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EMAIL TO: All Sheriffs

FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

SENT: April 3, 2020

SUBJECT: Legal Language for Charging Criminal Violations
of the Governor's Executive Orders

In the wake of the COVID-19 pandemic, Governor Roy Cooper has issued multiple Executive Orders containing various restrictions which allow for enforcement action by law enforcement. The manner in which you and your agency enforce these restrictions should be discussed internally within your agency, as well as with your District Attorney's office.

Based on current Executive Orders, officers have the ability to charge three potential violations:

1. Participating in a mass gathering in violation of Executive Orders No. 117, 120, and 121.
2. Unlawfully operating a business in violation of Executive Order No. 121.
3. Failure to stay at home in violation of Executive Order No. 121.

All of these violations are Class 2 misdemeanors pursuant to G.S. 166A-19.30(d) and G.S. 14-288.20A(2). As such, it is within each officer's discretion, based on guidance from their agency, whether to: (1) issue a verbal warning, (2) issue a citation, (3) seek a criminal summons, (4) seek an arrest warrant or (5) make a custodial arrest for violation of any one or all of these restrictions.

Because these Executive Orders are very specific in their language, attached is a document containing sample charging language for you to use should you choose to pursue charges for violation of an Executive Order issued by the Governor.

The attached charging language has been prepared by Kimberly Overton Spahos, Chief Resource Prosecutor with the North Carolina Conference of District Attorneys. We are grateful to Kimberly and the Conference for working with the



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North Carolina Sheriffs' Association to make this information available for law enforcement officers and agencies throughout the State.

If you have any questions or need any additional information, please contact Matthew Boyatt, NCSA Deputy General Counsel, at mboyatt@ncsheriffs.net or at (919) 459-6467.

Thanks...Eddie C.



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North Carolina Sheriffs' Association
Proudly Serving the Sheriffs and Citizens of North Carolina since 1922

Violations of the Governor's Executive Orders --- COVID-19

Charging Language --- Class 2 Misdemeanor April 2, 2020

Participating in a Mass Gathering

I, the undersigned find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did violate Executive Orders 117 and 120, as modified by Executive Order 121, issued by Gov. Roy Cooper, pursuant to NCGS 166A-19.30 on March 14, 23, and 27, 2020. To wit: {The defendant was present at a mass gathering of more than 10 persons in a single room or single space as prohibited by Executive Order}. This act was done in violation of NCGS 166A-19.30(d) and 14-288.20A(2).

Unlawfully Operating a Business

I, the undersigned find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did violate Executive Order 121, issued by Gov. Roy Cooper, pursuant to NCGS 166A-19.30 on March 27, 2020. To wit: {The defendant operated a business or operation as prohibited by Executive Order}. This act was done in violation of 166A-19.30(d) and NCGS 14-288.20A(2).

Failure to Stay at Home

I, the undersigned find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did violate Executive Order 121, issued by Gov. Roy Cooper, pursuant to NCGS 166A-19.30 on March 27, 2020. To wit: {The defendant failed to stay at home, their place of residence, or current place of abode as prohibited by Executive Order 121}. This act was done in violation of NCGS 166A-19.30(d) and NCGS 14-288.20A(2).



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