

LEGAL ALERT**Enforcement of Shelter-In-Place Orders:
Guidance for Police Officers and Local Officials**

Since Governor Pritzker instituted the shelter-in-place order and municipalities have adopted similar provisions, police officers find themselves charged with enforcement. The ACLU has threatened lawsuits for arrests made during the Covid-19 pandemic. Law enforcement personnel and municipal officials should consider the following issues when enforcing shelter-in-place orders.

Stress Voluntary Compliance

Police officers should consider steps they can take to avoid having to make arrests for violation of a shelter-in-place order. For instance, law enforcement personnel should stress voluntary compliance with the public and provide multiple warnings to give persons every opportunity to comply. Stressing voluntary compliance offers several benefits, including:

- officers maintain a safe distance that benefits the public and themselves;
- officers create positive interactions with the community;
- officers engage in effective communication with their constituents; and
- officers help educate the public and build rapport, mutual respect and understanding.

Stressing voluntary compliance gives officers opportunities to enhance their role in the community during this time of crisis.

Determining That An Arrest May Be Required

The circumstances officers encounter – conduct which clearly places the health and safety of the public and law enforcement in danger or repeated refusal of individuals to follow state or local shelter-in-place orders – may require officers to consider making arrests. Before taking such action, officers must determine whether probable cause to arrest exists. In making this determination, officers should consider a number of factors, including, but not limited to:

- have reasonable efforts short of arrest – fair warning, education

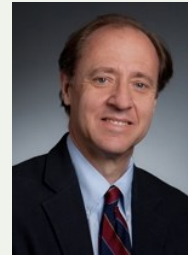
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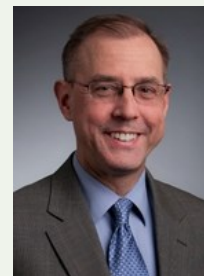
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and discussion of the consequences of non-compliance – have been exhausted; and

- are individuals taking or threatening to take actions likely to affect adversely the health, safety and security of others.

Police department leadership and command staff should discuss with their officers the circumstances which may arise in shelter-in-place enforcement that could lead to probable cause determinations.

Qualified Immunity as Protection for Police Officers

When officers reasonably believe probable cause exists to make an arrest while enforcing a shelter-in-place order, they should be protected by the doctrine of qualified immunity. Qualified immunity protects officers who do not willingly and knowingly violate the law. The doctrine gives law enforcement personnel protection from making a wrong decision in situations of great uncertainty. Qualified immunity offers protection to officers against lawsuits when they reasonably believe arrests are necessary to enforce shelter-in-place orders and protect the community they serve.