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COVID-19 FOR COPS

Stay Home Advisory Enforcement & Best Police Safety Practices

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Understanding emergency orders from Governor

Motor vehicle issues. Registry has extended licenses, permits, and registrations that expired after March 1 until April 30 or whenever this emergency ends.

- **Non-commercial inspection stickers** that expire on March 31 must be inspected by May 31. If expire on April 30, must be inspected by June 30.
- **Failed inspections.** Non-commercial vehicles issued a failed inspection sticker (with red or black 'R') that is due to expire in March, must be re-inspected by May 31. If expire in April, must be re-inspected by June 30. Free re-test still applies. *Regardless of date*, vehicles with red 'R' sticker due to a safety defect shall not be operated until repairs completed.
- **Motorcycles** must be inspected by June 30 instead of May 31.

Citizens are advised to stay home. Department of Public Health (DPH) advises:

- **Social distancing.** Always try to keep 6 feet between people; and avoid touching surfaces typically touched by others.
- **Stay home**, which means:
 - Only leave for essential needs, fresh air and exercise, and grocery store or pharmacy (better to use mail order and, if possible, try to fill prescriptions for 90 days).
 - May visit gas station, pick up take-out food, and receive deliveries (e.g., Amazon, UPS).
 - Use remote communication such as telephone or video chat instead of visiting friends or family — especially those in hospital, nursing home, or other residential care setting.
 - Reschedule non-essential medical care and, if possible, do remote health care visits.
 - Parents should not arrange play dates for children.
 - Grocery stores and pharmacies must provide at least one hour per day only for customers 60 and over — to limit this vulnerable group's potential exposure.

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- Individuals with any signs or symptoms of COVID-19 should remain in their homes, and request assistance with accessing essential services, such as food or medications.

Non-essential businesses must close. Businesses that do *not* provide essential services (e.g., law enforcement, health care, food service, public works, fire, utilities, etc.) must close their facilities to workers, customers, and the public from noon on March 24 to noon on April 7.

Note: Governor's order forbids municipalities from enacting their own local rules that are inconsistent with the state order (e.g., town cannot restrict travel more; city cannot limit essential services more).

No gatherings of more than 10 people (it used to be 25) — except at places performing essential services or residential schools for special needs children.¹ This order includes any leisure, business, social, or religious activities in an indoor or outdoor space.²

- **Athletic or recreational activities are disallowed even with less than 10 people if they result in close contact.**
- **Enforcement by BOH and agents:** Governor's declaration names local BOH and agents as primary enforcers, who "if necessary . . . [may employ] the assistance of State or municipal police." Upon seeing or learning about prohibited activity, police should report it to their local BOH or agent. The health authority may deal with the issue alone or request police assistance.
- **Police enforcement options to assist BOH:**
 - **Dispersal order and warning.**
 - **Civil ticket.** Governor's order specifically authorizes issuing, on a municipal ordinance or bylaw ticket, a \$300 fine to any violator. (Do it just like a leash law violation or marijuana ticket! See 40, § 21D).
 - **Arrest.** A violation is a crime. Chapter 639, § 8. Violators are subject to arrest for this breach of peace. *Gorman*, 288 Mass. at 298.

Police operations

Patrol recommendations:

- Handle as many calls by phone as possible.
- Limit contact with citizens (if possible, issue mask to sick citizens when in contact).
- Disinfect passenger areas of cruisers after each transport.

¹ Schools (March 15) and child care programs (March 18) were closed previously by Governor's orders.

² There can be more than 10 people in outdoor locations (e.g., park, parking lot) as long as they are not gathered together.

- Do not respond to medical/sick calls unless absolutely necessary.
- Limit citizen contact to one officer when possible.
- Contact citizens outside of residences and buildings.
- Limit traffic stops only to motorists jeopardizing public safety.
- Do not obtain paperwork from motorists if a verbal warning is an adequate intervention.
- Avoid executing low-level arrest warrants when possible.
- Ensure all non-patrol personnel have uniforms ready and are prepared to fill in for any patrol vacancies in case of officer quarantine.

Criminal investigation recommendations:

- Have sex offenders register by appointment only.
- Limit in-person interviews, citizen contacts. Conduct phone interviews when possible.
- Sanitize interview rooms before and after in-person interviews.

Dispatch recommendations:

- **Contact BOH daily to get addresses to flag in CAD system for people who are being monitored or have tested positive for COVID-19.** Cross-reference addresses to see if police, fire, or EMS response has occurred within 90 days. If response occurred, notify impacted departments with all call information.
- **State law authorizes local BOH and other health officials to tell police and other first responders about the identity and physical location of quarantined individuals.** See 105 CMR 300.120(A) (“confidential personally identifying information [may be disclosed] . . . when necessary for . . . control, treatment and prevention purposes.” [emphasis added] Clearly first responders need to know when, where, and with whom they may encounter COVID-19.³
- **Federal law — i.e., HIPAA — does not prevent the communication of personal health information to first responders if necessary to deal with the threat of COVID-19.** See 45 CFR 164.512(j) and U.S. Dept. HHS, Civil Rights Office, “HIPAA & Coronavirus” (Feb. 2020).

³ This information is based on memos from DPH Commissioner Monica Bharel (March 18, 2020) and the Massachusetts Assoc. of Health Boards (undated). My thanks to Officer William Trelegan, Burlington Police, for his help in obtaining critical information.

Officer testing & wellness

- **Contact CVS Health regarding COVID-19 testing in Shrewsbury for first responders.** Call 401-374-6777 to receive information.⁴
- **Get a medical expert to certify police personnel (preferably EMTs) to administer COVID-19 tests** at a department site, or work with a local testing site to get priority for first responders. This is key to reassuring officers following a presumed/confirmed exposure and getting them back into service.⁵
- **Consider working with municipality to set up first responder housing options for those who need to isolate** – confirmed exposure, pending test, at-risk person at home, and COVID-like symptoms but no test.

Criminal issues

Scams against citizens related to COVID-19. There continue to be reports around the nation of scams perpetrated against citizens, offering them testing kits for COVID-19 or special cleaning of homes. Any lie about COVID-19 to get money or property is the crime of:

Larceny by false pretense in violation of 266, § 30. If the money or property obtained has a value over \$250, then police may arrest on probable cause. If \$250 or less, apply for a complaint. See generally *Comm. v. Khan*, 92 Mass. App. Ct. 487 (2017).

Officer assaults. There have been isolated reports by officers (see, e.g., NJ.com) of people deliberately coughing or spitting on officers while claiming to have COVID-19. If this happens, maintain your composure and get proper care. Consider arrest for:

- **A&B on a public employee. 265, § 13D.** *Comm. v. Ciccolini*, 2018 WL 1801638 (Appeals Court) (during violent arrest of defendant, he spat bloody saliva on female officer). If officer gets COVID-19 and experiences “protracted impairment of a bodily function” (interference with breathing qualifies in my opinion), then § 13D is a felony with a mandatory minimum of 1 year incarceration.
- **Assault with intent to murder or maim. 265, § 15.** *Comm. v. Smith*, 58 Mass. App. Ct. 381 (2003) (defendant knew that he had HIV and yelled that he intended to kill a prison guard during a struggle at the facility; he then bit the officer’s arm).

⁴ This information was sent to me for distribution.

⁵ These last two suggestions are being done by the Seattle Police.