

March 20, 2020

All Law Enforcement Executives

RE: Recommendations on Enforcement for COVID-19 Public Health Orders

Dear Law Enforcement Executives:

As we all deal with the emerging issues related to the COVID-19 pandemic, we are continually facing new and unexpected challenges. One of these new challenges is the enforcement of Public Health Orders, specifically with non-compliant businesses.

As a first step, we recommend that law enforcement officials educate businesses and community members on the importance of the March 19<sup>th</sup> Public Health Order issued by CDPHE (see attached order and FAQs) as a means of encouraging voluntary compliance. As the order explains, by engaging in “social distancing” and not operating establishments that bring groups of people together, we will save lives, particularly of those most vulnerable to the virus—namely, the elderly and those with a compromised immune system.

As part of this education and outreach effort, we encourage you to enlist the public in filing complaints and calling out businesses that are engaging in dangerous conduct—namely, bringing groups of people together who can spread the virus. Whether via social media or the attention of local media outlets, we believe that public pressure and encouragement is a constructive force and will drive compliance. And the more we can drive voluntary compliance, the more we will save law enforcement resources and protect first responders.

For those businesses that fail to respond to a warning and/or public pressure, we recommend that agencies work first with local public health authorities to use the available civil remedies--as opposed to using criminal remedies. Notably, civil remedies allow for a quicker response and resolution. As for bars and restaurants, civil consequences can include the threat of losing their liquor license.

To pursue the civil remedy option, law enforcement should report the non-compliant business to their local public health agency (LPHA). LPHAs have statutory authority to enforce Public Health Orders issued by the Colorado Department of Public Health and Environment (CDPHE), in addition to their own Public Health Orders. The

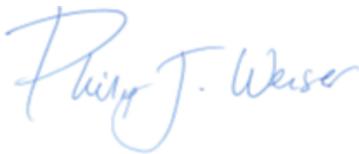
LPHA can file a complaint in the District Court seeking enforcement of the Public Health Orders, usually through the County Attorney, requesting a temporary restraining order as well as temporary and permanent injunctive relief. This provides for immediate judicial enforcement of the Public Health Order. If, for any reason, the LPHA is non-responsive or unable to act, you can also reach out to the Attorney General's Office by email ([covid19@coag.gov](mailto:covid19@coag.gov)).

Only for cases where owners of establishments demonstrate a flat refusal to comply after a civil action would we recommend criminal action. Under the law, the criminal remedy is a Class 1 Misdemeanor, and would likely involve the issuance of a summons. (Many detention facilities around the state are lowering inmate populations and/or refusing new arrestees in order to limit the spread of COVID-19 within their facilities, making custodial arrests impractical.) Given the existing demands on the court system, criminal actions would likely not be immediate, but could still be pursued to address those actors who refused to comply in the face of civil remedies and warranted more serious punishment for their conduct.

Further, we suggest tracking all complaints, warnings, or enforcement actions regarding violations of public health orders in the law enforcement agency's Record Management Systems (RMS) to help document non-compliance issues and how these concerns were addressed.

Attached are three reference documents—a press release that will go out today, a FAQ document on the Public Health Order, and the March 19th Public Health Order—that include the specific statutory citations, in case this information is helpful. Please don't hesitate to follow up with Bo Bourgerie <[Erik.Bourgerie@coag.gov](mailto:Erik.Bourgerie@coag.gov)> if you have any questions.

Sincerely,



Philip J. Weiser  
Attorney General



Stan Hilkey  
Executive Director  
Department of Public Safety



Erik Bourgerie  
Director  
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