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

On March 25, 2020, Governor Tim Walz issued Executive Order 20-20 (EO) directing Minnesotans to stay at home except for specific reasons. On April 8, 2020, Governor Walz issued EO 20-33, extending EO 20-20 to remain in effect until May 4, 2020. The Minnesota Department of Public Safety (DPS) is providing recommendations to assist your agencies with their enforcement efforts.

Beginning on March 27, 2020 at 23:59, all persons living within the state of Minnesota were ordered to stay at home or their place of residence until April 10, 2020. They must now do so until May 4, 2020.

Peace officers, sheriff's deputies, conservation officers and state troopers will continue to patrol as usual. DPS suggests law enforcement agencies seek to educate instead of taking an enforcement approach when they observe or are notified of a possible EO violation. We believe that officers can address most 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 EO. Law enforcement should work closely with crime victim advocates in local communities to ensure the safety of all individuals.

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, hunting, driving for pleasure, boating 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 EO, including the transport of children pursuant to shared custody orders. This also includes childcare providers, educators, and others who continue to care for emergency workers.
7. **Displacement.** Individuals without a home are exempt from the restrictions in this EO, and they may move between emergency shelters, drop-in centers, and encampments. Current encampments should not be subject to sweeps by state or local governments, as such sweeps may increase the risk and spread of COVID-19.

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 the related EO. Treat these encounters as you would a loud party or disturbance call.

A summary of Critical Sector guidance has been drafted by DEED and can be found at https://mn.gov/deed/assets/critical-worker-summary-ACC_tcm1045-427282.pdf. If you have questions about whether a business is in the critical sector you should check this summary.

There have been NO ID cards or placards issued to distinguish "Critical Sector" businesses or their employees from non-essential or exempt businesses or employees. It is not required that a person have any documentation to be outside of their home or on the roads. The EO does not encourage or recommend that an officer stop a person (or vehicle) simply for being out of their home. The reason for a stop should be related to other criminal conduct. For example, a traffic stop for speeding should still be conducted and a 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 bonfire or house party.

Houses of worship are allowed to operate in a limited capacity during the EO. DPS recommends that social distancing must be followed. The State's guidance says that "the safest solution is for everyone to stay home. Services should be provided remotely so that congregants do not need to leave their homes." If congregants attend "drive-in services," they must stay in their cars. Houses of worships are advised that "there should be no touching; passing of objects; or sharing cups, food or communion."

Given the exception for outside activities, officers may be called to parks, lakes and/or other places of recreation. Once again, outdoor activities are not banned but social distancing must be the rule.

The Bureau of Criminal Apprehension ("BCA") Duty Officer is the clearing house for complaints received by the State Emergency Operation Center Hotline (651-297-1304 or toll free 1-800-657-3504). Officers may be asked to investigate complaints. If formal enforcement action is taken (citation or arrest), please let the Duty Officer know for tracking purposes. In all instances of a complaint or observed violation of the EO, it is necessary for the responding officers to first determine whether a violation has actually occurred.

The enforcement clause of the EO allowing for a misdemeanor citation is not intended to be invoked for all violations, but rather for those parties 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 charged with a misdemeanor. Minn. Stat. § 12.45. Officers can also invoke other statutes and local ordinances at their 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. 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 remain closed through May 4, 2020.
- Effective March 27, 2020 at 23:59, the Governor ordered the businesses listed below to close onsite sale operations until May 4, 2020 at 17:00:
 - a. Restaurants, food courts, cafes, coffeeshouses, 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. Please note that tobacco sale operations have not been designated as "Critical Sector" and should be closed.

- 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. Country clubs, golf clubs, 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.

Businesses regulated by Minnesota agencies that fail to cooperate or have documented violations shall be reported and referred to the agency or department with jurisdiction(including the Alcohol and Gambling Division(AGE) and Minnesota Department of Labor and Industry (DLI). Minn. Stat. § 12.45. In addition to the criminal charges, some regulated business may be subject to fines and other regulatory actions including closure. Cases may be pursued either criminally through local city or county attorneys and/or civilly by AGE and/or DLI.

Tribal properties are sovereign and exempt from this EO, but may be subject to restrictions made by tribal authorities. Most have already issued their own EOs, some of which are more stringent than the Governor's EO's. Please check with the local tribal authority for further information.

Carpe Diem

Commissioner John M. Harrington