



DEPARTMENT NOTICE

20-045
3/23/20

Enforcement of Public Health Orders

Federal, California, and San Francisco authorities have proclaimed a state of emergency in connection with the spread of novel coronavirus ("COVID-19".) COVID-19 is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety.

On March 6, 2020, the Local Health Officer declared a local health emergency under Section 101080 of the California Health and Safety Code. On March 16, 2020, the Local Health Officer issued a Shelter in Place ("SIP") Order that requires individuals to stay home except for engaging in Essential Activities (work to provide Essential Infrastructure or Essential Government Services, or operating Essential Businesses). Homeless individuals must comply with the SIP Order's Social Distancing requirements only. No individual who is sick may go to the workplace or be outside their residence except as necessary to seek and receive medical care.

Approach to Enforcement

Members may directly enforce health orders under state law, and the SIP Order is such an order. Cal. Health & Safety Code § 101029; Cal. Govt. Code § 41601; Penal Code § 409.5. Members are directed to review the SIP Order. Members may educate, admonish, seek voluntary compliance, and use enforcement for violations of the SIP ("progressive enforcement"). Members issuing citations for violating the SIP should cite **SF Admin 7.17(b) [misdemeanor for violating a lawful order, the SIP] Cal Penal Code § 148 [misdemeanor for willful resisting, delaying, or obstructing the SIP order, if appropriate]**. Members shall comply with Department General Order 5.04, Private Person Arrest and 10.11., Body Worn Cameras.

Businesses:

Members may use progressive enforcement for ensuring that clearly prohibited businesses are complying with the SIP Order. The SIP Order has several rules and regulations regarding what types of businesses are permitted. However, the following types of businesses are clearly prohibited from operating under the SIP Order:

- Restaurants or cafes that allow seating (only take out or delivery is allowed)
- Bars, taverns, nightclubs, pool halls, arcades
- Theaters and concert halls
- Gyms & fitness studios and clubs
- Barbershops, salons, manicurists and "health spas"

Such businesses are not allowed to have patrons under any circumstances. When contacting such businesses, Members are directed to educate the person in charge of the business who is enabling the violation, provide a copy of the SIP, ask the business to close, and then order all patrons to leave. If the business refuses to comply, Members shall issue a citation [**SF Admin 7.17(b), Cal Penal Code**

§ 148] and order the business closed. Any time a Member observes one of these businesses is open and makes contact with the business, the Member should document into an incident report that fact and how the situation was resolved (e.g., provided a copy of the Order, the owner agreed to comply and closed the business). If the business remains open or reopens, the Member should may seek the guidance from their Supervisor to close down the business.

Essential Businesses that continue to operate under the SIP are strongly encouraged to comply with the social distancing requirements and to ensure their patrons are also engaging in social distancing.

Outdoor settings:

Members shall consider such factors as the size of a gathering, the purpose of a gathering, and whether subjects are engaged in reasonable attempts at Social Distancing. Members shall also consider any independent public safety reasons for contacting or not contacting an individual or group.

Social Distancing is mandatory for all people **who are not members of the same household**, which means remaining 6 feet apart and following appropriate sanitation practices. In outdoor settings, Members may **use progressive enforcement** to ensure that Social Distancing is practiced. When contacting individuals, Members shall educate and admonish individuals who are not practicing Social Distancing and take a **practical approach to enforcement**. In deciding whether to take law enforcement action, Members shall consider the size of the outdoor gathering, its purpose, and whether participants in the gathering are making reasonable attempts to engage in social distancing. The following common outdoor activities are forbidden:

- Recreational or social gatherings of people not in the same household who fail to practice Social Distancing;
- Standing in line, for example outside a grocery store, with less than 6 feet of space between members of different households;
- Team sports.

Outdoor activity such as walking or jogging is permitted, provided that Social Distancing is practiced between members of different households.

Private gatherings:

Private gatherings are forbidden, such as parties in private homes, pose an immediate risk to health and safety through transmission of COVID-19. Such an event constitutes an emergency, and where feasible, Members may **use progressive enforcement** to disperse the event. Members are directed to contact a supervisor for guidance if enforcement action is being taken.

Visitors to hospitals, nursing homes, etc.:

There are separate orders in place that prohibit most visitors to hospitals, skilled nursing facilities (SNFs), nursing homes, adult residential facilities (ARFs), and residential care facilities for the elderly (RCFES). Be aware that a facility might contact you for help with enforcing these visitor prohibitions. If so, the Member should seek the guidance from their supervisor.

Other conduct that may violate the SIP Order:

Members may observe or receive reports about other conduct, not described above, that appears to violate the SIP Order, such as: a non-Essential Business is operating; any business is failing to

practice Social Distancing; or other potential violations. Members may conduct a preliminary investigation of such other conduct, and educate individuals about the requirements of the SIP Order. Members should not take enforcement action. Members shall document the contact into the incident report.

Incident Reports

Incident reports shall use the following codes:

- 27400 Public Health Order Violation, Notification
- 27401 Public Health Order Violation, After Notification

A notification to the SFPD/DOC shall be made on any enforcement and a copy of the incident report and any supporting documents shall be scanned and electronically sent to the City Attorney's Office at Peter.Keith@sfcityatty.org.

Violation of or failure to comply with the SIP Order is punishable by fine, imprisonment or both under various criminal statutes:

- Cal. Penal Code section 148 makes it a misdemeanor to resist, delay, or obstruct a public officer, in the discharge of his or her duty. Members are authorized to enforce health orders in the discharge of his or her duty.
- Cal. Penal Code section 69 may be charged as a felony for the attempt, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed by law, or to knowingly resist, by the use of force or violence, the officer, in the performance of the officer's duty. Members are authorized to enforce health orders in the performance of his or her duty.
- Cal. Penal Code section 409.5 allows the health officer and SFPD to close an area where a calamity has created an immediate menace to public health.
- S.F. Administrative Code section 7.17(b) makes it a misdemeanor to violate a lawful rule or regulation issued during a local emergency, if such act is likely to imperil the lives or property of City residents or to prevent, hinder or delay the defense or protection thereof.
- California Health and Safety Code sections 120275 and 120295 makes it a misdemeanor to violate certain sections of the Health and Safety Code, including those requiring individuals to comply with health orders to facilitate isolation, such as the SIP Order.



WILLIAM SCOTT
Chief of Police

Per DB 19-156, both sworn and non-sworn members are required to electronically acknowledge receipt and review of this Department Notice in HRMS. Any questions regarding this policy should be made to sfpd.writtendirectives@sfgov.org who will provide additional guidance about the directive.