moved for intervention in opposition to Defendants’ Motion for Protective Order. This Court heard argument from counsel for both of the parties as well as the intervening parties. At the close of oral argument, the Court took the matter under advisement. Having analyzed the pleadings and the briefs filed, in addition to the records, exhibits and declarations on file with the Court, having heard oral argument from the parties, and being otherwise advised in the premises, the Court rules as follows:

As a primary matter, the initial order in this case filed on November 4, 2022 was an order requiring counsel to file under seal all medical records and documents pertaining to medical information regarding the physical and mental status of Plaintiff. No other order has been entered regarding the sealing of any other documents. The parties have extrapolated from the Court's narrow order regarding medical records and documents pertaining to the Plaintiff's medical information, that all documents should be filed under seal. Therefore, the Court's analysis will address the documents already filed under seal and now a part of the judicial record, and any other documents, not currently in the possession of the Court, which may be exchanged by the parties.

Defendants have requested the following documents be subject to a protective order and, if filed with the Court, that they must be filed under seal: "all photographs, videos, or other recordings produced in the action that depict the application of security restraints or other security techniques used with violent or dangerous inmates at Riverbend Maximum Security Institute ("RMSI"); all photographs, videos, or other recordings produced in the action that depict the location of windows, doors, and other points of ingress and egress not externally visible at RMSI, all photographs, videos, or other recordings produced in the action that depict the layout and interconnectedness of the units; all photographs, videos, or other recordings produced in the action that depict the layout of the overall facility; Department of Corrections Internal Affairs investigative reports; and units logs containing sensitive information." *See Defendants Motion for Protective Order.*

LEGAL STANDARD

Article I, Section 17 of the Tennessee Constitution provides explicitly that “the courts shall be open.” Tennessee courts have long recognized that judicial proceedings are presumptively open:

The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.

In re NHC--Nashville Fire Litig., 293 S.W.3d 547, 560 (Tenn. Ct. App. 2008)(quoting *State v. Drake*, 701 S.W.2d 604, 607–08 (Tenn.1985) (quoting *Press–Enter. Co. v. Superior Court*, 464 U.S. 501, 506, 104 S.Ct. 819, 78 L.Ed.2d 629 (1984)). The openness of judicial proceedings extends to judicial records. *Id.* Indeed, the United States Supreme Court has observed that “the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.” *Id.* The Tennessee Supreme Court has cautioned that “any restriction on public access [to judicial records] must be narrowly tailored to accommodate the competing interests without unduly impeding the free flow of information.” *Id. at 561.* However, the common law right of access to judicial records is not absolute. *Id.* “Every court has supervisory power over its own records and files, and access has been denied where court files might have become vehicles for improper purposes,” such as promoting public scandal or publication of libelous statements. *Id.* The trial court's inherent supervisory authority over its own records and files, then, is the genesis of Rule 26.03 of the Tennessee Rules of Civil Procedure. *Id.*

Under Rule 26.03, Tenn. R. Civ. P., upon motion by any party and for good cause shown, a trial court has the authority to make any order “to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense...” *Ballard v. Herzke*, 924 S.W.2d 652, 658 (Tenn. 1996). Protective orders are intended to offer litigants a measure of

privacy, while balancing against this privacy interest the public's right to obtain information concerning judicial proceedings. *Id.* In addition, protective orders are often used by courts as a device to aid the progression of litigation and to facilitate settlements. Protective orders strike a balance, therefore, between public and private concerns. *Id.*

To establish “good cause” under Rule 26(c), the moving party must show that disclosure will result in a clearly defined injury to the party seeking closure. *Id.* “Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning,” do not amount to a showing of good cause. *Id.*; *See also Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1121 (3d Cir.1986). Mere conclusory allegations are insufficient. *Ballard*, 924 S.W.2d at 658. The burden of justifying the confidentiality of each and every document sought to be covered by a protective order is on the party seeking the order. *Id.*; *See also Loveall v. American Honda Motor Co.*, 694 S.W.2d 937, 939 (Tenn. 1985).

In determining whether good cause has been established to place portions of the judicial record under seal or for a Protective Order, it is important that the Court must balance the need for information against the injury that would allegedly result from disclosure. *Ballard*, 924 S.W.2d at 658. Factors in the balance weighing against a finding of good cause include: (1) the party benefitting from the protective order is a public entity or official; (2) the information sought to be sealed relates to a matter of public concern; and (3) the information sought to be sealed is relevant to other litigation and sharing it would promote fairness and efficiency. *Id.* (*emphasis added*). On the other hand, factors weighing in favor of a finding of good cause include: (1) the litigation involves private litigants; (2) the litigation concerns matters of private concern or of little legitimate public interest; and (3) disclosure would result in serious embarrassment or other specific harm. *Id.* at 658–59.

No particular weight is assigned to any factor, and the balancing test allows trial courts to evaluate the competing considerations in light of the facts of each individual case. *Id.* at 659. The ultimate decision as to whether or not a protective order should issue is entrusted to the sound discretion of the trial court and it will not be reversed on appeal, absent a showing of abuse of discretion. *Id.* Such “protective orders” are designed to limit access to certain documents or information or withhold documents from public view. *In re NHC--Nashville Fire Litig.*, 293 S.W.3d at 561. As set forth in Rule 26.03, protective orders can take numerous forms, such as limiting the subjects or terms under which discovery may be conducted, limiting the persons in whose presence discovery is conducted, or redacting sensitive information from documents disclosed in the course of litigation. *Id.*

The case at hand, like in *In re NHC--Nashville Fire Litig.*, deals with distinct categories of documents. Some documents were ordered by the trial court to be filed under seal while other documents are not subject to the same order but have been filed in this matter under seal. In this case, the **ONLY** order pertaining to under seal documents was narrowly tailored for the medical records or medical information of the Plaintiff. For those particular documents, subject to this Court’s order, they were to be filed with the court clerk as part of the court's record in the case, but the clerk and the parties are prohibited from showing the document to anyone not a party to the lawsuit. *Id.* The other documents at issue in this case are those that have been produced as a part of informal discovery or are attached to different motions. Counsel for Plaintiff informed the Court that all documents in her possession from the Defendants in this case have been filed in these court proceedings.

In Tennessee, the public access doctrine, as described in *Ballard*, is codified in the Tennessee Public Records Act. Tenn. Code Ann. § 10–7–101, *et seq.* (1999). *Id.* at 564. The Act

defines “public records” subject to public access to include “the pleadings, documents, and other papers *filed* with the Clerk of the all courts.” Tenn. Code Ann. § 10–7–403.

Defendants rely on certain portions of Tennessee Public Records Act (TPRA), for the position that the records of RMSI are to remain confidential from public disclosure. *See* Tenn. Code Ann. §10–7–101, *et seq.* The portions of the TRPA cited by Defendants are not dispositive of the whether the documents at issue in this case should be shielded from disclosure. However, they are evidence of a legislative policy judgment that materials that fit into these categories may contain sensitive information that impact the safety of correctional facilities and the public. The Tennessee Supreme Court has characterized the TPRA as “an all-encompassing legislative attempt to cover all printed matter created or received by the government in its official capacity.” *Patterson v. Convention Ctr. Auth. of Metro. Gov't of Nashville & Davidson Cnty.*, 421 S.W.3d 597, 606 (Tenn. Ct. App. 2013)(internal citations omitted). It has opined that the TPRA's broad legislative mandate “require[s] disclosure of government records even when there are significant countervailing considerations.” *Id.* The TPRA requires the courts to construe the statute broadly “so as to give the fullest possible public access to public records.” *Id.*; *See* Tenn. Code Ann. § 10–7–505(d). Accordingly, there is a “presumption of openness” under the TPRA, “favoring disclosure of governmental records.” *Id.* (internal citations omitted). Notwithstanding the presumption of openness, in the interest of public policy the General Assembly has provided specific explicit exemptions from disclosure contained in the TPRA itself. *Id.* It has also “acknowledged and validated both explicit and implicit exceptions from disclosure found elsewhere in state law.” *Swift v. Campbell*, 159 S.W.3d 565, 571 (Tenn. Ct. App. 2004). The Court interprets the terms of the TPRA broadly to enforce the public interest in open access to the records

of state governmental entities. See *Memphis Publ'g Co. v. Cherokee Children & Family Servs.*, 87 S.W.3d 67 (Tenn. 2002).

The internal workings and operations of the prison systems in this country are unknown to the public for the most part. Though taxpayer dollars are used to fund the operations, there is very little insight into what actually occurs behind locked doors. Other than anecdotal stories from incarcerated individuals, there is rarely a window afforded to the public for oversight and to glean information from an institution which is funded by taxpayers and houses, feeds, and cares for incarcerated individuals. This means judicial records regarding the prison system are an important opportunity for citizens in understanding how the Tennessee Department of Corrections operates on their behalf.

In weighing the factors as outlined by the *Ballard* court and the request of the Defendants to issue a broad blanket protective order and seal all records requested by the Defendants, the factors weigh against the issuance of such broad blanket protections. Though no particular weight was given to the factors individually, the Court has looked at all of the factors *in toto* and has analyzed the competing interests of both the Plaintiff, Defendants and the public at large as described by the intervening parties. The Court finds that the party seeking the protective order is a government entity. The Court further finds and is of the opinion that the information sought to be sealed - the treatment of incarcerated individuals and the treatment of persons experiencing a mental health issue while incarcerated - is a matter of public concern. While the information sought is not relevant to other litigation *per se* the Court finds that sharing of some of the information will promote fairness and efficiency to others similarly situated. The Court has fashioned its own order to balance the requests of the parties and the need for public access to certain information. Therefore, the Court **ORDERS** as follows:

UNSEALING PLAINTIFF’S MEDICAL RECORDS FILED WITH THE COURT

Plaintiff has requested that his medical records, be unsealed and made available for public review. On November 4, 2022, the Court ordered that any medical records filed with the Court be placed under seal due to the sensitive nature of the subject matter. During oral argument, on this matter, Defendants stated on the record that they do not object to the unsealing of the medical records.

Tenn. Code Ann. § 10-7-504(a)(1)(A) states that the medical records of patients in state, county, and municipal hospitals and medical facilities, and the medical records of persons receiving medical treatment, in whole or in part, at the expense of the state, county, or municipality, shall be treated as confidential and shall not be open for inspection by members of the public. Tenn. Code Ann. § 10-7-504 (a)(1)(A). This Court is careful regarding a decision to unseal Plaintiff’s personal medical information, as once it has been unsealed, the information cannot be effectively removed from public access. However, Plaintiff has been advised by counsel and has consented to a waiver of his privacy rights, and the Defendants do not object to the same. Based on the foregoing, the Court **ORDERS** that Plaintiff’s written medical records and documentation and any other document that is currently filed with the Court because it contains the medical information of the Plaintiff, be unsealed. The Court further **ORDERS** that any medical records or documents concerning Plaintiff’s medical information or condition which may be filed as hereafter shall not be filed under seal or subject to any protective order. The parties have waived any privacy rights with respect to medical information. Therefore, the Court dissolves its Order regarding the Plaintiff’s medical records and information. Specifically, the following documents are to be unsealed:

- Affidavit of Dr. Richie, filed Oct. 28, 2022
- Exhibit A to Defendant's Notice of Medical Update, filed Nov. 3, 2022
- Exhibit B to the Declaration of Dr. Colburn, filed Nov. 18, 2022
- Declaration of Kelly Henry, filed Nov. 23, 2022
- Declaration of Henry Hodges, filed Nov. 30, 2022
- Defendant's Response in Opposition to Plaintiff's Motion for Clarification of Court Order, filed Dec. 1, 2022.
- All exhibits to Defendant's Response in Opposition to Plaintiff's Motion for Clarification of Court Order, filed Dec. 1, 2022.
- Attachment A to the Plaintiff's Status Update, filed Dec. 5, 2022
- Exhibit A to Plaintiff's Reply in Support of Motion to Compel, filed Dec. 7, 2022
- Exhibits 2, 3, and 4 to Defendant's Motion to Stay Proceedings, filed Dec. 7, 2022
- Exhibit to Plaintiff's Opposition to Defendant's Motion for Protective Order, filed Dec. 7, 2022
- Supplemental Brief in Support of Defendant's Response in Opposition to Plaintiff's Motion for Temporary Injunction, filed Dec. 12, 2022
- Exhibits A, B, C, D, E, F, G, K, L, M, and N to Supplemental Brief in Support of Defendant's Response in Opposition to Plaintiff's Motion for Temporary Injunction, filed Dec. 12, 2022

EXHIBIT B-1 AND B-2 VIDEOS

Plaintiff has filed several hours of video surveillance video footage of the internal units of RMSI with this Court. These videos are labeled B-1 and B-2 and are an attachment to Plaintiff's Second Motion to Present Live Testimony. Defendants request that these videos remain under

seal and seek the issuance of a protective order prohibiting the disclosure of these videos, arguing that these videos contain certain information regarding prison security. They point to a specific provision in the TPRA, Tenn. Code Ann. § 10-7-504(E), which states:

Surveillance recordings, whether recorded to audio or visual format, or both, except segments of the recordings may be made public when they include an act or incident involving public safety or security or possible criminal activity. In addition, if the recordings are relevant to a civil action or criminal prosecution, then the recordings may be released in compliance with a subpoena or an order of a court of record in accordance with the Tennessee rules of civil or criminal procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. Release of any segment or segments of the recordings shall not be construed as waiving the confidentiality of the remaining segments of the audio or visual tape.

Tenn. Code Ann. § 10-7-504.

Defendants have made sweeping arguments that all of the footage in these and the other videos filed with the Court is in need of protection. In support of their position, Defendants rely upon the affidavit of RMSI Associate Warden Ernest Lewis, filed as Exhibit A to their Motion. Warden Lewis' affidavit states that, as a general rule, no photographs or recordings of RMSI are permitted, and that the videos at issue contain information regarding the facility and procedures at RMSI, the disclosure of which could pose a security risk. There is nothing in the affidavit stating which videos or which portions of the videos contain sensitive information. Defendants also cite numerous court opinions holding that prison security is a significant interest and must be preserved. The Court agrees that the safety of the public, of corrections officers, and of the inmates at RMSI is of the utmost importance and takes these concerns very seriously in ruling upon these issues. However, the Defendants have not met their burden to overcome the presumption of open court records with the blanket statements in Warden Lewis' affidavit. It cannot be the case that every single representation of the interior of RMSI poses a security risk. As Plaintiff has noted,

the Tennessee Department of Correction itself has shared video footage showing the interior of RMSI on its Youtube page. Furthermore, the Court cannot delegate to a party its responsibility to evaluate, with specificity, whether individual portions of evidence should be kept under seal. In reviewing these particular videos, the Court is not convinced that every single minute of footage is of a confidential nature. Therefore, Defendants are hereby **ORDERED** to make a detailed showing to the Court, with time mark references, as to why any portions of these videos should be sealed or subject to an order of protection. In the interim, these videos shall remain UNDER SEAL pending an *in camera* review after the stay has been lifted.

During the pendency of the stay and until such time as the Court has issued an order after its *in camera* review, Plaintiff is prevented from disclosing videos labeled B-1 and B-2 to any party other than the named Defendants. The parties shall present their briefing to assist with the *in camera review* to the Court after the stay has been lifted and the Court shall render its decision regarding this video evidence at that time. The submissions of any briefing detailing a party's reasoning for a protective order or seal of these videos shall also be filed under seal and thus shielded from public access.

VIDEOS 0320; 0321 & 0332

Unlike the videos set forth above, the Court finds the videos labeled 0320; 0321 & 0332 to be highly relevant to the issue at hand and the treatment complained of in the underlying complaint. Videos 0320; 0321 & 0332 are more closely akin to bodycam footage than surveillance videos. These show the Plaintiff and his condition at the time of the request for the temporary restraining order. Based on its review of these videos, the Court finds that they do not implicate the same broad potential security concerns as the other videos within the Court's possession. However, these videos do show certain footage that *may* identify areas of structural or operational

vulnerabilities which *could* permit an unlawful disruption or interference with the services provided by RSMI, as contemplated by Tenn. Code Ann. § 10-7-504(m). The Court, however, finds that footage showing the application of security restraints to the Plaintiff does not raise security concerns. Therefore, this Court finds that certain portions of video, as delineated below, do not implicate a risk to RSMI which would override this Court's duty to protect the public interest in open access to the records of the courts.

Therefore, the Court **ORDERS** as follows:

The videos labeled 0320; 0321 & 0332 will remain under seal. Defendants are to produce to Plaintiff copies of these videos, redacted as set forth below. Plaintiff may then file, without seal, the redacted versions of these videos with a Notice of Filing identifying the Motion for which they are to be attached to preserve an orderly record. The portions of these videos to be redacted as set forth below are subject to seal due to concerns regarding the internal layouts, interconnectedness of the units, and internal security methodologies which are not relevant to the underlying claim and may present security vulnerabilities to the operations of the facility. The Court further **ORDERS** the Defendants to obscure or blur the identities/likeness of prison personnel that are prominently featured in the videos. The Court's decision to redact portions of these videos, rather than seal them completely, is supported by the policy of Tenn. Code. Ann. § 10-7-504(m)(2), which states, "Information made confidential by this subsection (m) shall be redacted wherever possible and nothing in this subsection (m) shall be used to limit or deny access to otherwise public information because a file or document contains confidential information."

The Court further finds that the redacted portions of the videos have the potential to identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by RMSI. The videos as originally filed will remain under

seal and are subject to a Protective Order, not to be disclosed to anyone but counsel for the Plaintiff, Defendants and this Court. *See* Tenn. Code Ann. § 10-7-504(m)(1).

1. **Video 0320-** Redact all footage **before** minute 3:51- Defendants are ordered to obscure the identity of the guards and personnel other than the Plaintiff in the video. The portion of video from minute 0 to 3:51 shall not be refiled and shall be subject to a Protective Order and may only be shared between counsel for the Plaintiff and Defendant.
2. **Video 0321-** Defendants are ordered to obscure the identity of the guards and individuals other than the Plaintiff in the video.
3. **Video 0332-** Redact all footage **before** the 9 seconds mark. Defendants are ordered are ordered to obscure the identity of the guards and personnel other than the Plaintiff in the video.
4. Any portions of these videos not specifically unsealed by this Order shall remain under seal. The current videos that are on file with the Court shall remain under seal. The Defendants are **ORDERED** to submit new videos as set forth above. These redacted versions shall be filed via a Notice of Filing referencing their original filing. Defendants have ten (10) business days from the entry of this Order to produce the redacted videos to Plaintiff.

DEFENDANTS' REMAINING REQUESTS

Defendants have further requested that the following items be subject to a Protective Order, “all [p]hotographs, videos, or other recordings produced in the action that depict the application of ... other security techniques used with violent or dangerous inmates at Riverbend Maximum Security Institute (“RMSI”); [t]he location of windows, doors, and other points of ingress and

egress not externally visible at RMSI; [t]he layout and interconnectedness of the units; [t]he layout of the overall facility; Department of Corrections Internal Affairs investigative reports; and [u]nits logs containing sensitive information.” *Defs. ’ Mot.* at 1-2. They also request that the Court issue an order requiring that any such materials identified above, be filed with the Clerk under seal. *See Defs. ’ Mot.* at 4. Having analyzed this request and read the briefing of all parties, the Court is not inclined to issue such broad protections.

As stated above, the photographs, videos or other recordings produced in this case which show the application of security restraints do not fall within a category set forth in Tenn. Code Ann. § 10-7-504, et seq. which supports protection. The “other security techniques used with violent or dangerous inmates at Riverbend Maximum Security Institute (“RMSI”)” have not been identified in a manner that allows this Court to make a determination as to what the Defendants are referring. If such other techniques are identified in the voluminous hours of security footage encapsulated in B-1 and B-2, Defendants are **ORDERED** to identify those portions of the videos for *in camera* review with specificity and provide specific security concerns requiring them to be sealed, so the Court may make a proper determination.

Defendants next request that the, “[t]he location of windows, doors, and other points of ingress and egress not externally visible at RMSI; [t]he layout and interconnectedness of the units; [t]he layout of the overall facility...”, be subject to a Protective Order and any such filings remain under seal. The Court finds that any documents or videos pertaining to the doors, points of ingress and egress, not externally visible and the layout and interconnectedness of the units and layout of the overall facility **may** present a risk as enumerated in Tenn. Code Ann. § 10-7-504(m)(1) and shall be protected from disclosure to the public.

The window in the cell of the Plaintiff, however, is significant to the underlying case. The allegations in the complaint suggest that the window in the Plaintiff's cell had broken glass and it was that glass that the Plaintiff used to initially injure himself. Therefore, the Court shall require an *in camera* review of any photographs and the videos in B-1 and B-2 depicting the window in the cell which housed the Plaintiff at the time of the incidents at issue in this case. Therefore, Defendants are hereby **ORDERED** to make a detailed line by line showing to the Court as to why the relevant portions of the aforementioned videos, photographs, or documents should be sealed or subject to an order of protection. In the interim, this Court shall treat such videos and photographs as **CONFIDENTIAL** and place them under a temporary seal and Protective Order pending an *in camera* review after the stay has been lifted.

Plaintiff is **ORDERED** not to disclose any videos, documents, or photographs that remain under seal to anyone other than counsel for the named Defendants and the Court.

The Court finds that any other documents, photographs and video footage not already addressed above that depicts the location of *other* windows, doors, and other points of ingress and egress not externally visible at RMSI; the layout and interconnectedness of the units; or the layout of the overall facility has the potential to identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by RMSI. Therefore, any such documents, photographs and video footage shall be are subject to a Protective Order and shall only be shared with counsel for the Plaintiff, Defendants and this Court; such are further prevented from disclosure to the public. *See* Tenn. Code Ann. § 10-7-504 (m)(1). Regarding any documents currently on file with the Court that have not already been addressed above, once the stay of these proceedings has been lifted, Defendants are hereby **ORDERED** to make a detailed line by line showing to the Court as to why the relevant portions

of the videos or photographs should be sealed or subject to an order of protection. In the interim, this Court shall treat these videos, photographs, and documents as **CONFIDENTIAL** and keep them under a temporary seal and protective order pending a formal *in camera* review.

Lastly, the Defendants request that the Department of Corrections Internal Affairs investigative reports and unit logs containing sensitive information be subject to a protective order and remain sealed by the Court upon filing. The security interest in protecting such documents from public disclosure is illustrated by a direct exemption in the TPRA. “All investigative records and reports of the internal affairs division of the department of correction...shall be treated as confidential and shall not be open to inspection by members of the public... The release of reports and records shall be in accordance with the Tennessee Rules of Civil Procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. The information contained in such records and reports shall be disclosed to the public only in compliance with a subpoena or an order of a court of record.” Tenn. Code Ann. § 10-7-504(8). The unit logs contain information specifically related to security procedures. Therefore, this Court holds that the Department of Corrections investigative reports and unit logs are subject to a protective order and may only be shared between counsel for the Plaintiff and Defendants. The unit logs already filed in this case, as Exhibits H and I to Defendants’ Dec. 12, 2022 Supplemental Briefing, shall remain under seal at this time. Plaintiff is not to share these documents with anyone outside of named counsel for the Defendants and this Court.

The Court is contemporaneously entering a separate Protective Order that addresses how the parties are exchange discovery responses and information going forward when such information could potentially be confidential and appropriate for protection from public disclosure,

as well as how the parties are to handle any potential filing of such information with the Court.

IT IS SO ORDERED.

s/T'Ashea L. Myles

T'ASHEA L. MYLES
CHANCELLOR

cc: by U.S. Mail, fax, or e-filing as applicable to:

Kelley J. Henry
Amy Dawn Harwell
Richard Lewis Tennent
Scott Sutherland
Dean S. Atyia
Steven J. Griffin
John R. Glover
Paul R. McAdoo
Daniel A. Horwitz
Melissa K. Dix
Lindsay E. Smith