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**MEMORANDUM**

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*March 27, 2020*

*To:* Consortium of State Public Safety Executives and Governor’s Criminal Justice Policy Advisor Network and State Public Executives  
*From:* National Governors Association  
*Re:* Law Enforcement and Stay-at-Home Orders

As the number of COVID-19 cases increases, governors are taking action to limit the spread of the disease, including issuing “stay-at-home” orders and other executive actions. Stay-at-home orders include enforcement measures, which often provide criminal penalties for failure to comply with the order. This memorandum provides information and examples of how state and local law enforcement are informing patrolling officers and the public regarding the enforcement of these orders and guidance from national organizations on law enforcement response during the COVID-19 crisis.

In addition to the following state and local examples, the attached chart lists enforcement provisions included in the current statewide stay-at-home orders and relevant state statutes.

**Examples of Law enforcement Roles in Enforcing Stay at Home Orders:**

- *Directives on Authority to Detain.* Santa Clara County issued guidance clarifying the authority to detain individuals following the shelter-in-place order. The order clarifies that officers will not consider the fact that a person is outside of his/her residence the sole factor in support of reasonable suspicion to detain. ([LINK](#)).
- *Nonessential Business Compliance Checks.* The City of Las Vegas law enforcement can provide compliance checks on businesses with mandated closures or limitations of business and provide notice to the community about such checks. ([LINK](#))
- *General Guidance to Law Enforcement on Order.* City of Houston law enforcement provided guidance to officers in enforcing Harris County’s Stay Home, Work Safe order as well as the city’s business closure order. The guidance includes requirements for supervisory approval prior to citations and arrests. ([LINK](#))
- *Public Communication and Notice.*
  - Illinois provided some guidance to the public through their FAQ page regarding enforcement of the stay-at-home order. ([LINK](#)) The guidance indicated that Illinois State Police will work with local law enforcement to enforce the order but encouraged voluntary adherence. Law enforcement is more likely to intervene if they witness or receive reports of:
    - crowds of people gathering, especially if packed closely together or not social distancing;
    - flagrant violation, such as a bar or restaurant having a room full of customers eating, or a movie theater continuing to operate; and

- employees being asked to report to work in-person where the business is not supposed to be open or appropriate social distancing precautions are not taking place.
- Similarly, **Oregon** state police provided guidance to the public on enforcement of the stay-at-home order. Through this guidance the state police responded to frequently asked questions, including: “Are police arresting or ticketing people in public or in violation of the Governor’s Executive Order?” ([LINK](#))
  - “People that violate the Governor’s Order in an Emergency Declaration could be arrested or cited, which is a C Misdemeanor—the lowest level of criminal conduct designation. All Oregon law enforcement are united on the premise that police action is extremely undesirable, and we hope to educate Oregonians if congregating in violation of the Governor’s Order. Citation or arrest would be an extreme last resort if a person failed to comply with the lawful direction of a police officer.”

**Guidance from federal agencies and national organizations:**

- International Association of Chiefs of Police: Law enforcement agencies should work closely with their public health partners at the state and local level to gain a clear understanding of the specific order(s) and penalties for violations as well as how best to respond to violations at the local level (Source: *IACP, COVID-19: Law Enforcement’s Role in Enforcing Public Health Protections*) ([LINK](#))
- International Association of Chiefs of Police: Legal precedence generally provides that law enforcement officers may enforce compliance should a person fail to comply with a quarantine order. The officer should maintain a copy of the order and a clear understanding of how it is to be enforced. (Source: *IACP, COVID-19: Law Enforcement’s Role in Enforcing Public Health Protections*) ([LINK](#))
- Bureau of Justice Assistance: Coordinated communications, establishing mechanisms to share information across agencies at the state and local level. Public information officers (PIOs) from law enforcement, fire, and public health departments, local hospitals, and other local agencies can work to ensure that agency representatives are delivering consistent and complementary messages about the emergency. *BJA, Communication and Public Health Emergencies: A Guide for Law Enforcement* ([LINK](#))

**Additional general guidance on local law enforcement decision making processes in response to COVID-19:**

- The Burlington, North Carolina Police Department has [used the Critical Decision Making Model \(CDM\)](#) to guide officers' response during the COVID-19 pandemic. Their guidance uses the same structure as [the standard CDM](#), with specific recommendations on applying the five steps of the CDM to the COVID-19 response.



## COVID-19 Stay at Home Orders and Enforcement Language

State	Date	Order	Order Enforcement Language	Relevant Statute
California	3/19	<a href="#">Stay at home order</a>	Enforced pursuant to CA law, including but not limited to, Government Code Section 8665	“Any person who violates any of the provisions of this chapter or who refuses or willfully neglects to obey any lawful order or regulation promulgated or issued as provided in this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed one thousand dollars (\$1,000) or by imprisonment for not to exceed six months or by both such fine and imprisonment.”
Delaware	3/22	<a href="#">Stay at home order</a> “with the exceptions as outlined below, all individuals currently living within the State of Delaware are ordered to shelter in place, at their home or place of residence”	This Order has the force and effect of law. Any failure to comply with the provisions contained in a Declaration of a State of Emergency or any modification to a Declaration of a State of Emergency constitutes a criminal offense. 20 Del. C. §§ 3115 (b); 3116 (9); 3122; 3125. State and local law enforcement agencies are authorized to enforce the provisions of any Declaration of a State of Emergency.	“Take such action and give such directions to state and local law-enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with this chapter;”
Hawaii	3/23	<a href="#">Stay at home order</a> all persons within the State of Hawai‘i are ordered to stay at home or in their place of residence except as necessary to maintain continuity of operations of the federal critical infrastructure sectors	Any person violating these rules shall be guilty of a misdemeanor as set forth in section 127A-29, HRS.	“Any person violating any rule of the governor or mayor prescribed and promulgated pursuant to this chapter and having the force and effect of law, shall, if it shall be so stated in the rule, be guilty of a misdemeanor. Upon conviction, the person shall be fined not more than \$5,000, or imprisoned not more than one year, or both.”
Illinois	3/20	<a href="#">Stay at home order</a> With the exceptions as outlined below, all individuals currently living in the state of Illinois are ordered to	This order may be enforced by state and local law enforcement pursuant to, inter alia, section 7, section 18, and section 19 of the Illinois Emergency Management Agency Act, 20 ILCS 3305	



		stay at home or at their place of residence		
Indiana	3/23	<a href="#">Stay at home order</a> With exceptions as outlined below, all individuals currently living in the state of Indiana are ordered to stay at home or their place of residence	This executive order may be enforced by Stat and local law enforcement, as well as other governmental entities such as state and local departments of health to the extent set forth in Indiana law, including, but not limited to, the Emergency Disaster Law. However, with respect to the in-person dining prohibition that was set forth in Executive Order 20-04, it shall be enforced pursuant to the process described in Executive order 20-10.	Executive order 20-10 directs local boards of health to enforce dining in restrictions by first issuing an order, then a citation, and if still noncompliant, issuing an order to close the facility.
Louisiana	3/22	<a href="#">Stay at home order</a> All individuals within the state of Louisiana are under a general stay at home order and are directed to stay home unless performing an essential activity	The Governor’s office of homeland security and emergency preparedness is directed to ensure compliance with this order, and is empowered to exercise all authorities pursuant to La. R.S. 29:721, et seq., and La. R.S. 29:760, et seq.	“The director of the Governor's Office of Homeland Security and Emergency Preparedness may, pursuant to the Administrative Procedure Act, adopt such rules and regulations as are necessary to implement his authority under the provisions of this Chapter and such authority as the governor shall designate to him pursuant to the provisions of this Chapter and the Louisiana Homeland Security and Emergency Assistance and Disaster Act”
Michigan	3/23	<a href="#">Stay at home order</a> all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence	Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.	The violation of any such orders, rules and regulations made in conformity with this act shall be punishable as a misdemeanor, where such order, rule or regulation states that the violation thereof shall constitute a misdemeanor A person who willfully disobeys or interferes with the implementation of a rule, order, or directive issued by the governor pursuant to this section is guilty of a misdemeanor.
New Jersey	3/21	<a href="#">Stay at home order</a> All New Jersey residents shall remain home or at their place of residence	Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and - 50.	Violate any other provision of this act declared herein to be unlawful-- shall be adjudged a disorderly person and shall be subject to imprisonment for a term not to exceed 6 months or shall pay a fine



				not to exceed \$1,000.00 or to both a fine and imprisonment, in the discretion of the court. Any person who shall knowingly aid or abet another in the violation of any provision of this act shall also be adjudged a disorderly person and punishable in the same manner as the violation aided or abetted.
New York	3/20	<a href="#">Stay at home order</a> Any concentration of individuals outside their home must be limited to workers providing essential services and social distancing should be practiced;		The governor said that businesses would receive fines and shutdown orders, but declined to talk about penalties for individuals. On Saturday, Cuomo said he would be paying a visit to New York City himself to ensure compliance.
Ohio	3/22	<a href="#">Stay at home order</a> With exceptions outlined below, all individuals currently living within the State of Ohio are ordered to stay at home or at their place of residence	This order may be enforced by state and local law enforcement to the extent set forth in Ohio law. To the extent any public official enforcing this order has questions regarding what services are prohibited under this order, the director of health hereby delegates to local health departments the authority to answer questions in writing and consistent with this order	
Oregon	3/23	<a href="#">Stay at home order</a> To the maximum extent possible, individuals stay at home or at their place of residence	Any person found to be in violation of this executive order is subject to the penalties described in ORS 401.990	Any person knowingly violating any provision of this chapter, or any of the rules, regulations or orders adopted and promulgated under this chapter, shall, upon conviction thereof, be guilty of a Class C misdemeanor.
Washington	3/23	<a href="#">Stay at home order</a> Prohibiting all people in Washington State from leaving their homes or participating in social, spiritual and recreational gatherings of any kind regardless of the number of participants, and all non-essential businesses in Washington State from conducting business, within the limitations provided herein	Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5)	Any person willfully violating any provision of an order issued by the governor under this section is guilty of a gross misdemeanor.



Wisconsin	3/24	<p><a href="#">Stay at home order</a></p> <p>All individuals present within the State of Wisconsin are ordered to stay at home or at their place of residence, with exceptions outlined below.</p>	<p>This Order is enforceable by any local law enforcement official, including county sheriffs. Violation or obstruction of this Order is punishable by up to 30 days imprisonment, or up to \$250 fine, or both. Wis. Stat. § 252.25.</p>	<p>Any person who willfully violates or obstructs the execution of any state statute or rule, county, city or village ordinance or departmental order under this chapter and relating to the public health, for which no other penalty is prescribed, shall be imprisoned for not more than 30 days or fined not more than \$500 or both.</p>
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*For questions or concerns related to the contents of this memo, please contact NGA staff:*

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