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### **Attorney General's Directive to Law Enforcement on the Enforcement of the COVID-19 Emergency Order**

The Attorney General issues the following directive to all municipal leaders and law enforcement executives regarding enforcement of Governor Phil Scott's Executive Order No. 01-20, issued March 13, 2020, and its Addenda (collectively, Executive Order 01-20). The Executive Order is titled, "Declaration of State of Emergency in Response to COVID-19 and National Guard Call-Out."

This directive is supplemental to the guidance regarding enforcement issued March 25, 2020, by the Commissioner of Public Safety to Vermont municipal leaders and law enforcement executives.

Like the Governor, we believe Vermonters are doing and will do their part to enhance and maintain community safety. Municipal leadership, public safety agencies and the public should be partners in this process.

The Executive Order 01-20 does not authorize road closure or the establishment of roadblocks, checkpoints or the authority to demand identification. You will continue to see motor-vehicle and pedestrian traffic as Vermonters pursue permissible activities outdoors and travel to and from businesses and entities that are continuing to operate under the Order. Accordingly, the Order does NOT establish cause to initiate a motor vehicle stop. The protections in Article 11 of the Vermont Constitution and the Fourth Amendment to the United States Constitutions still apply.

For more detail, please refer to Executive Order 01-20 at <https://governor.vermont.gov/document-types/executive-orders>.

Guidance regarding essential businesses can be found here: <https://accd.vermont.gov/content/stay-home-stay-safe-sector-specific-guidance>.

Guidance about financial resources for businesses and individuals is here: <https://accd.vermont.gov/covid-19>.

The Executive Order is in effect until April 15, 2020, though this may be extended or shortened as needed.

Public reporting: Law enforcement agencies should direct the public to report concerns about violations of the Executive Order to a reporting mechanism prescribed by the Department of Public Safety.

## **LAW ENFORCEMENT DIRECTIVE**

### **Attorney General will bring all enforcement actions:**

The Office of the Attorney General will bring all actions statewide for the enforcement of Executive Order 01-20, should any action prove necessary. The office will do so in consultation with the Department of Public Safety and, when appropriate, the local State's Attorney.

All law enforcement agencies in Vermont should contact the Attorney General's Office if they have inquiries regarding enforcement of Executive Order 01-20, as detailed below.

This guidance does not preclude local municipal and law enforcement officials from enforcing the Governor's orders as civil violations of municipal ordinances or regulations, if relevant ordinances or regulations exist, as long as that enforcement is not inconsistent with orders, directives, and guidance from the Governor, the Attorney General, and other State officials.

### **Enforcement process:**

1. Law enforcement should attempt to contact individuals and entities who are not in compliance with Executive Order 01-20 and request voluntary compliance. Law enforcement should also educate them about the Executive Order and set expectations for compliance, in accordance with guidance from the Governor and Department of Public Safety. Reasonable attempts to gain voluntary compliance include attempting to contact the individual or entity and contacting the individual or entity and asking them to comply. If contacted, noncompliant individuals or entities should be warned that they may be subject to civil or criminal penalties.
2. After law enforcement has made reasonable attempts to gain voluntary compliance, law enforcement shall report non-compliance to the Vermont Intelligence Center (VIC) in the Department of Public Safety, in accordance with guidance from the Department of Public Safety. Law enforcement should flag in their report to the VIC any noncompliance issues they believe need further attention from the Attorney General's Office.

3. The Attorney General's Office will respond to the flagged reports from the VIC and contact the law enforcement officer or entity who submitted the report. The Attorney General's Office will then discuss potential follow-up steps with the submitting law enforcement agencies.
4. Any enforcement recommendations, referrals, and documents brought pursuant to Executive Order 01-20, from any law enforcement agency in the state, will go to the Office of the Attorney General following the contact established in Step 3.
5. The Office of the Attorney General shall be the sole agency for initiating civil or criminal enforcement procedures in court with respect to violations of Executive Order 01-20. This does not apply to civil violations of municipal ordinances as set forth in section 6c.
6. Civil enforcement may include the following:
  - a. If an individual or entity is refusing to comply, the Attorney General may bring an action in superior court to compel compliance with Executive Order 01-20. This action for injunctive relief will be brought in the superior court of the county in which a violation occurs. 20 V.S.A. § 40(c).
  - b. Civil penalties may include a fine of up to \$1,000 each day the violation continues. 20 V.S.A. § 40(b).
  - c. Penalties or remedies provided by local municipal ordinances or regulations that are specifically authorized by the municipality for the enforcement of Executive Order 01-20.
7. Criminal enforcement will only be utilized as a last resort or under extraordinary circumstances. It may include the following:
  - a. A fine not greater than \$500, or
  - b. imprisonment not exceeding six months, or both. 20 V.S.A. § 24.

Note: This directive does not apply to enforcement actions for criminal offenses that are not violations of Executive Order 01-20.

The Department of Public Safety has authority to inspect the premises and records of any employer to ensure compliance with Executive Order 01-20. 20 V.S.A. § 40(a). Police agencies will work cooperatively with the Department of Public Safety and the Office of the Attorney General in assessing whether to request such an inspection.