March 29, 2020

The Department of Public Safety’s Guidance to Local Law Enforcement Agencies Related to the Enforcement of Executive Order 20-20

Note: This document will be updated with clarifications, as needed. Additions will include the date they were added to the document.

On March 25, 2020, Governor Walz’ issued Executive Order 20-20 (“EO”) directing Minnesotans to stay at home except for specific reasons. DPS is providing recommendations to assist your agencies with their enforcement efforts.

Beginning on March 27, 2020 at 23:59, all persons currently living within the state of Minnesota are ordered to stay at home or their place of residence until April 10, 2020. Officers, deputies and troopers will continue to patrol as usual. The Department of Public Safety suggests that law enforcement agencies seek to educate instead of taking an enforcement approach. We believe that officers can address any complaints of violations of the EO on a case-by-case basis, beginning with an educational discussion rather than an enforcement action. These are opportunities to talk about why federal, state and local authorities are taking action to slow the spread of COVID-19. The goal of this executive order is simple: stay home, stay safe, and save lives.

The EO includes seven justifications why someone may leave their home:

1. **Relocation to ensure safety.** Individuals whose homes or residences are unsafe or become unsafe, including individuals who have suffered or are at risk of domestic violence or for whom the safety, sanitation, or essential operations of the home or residence cannot be maintained, are allowed and urged to leave their home or residence and relocate to a safe alternative home or residence. Victim advocates are included in those exempted as Critical Sector staff by this order.

2. **Health and safety activities.** Individuals may seek emergency services, obtain medical services, supplies, and medications, and visit a health care or dental professional or facility, or a veterinarian. Individuals may also donate blood.

3. **Outdoor activities.** Individuals may also engage in outdoor activities (e.g., walking, hiking, running, biking, driving for pleasure, hunting, or fishing), and may go to available public parks, excluding outdoor play equipment, consistent
with remaining at least six-feet apart from individuals not within the individual’s household.

4. **Necessary supplies and services.** Individuals may obtain food, including delivery or carry-out services, beverages, and other grocery items, gasoline, supplies needed to work from home, and products needed to maintain the safety, sanitation, and essential operation of homes and residences or businesses. Individuals may also visit and use the services of laundromats and dry cleaners.

5. **Essential and interstate travel.** Individuals may travel to return to a home or place of residence from outside this state and may travel into and out of this state.

6. **Care of others.** Individuals may care for a family member, friend, or pet in another household, and may transport family members, friends, or pets as allowed by this Executive Order, including the transport of children pursuant to shared custody orders. This also includes child care providers, educators, and others who continue to care for emergency workers.

7. **Displacement.** Individuals without a home are exempt from the restrictions in this executive order, and they may move between emergency shelters, drop-in centers, and encampments. Encampments should not be subject to sweeps by state or local governments, as such sweeps increase the potential risk and spread of COVID-19.

On March 28, 2020, the Governor issued the following clarification:

**Funerals.** Individuals may leave home to attend funerals, whether at a place of worship, funeral home, burial site, or other similar location, provided that the gathering consists of no more than 10 attendees. The space utilized must allow for social distancing (six feet spacing between people). Venues should make accommodations for remote attendance, if possible, for others. Individuals who are at high risk from COVID-19 are strongly encouraged to attend remotely.

In the event that local law enforcement may be sent to a home or a place of business based on a report of a violation of this EO or other EOs, DPS recommends that officers first attempt to investigate through voluntary cooperation of the homeowner, tenant, or business and provide a reminder or copy of this EO. Treat these encounters as you would a loud party or disturbance call.

There are no ID cards or placards to distinguish “Critical Sector” businesses or their employees. Some “Critical Sector” groups are creating letters to aid in identification in the event of a stop. The EO does not encourage or recommend that an officer stop a person (or vehicle) simply for being out of their home, the reason should be related to other criminal conduct. For example, traffic stops for speeding should still be conducted and fight on the street should still be responded to.

Officers must use their discretion when responding to calls regarding alleged violations of the EO. It is intended that the EO is applied when a gathering has become “a threat to the public peace, health, safety or general welfare,” recognizing that social distancing should also be a guide. For example, a gathering of nine people in various rooms should be handled differently than 50 people at a kegger or house party.
In instances of a complaint or observed violation of the EO, it is necessary for the responding officers to first determine whether a violation has really occurred. If there is no apparent violation, the officer should contact the complaining party to obtain any additional information supporting the alleged complaint.

The enforcement clause of the EO allowing for a misdemeanor citation is not intended to be invoked for all violations, but rather for those who refuse to, or fail to, comply with the officer's attempts to gain compliance. People with more than two violations or refusals to comply with this EO may be taken into custody and charged with a misdemeanor. Citing Minn. Stat. § 12.45. Officers can also invoke other statutes and local ordinances at the discretion. Local sheriffs have asked that arrests be a last resort as they are trying to prioritize the jail population for violent and felony offenders.

DPS recommends that an officer's response to a citizen's complaint of a violation of the EO be handled in the following manner:

(a) Upon arriving, the responding officer will contact a responsible person in the following priority:
   1. Property owner
   2. The person in control of the property
   3. The host of the party; and

(b) Explain the EO and the department's enforcement policy to the responsible party and that a fine may be assessed if the violation continues. Further advise that if a return call is necessary, a report will be written, a misdemeanor citation may be issued, and others in violation or seen committing any violation(s) of the law will be subject to arrest and/or additional citation. Obtain responsible party's name, date of birth and phone number (if applicable, photo identification may be requested).

(c) If a second or subsequent call is necessary, a report should be written or a citation for violation of the Executive Order issued. If the gathering or event warrants a second enforcement response, it will be the discretion of the officer or their supervisor to determine whether to disperse the party participants.

As always, accurate report writing will be crucial in these matters.

**Additional EOs**

- Effective March 27, 2020 at 23:59, the Governor ordered that schools will remain closed through April 30, 2020.
- Effective March 27, 2020 at 23:59, the Governor ordered the businesses listed below to close onsite sale operations until April 30, 2020 at 17:00:
  a. Restaurants, food courts, cafes, coffeehouses, and other places of public accommodation offering food or beverage for on-premises consumption. Delivery and curbside take-out services are permitted, as allowed by license. This excludes institutional and in-house food cafeterias for businesses, hospitals, and long-term care facilities;
b. Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, clubs, and other places of public accommodation that offer alcoholic beverages for on-premises consumption;

c. Hookah bars, cigar bars, and vaping lounges offering their products for on-premises consumption;

d. Theaters, cinemas, museums, and indoor and outdoor performance venues;

e. Gymnasiums, fitness centers, recreation centers, indoors sports facilities, indoor exercise facilities, exercise studios, and spas;

f. Amusement parks, arcades, bingo halls, bowling alleys, indoor climbing facilities, skating rinks, trampoline parks, and other similar recreational or entertainment facilities; and

g. Facilities of country clubs, golf clubs, boating or yacht clubs, sports or athletic clubs, and dining clubs.

Many restaurants and bars must obtain two licenses, one from the State and one from the municipality in which they are located. Both local and state regulatory agencies may investigate violations of the EO.

Local law enforcement may be sent to a home or a place of business based on a report that they are in violation of this EO. DPS recommends that officers attempt to investigate through voluntary cooperation of the homeowner, tenant, or business owner and remind them of this EO. Treat these gatherings as you would treat a loud party or disturbance call. Have people safely disperse. Officers should inform them of the violation and ask that they cease and desist. Officers should document the incident by preparing a police report. Failure to comply should be documented in the police report, ideally by a photo of an open container, sample contents, or a purchase.

Businesses that fail to cooperate or have documented violations shall be reported to the Minnesota Department of Public Safety’s Alcohol Gambling Enforcement (AGE) division. The owner/manager of a business with more than two violations or refusals to comply with the EO may be taken into custody and charged with a misdemeanor. Minn. Stat. § 12.45. In addition to the criminal charge, the business is subject to “a fine of up to $2,000 for each violation” in accordance with Minn. Stat. § 340A. 402. Cases may be pursued either criminally through local city or county attorneys and/or civilly by AGE.

Tribal properties are sovereign and exempt from this EO, but may be subject to restrictions made by tribal authorities. They issue their own liquor licenses and only notify AGE to have a required retail identification card issued. Minn. Stat. § 340A.4055. If AGE receives notification of a violation, they will investigate once the business reopens and may issue administrative penalties where appropriate. Minn. Stat. § 340.340

Carpe Diem
Commissioner John M. Harrington