



## State of New Jersey

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**TO:** All Law Enforcement Chief Executives

**FROM:** Gurbir S. Grewal, Attorney General

**DATE:** March 16, 2020

**SUBJECT: Law Enforcement Guidance During COVID-19 Pandemic**

These are challenging times. As law enforcement agencies all confront this pandemic together, we have two goals: to protect the safety of the public and the safety of our officers. While we cannot meet these goals through “social distancing” like many other professions, there are certainly steps we can (and must) take to ensure we are fulfilling our duties as safely and effectively as possible. This guidance lays out the best practices on how to do so and answers some questions that we have already received from law enforcement on how to meet the challenges of this difficult moment.

### Keeping Officers Safe

The Centers for Disease Control (CDC) has provided a list of important best practices for keeping officers safe during this difficult period. First, when it comes to protecting from exposure to COVID-19, the CDC instructs officers to do the following:

- Maintain a distance of at least 6 feet from others whenever possible.
- Practice proper hand hygiene. Wash your hands with soap and water for at least 20 seconds. If soap and water are not readily available and illicit drugs are NOT suspected to be present, use an alcohol-based hand sanitizer with at least 60% alcohol.
- Do not touch your face with unwashed hands.
- Have a trained Emergency Medical Service/Emergency Medical Technician (EMS/EMT) assess and transport any arrestee you think might have COVID-19 to a healthcare facility.
- Ensure only trained personnel wearing appropriate personal protective equipment (PPE) have contact with individuals who have or may have COVID-19.



The CDC also recommends the use of PPE when possible, and we know a number of agencies are seeking to expand their supply of PPE. As Governor Murphy announced on Friday, the federal government has sent a significant number of additional supplies to New Jersey, but the New Jersey Office of Emergency Management (NJOEM) will be requesting more PPE supplies—in consultation with each county emergency management coordinator. Under state law, including Executive Order 103 (which declared both a State of Emergency and a Public Health Emergency in New Jersey), requests for additional PPE and decisions about how to allocate the PPE we already have are made by each county's emergency management coordinator in consultation with NJOEM. Please contact your emergency management coordinator directly if you have any questions or requests for additional PPE.

The CDC also provides guidance to officers who come into close contact with another individual, including during an arrest:

- Clean and disinfect duty belt and gear prior to reuse using a household cleaning spray or wipe, according to the product label.
- Follow standard operating procedures for the containment and disposal of used PPE.
- Follow standard operating procedures for containing and laundering clothes. In particular, avoid shaking the clothes.

While each law enforcement agency needs flexibility to respond to the precise circumstances you are all facing, I urge everyone to adhere to the CDC's helpful guidelines, which you can find here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-law-enforcement.pdf>.

At the Department of Law and Public Safety, we have incorporated these best practices and ordered that our divisions may no longer hold in-person meetings and must instead use teleconference and videoconference capabilities whenever possible. We have also taken other steps to limit in-person interactions, including suspending work-related travel and external meetings. A copy of our announcement is enclosed for your review (as Ex. A). To the extent possible and practical, we recommend that all law enforcement agencies implement a similar approach, understanding, of course, that roll-call and other essential briefings will still be required. Even then, however, we encourage following the best practices outlined above.

### **Addressing Manpower Challenges**

Our work as law enforcement officers is more important than ever. So if a law enforcement agency faces manpower challenges because one or more of its officers contract COVID-19 or are subject to quarantine, that agency has at least two options: expanded use of Special Law Enforcement Officers (SLEOs), and reliance on mutual aid agreements.

First, agencies can turn to certain SLEOs for support. Under current law, agencies can rely on SLEO IIs to perform all law enforcement duties, which remains an available force multiplier. The statutory limitation on hours of work for SLEO IIs is inapplicable during periods of emergency. And while SLEO IIIs are limited by statute to performing duties on school or college grounds, a municipality or county has the ability to re-designate a SLEO III as a SLEO II, subject to approval by the PTC. Where a municipality or county does so, and where that officer has previously completed the Basic Course for

Police Officers, the New Jersey State Police Academy, or the SLEO III waiver course, the PTC will expedite such requests and has prepared a modified PTC-15 form—attached to this guidance as Ex. B—to facilitate that process. That waiver would extend for the duration of the Public Health Emergency. The converted SLEO III may not be used to offset regular overtime situations, of course, and should be used to address only staff shortage and mandatory overtime situations. There are almost 400 eligible SLEO IIIs, and the PTC will be issuing a list of those individuals this week.

Second, law enforcement agencies can look to existing mutual aid agreements with your county and municipal law enforcement partners. The appropriate time to seek aid from a municipal or county partner will necessarily depend on the precise circumstances your agency—and other agencies—are facing. Each agency should consult with your municipal or county emergency management coordinator when seeking mutual aid. Pursuant to Executive Order 103, your agency may only obtain mutual aid from a noncontiguous municipality upon the direction of your county emergency management coordinator (or his or her deputies), in consultation with NJOEM and the Department of Health.

### **Detaining Individuals Presenting Symptoms of COVID-19**

A number of law enforcement agencies have requested guidance about detaining and housing arrestees who are presenting symptoms of COVID-19. We have contacted the Department of Corrections (DOC) and Juvenile Justice Commission (JJC) for guidance and will share that with you as soon as it becomes available. In the meantime, law enforcement agencies should rely on their existing protocols for detaining and housing arrestees who present symptoms of communicable diseases, and should consult with local hospitals and health care facilities about options for the secure detention of arrestees inside those facilities.

### **Additional Information for Law Enforcement**

Charging Decisions: The COVID-19 pandemic is creating significant challenges for New Jersey's court system and our county correctional facilities. While public safety must always be our primary concern, law enforcement is in a position to temporarily reduce the stress on the courts and county jails as we make charging decisions in individual cases. First, law enforcement officers and prosecutors should consider delaying the filing of criminal charges in cases, such as certain fraud cases, that do not imminently impact public safety. Second, relying on the framework already established by Attorney General Law Enforcement Directive 2016-6 v3.0, prosecutors and law enforcement officers should consider the issues created by the COVID-19 pandemic as a factor weighing in favor of a decision to seek a complaint-summons and against a decision to seek a complaint-warrant. While our short-term goal is to reduce the impact on the courts and the county correctional facilities created by additional defendants, I want to be absolutely clear that public safety and victim safety are always the most important factors to be considered in any charging decision.

Enforcement of COVID-Related Violations: Today, Governor Murphy issued Executive Order 104, which, among other things: limits social gatherings to 50 people or less, in accordance with CDC and NJ Department of Health guidance; directs all public and private schools to close no later than Wednesday, March 18; directs all casino gaming facilities, race tracks, and certain other entertainment centers to close beginning 8 p.m. today; directs all non-essential retail, recreational, and entertainment businesses to cease nightly operations beginning 8 p.m. today; and directs all restaurants, with or without a liquor license, to only offer take-out and delivery services. In light of these orders, we anticipate that

many enforcement-related questions will arise. I have directed each County Prosecutor and the Division of Criminal Justice (DCJ) to identify on-call Assistant Prosecutors and Deputy Attorneys General to be available 24/7 to pre-approve and provide guidance for any such charging decisions. County Prosecutors and DCJ will be providing this information to the law enforcement agencies in their jurisdictions. This letter relates only to violations of Executive Order 104, and does not extend to the violations of any COVID-related county or local orders.

At the same time, Executive Order 104 makes clear that our essential businesses—including grocery/food stores, pharmacies, medical supply stores, gas stations, and healthcare facilities—will be more important than ever. Because our law enforcement officers may not enforce any local ordinance that will in any way interfere with or impede the achievement of the Executive Order’s goals, during the pendency of this Public Health Emergency, law enforcement officers must exercise their discretion to *not* enforce local ordinances that limit the hours during which those companies may receive deliveries, as well as to *not* enforce any other local ordinances (such as noise ordinances) in ways that would inhibit transportation companies from timely and effectively delivering food, medicine, and medical supplies to these essential businesses.

Temporary Restraining Orders and Temporary Extreme Risk Protective Orders: Notwithstanding any court closures, our law enforcement officers will continue taking all necessary steps to protect the public from harm, including in emergent situations. On any day where the court is closed, officers should handle all TRO and TERPO applications as they do on holidays, nights, and weekends. As always, courts are prepared to review and resolve these applications.

Title 39 Violations: When it comes to the enforcement of our motor vehicle laws, officers should be aware that the New Jersey Motor Vehicle Commission has granted an automatic two-month extension for driver licenses, registrations, and inspection stickers expiring in March, April, and May. As a result, a driver with a license that expires in March, April, or May can continue driving without violating Title 39 until that two-month period has passed. You can find more information about that extension here: <https://www.nj.gov/mvc/press/archives/2020/031320.htm>.

OPRA: Several agencies have raised concerns about their ability to fulfill non-emergency duties at this time, in particular the time required for addressing especially extensive OPRA requests. While we cannot counsel you on your responses to individual requests, OPRA allows agencies to seek “reasonable” extensions to fulfill OPRA requests. Although each case is fact dependent and turns on the particular challenges an agency is facing (as well as the nature of the OPRA request), the State of Emergency and Public Health Emergency are obviously two important circumstances demonstrating an agency’s need for extensions, and we anticipate courts will take them into account. OPRA further provides that if a request would substantially disrupt agency operations, the custodian may deny access after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency.

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New Jersey has some of the best law enforcement leaders and officers in the country, and I know that together we will rise to this unprecedented challenge. While this letter offers guidance on how to keep officers safe and how to continue fulfilling our core mission of public safety, we know that other questions will arise. Please raise questions and concerns with your county’s emergency management

coordinator and with DCJ—our DCJ team is available at [covid19LE@njoag.gov](mailto:covid19LE@njoag.gov)—and we will provide additional advice as quickly as possible.