



### When Can Deputies Enforce A County Health Officer Order?

These are anxious and tense moments for community members and precisely the time when the public expects law enforcement to use reasonable measures to protect them. Balancing individual rights, public health, and safety during a pandemic is a critical task. The Department's focus is on voluntary compliance. When looking at enforcement options, it is vital for a Deputy to balance the liberty interests of the individual against the severity of the threat that he or she poses to society. While "the public health" justification can limit certain individual conduct for the greater health of the community, it does not eliminate a person's basic fundamental rights. Deputies are encouraged to keep these principles in mind when faced with the decision to enforce a County Health Officer Order.

#### What is included in the Amended Order?

Public or private "Gatherings" are prohibited. A "Gathering" is any event or convening that brings together people in a single room or single space at the same time, such as a large conference room, meeting hall, cafeteria, or any other indoor or outdoor space. Gatherings involving members of a household, family, or living unit, or utilizing caregivers are permitted. Also, the Amended Order does not apply to congregate living situations, including dormitories and homeless encampments.

All bars and other establishments that serve alcohol, but do not serve food, shall close.

All restaurants and other business establishments that serve food shall close all on-site dining. All food served shall be by delivery, or through pick-up or drive-thru. Social Distancing (six-foot separation) shall be required for persons picking up food on site.

#### Are people required to stay home from work if they are not conducting "Essential Activities"?

No. The Amended Order does not prohibit activities such as attendance at regular school classes, going to work, or performing essential services. In accordance with state guidance, certain activities are essential to the functioning of our County and must continue.

#### Did the County Health Officer provide guidance in addition to "orders"?

Yes. Some of those recommendations include all persons who are 65 years and older, or have a serious chronic medical condition (like heart disease, lung disease, and diabetes), or have a compromised immune system to remain at home. Also, persons exhibiting mild to moderate symptoms of COVID-19 are strongly recommended to self-isolate themselves in their place of residence unless seeking medical care, and all businesses should practice social distancing.

#### Is a Deputy required to enforce a County Health Officer Order?

Under Health and Safety Code § 120175.5(b), all governmental entities in the County shall take necessary measures within the governmental entity's control to ensure compliance with this Order and to disseminate this Order to venues or locations within the entity's jurisdiction where a large gathering may occur. OCSD may enforce within the county, or the city and county, all orders of the local health officer issued to prevent the spread of any contagious, infectious, or communicable disease. Health and Safety Code § 101029.





## What laws would a Deputy enforce?

### **Health and Safety Code § 120295:**

Any person in violation of the County Health Officer Order is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or by imprisonment for a term of not more than 90 days, or by both. He or she is guilty of a separate offense for each day that the violation continued.

### **California Government Code § 8665:**

Any person who violates any of the provisions of this chapter or who refuses or willfully neglects to obey any lawful order or regulation issued, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed one thousand dollars (\$1,000) or by imprisonment for not to exceed six months or by both such fine and imprisonment.

## When to enforce?

Sheriff's Deputies should first provide notice to persons in violation of the Health Officer Order and give them a reasonable opportunity to comply. If, after a reasonable opportunity, a person refuses to comply, deputies may issue a citation for a violation of Health and Safety Code § 120295 and Cal. Government Code § 8665. **Deputies must contact a supervisor prior to issuing a citation or making an arrest under these misdemeanor sections.**

While we fully expect the people in Orange County to recognize the seriousness of this public health threat and we are hopeful no enforcement action is necessary, with supervisor approval deputies can enforce these laws to protect public safety.

For further information, deputies should refer to Sheriff Don Barnes Memorandum: Coronavirus (COVID-19) - Department Directives & Strategy (March 16, 2020)

## Can a Deputy use force to enforce this Order?

Voluntary compliance is the preferred means of achieving the objectives in the County Health Officer Order. Under California Penal Code 835a, a person arrested may be subjected to such restraint as is reasonable for his arrest and detention. Also, as usual, OCSD Use of Force Policy 300 applies. Remember, based on the Sheriff's directives and the law, these are misdemeanor charges meant to prevent the spread of the virus. Voluntary compliance or citations will cover most instances.

## How long is this Order valid? What happens if there is a new Order?

The County Health Officer Order is in effect now and expires at **11:59pm on March 31, 2020**. If in the future, there is a new order by the Orange County Health Officer, then those Orders would replace or supplement the current restrictions in place. The Deputy's duty and authority to enforce discussed in this update would not change.

