

**LIVINGSTON COUNTY
PROSECUTOR BILL VAILLIENCOURT
REGARDING COVID-19 ENFORCEMENT**

There have been questions about the stay-at-home orders and I wanted to provide more detailed information to our residents.

Legally, laws and executive orders are presumed valid unless and until they are overturned by a court. If that was not the case, then there would be no need for anyone to challenge their validity in court. Everyone is awaiting a ruling following a hearing that was conducted today. But just because the orders are presumptively valid does not mean that the Governor's extensions are legal. That is for the courts to decide.

As the statement from the Prosecuting Attorneys Association of Michigan indicated, prosecutors can still review executive order violations on a case-by-case basis to determine if criminal charges are appropriate. That is what I have carefully been doing from the beginning. But a part of that review is assessing if legal challenges could be made to those charges and if the law is clear enough to provide adequate notice to people of what is being prohibited.

It is because of these ambiguities and concerns that I, as your Livingston County Prosecutor, have not filed any criminal charges for violation of the orders.

That there are ambiguities in the executive orders is obvious. That's why the FAQ section on the Governor's website is both lengthy and detailed. But when it comes to criminal enforcement, it is the orders that are controlling, not what is on the FAQ page. A lack of clarity about what the order actually prohibits presents a serious challenge to criminal enforcement where prosecutors must prove that a person engaged in a "willful" violation beyond a reasonable doubt. It is the orders that have legal force, not the website guidance. And the lawsuit by the Legislature, which is the appropriate way to challenge the Governor's authority to re-issue these orders, has created even more uncertainty over criminal enforcement.

Law enforcement has always enjoyed broad discretion over how to respond to complaints and they take a wide variety of factors into account in setting enforcement priorities. As a recent example, once the voters approved the legalization of marijuana, but before it actually went into effect, marijuana cases became a very low law enforcement priority. Executive order complaints are not the only thing that law enforcement is addressing. And many of those complaints are technical or minor ones that aren't putting our community at risk. Serious crimes are still being committed that require investigation and resources by police who now also have to deal with the added risk of being infected. All those circumstances have an impact on the priority

they give to investigating executive order violations. And local law enforcement, including our Sheriff, gets to decide whatever level of resources, if any, they wish to devote to these matters. But the community should know that the Michigan State Police is overseen by the Governor and can investigate these complaints as well.

The primary enforcement effort involving the executive orders has been one of education and encouraging voluntary compliance. A key reason for this is the practical reality that any criminal charges that are filed would not be heard by the courts until after the orders are no longer in force.

COVID-19 has presented many hardships and challenges for our community. People have made sacrifices to protect not only themselves and their families, but their neighbors. It remains critically important for people to continue to stay safe and healthy by practicing appropriate social distancing. That means avoiding activities or places that increase your risk of exposure. Because the one thing that everyone wants to prevent is a resurgence of new cases that would be a setback to moving our state forward. Fortunately, it appears that we are at the point where we can look to the future and how we can reopen our local businesses and workplaces in a manner that keeps our communities safe and thriving.

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