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EMAIL TO: All Sheriffs

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

SENT: April 9, 2020

SUBJECT: Potential Criminal Charges for: (1) Engaging in a COVID-19 Hoax;
or (2) Intentionally Spreading COVID-19

There have been many cases in the news media recently about individuals threatening to infect others with COVID-19 by coughing on someone or spitting on objects others will touch. Sheriffs have asked for clarification on what crimes can be charged for a "hoax" and what crimes can be charged for the intentional spread of COVID-19. We have researched the criminal law on this topic and have consulted with the North Carolina Conference of District Attorneys to develop the reference list below that will be useful to sheriffs, sheriffs' office personnel and other law enforcement officers.

Engaging in a COVID-19 Hoax

There appears to be a limited number of criminal statutes that are available to prosecute a non-infected person who engages in conduct amounting to a hoax, such as by coughing or sneezing in a person's direction, or placing a bodily fluid, such as spit, on a gas pump handle. Under the hoax scenario, the North Carolina Conference of District Attorneys agrees that the following crimes may apply, depending on the facts of the case. Therefore, you should consult with your District Attorney before charging for a hoax.

- G.S. 14-33 – Simple Assault (such as by spitting on someone)
- G.S. 14-288.4 – Disorderly Conduct
- G.S. 14-275.1 – Disorderly Conduct at Bus or Railroad Station or Airport
- G.S. 14-160 – Injury to Personal Property (such as by spitting on an object in a store, a grocery cart, or a gas pump handle)

Intentionally Spreading COVID-19

If a person is positive for COVID-19 and intentionally tries to spread the virus or intentionally exposes someone to bodily fluids, there are many potential charges law enforcement officers may consider. Therefore, you should consult with your District Attorney before charging for this conduct. The following list of potential charges should be considered in this scenario.



100% Membership

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- G.S. 14-33 – Simple Assault
- G.S. 14-33(c)(1) – Assault with a Deadly Weapon
- G.S. 14-32 – Assault with a Deadly Weapon with Intent to Kill
- G.S. 14-32(b) – Assault with a Deadly Weapon Inflicting Serious Injury
- G.S. 14-32(a) – Assault with a Deadly Weapon with Intent to Kill Inflicting Serious Injury
- G.S. 14-33(c)(1) – Assault Inflicting Serious Injury
- G.S. 14-32.4 – Assault Inflicting Serious Bodily Injury
- G.S. 14-33(c)(4) – Assault on a Government Officer
- G.S. 14-34.2 – Assault on a Government Officer with a Deadly Weapon
- G.S. 14-34.7 – Assault Inflicting Physical Injury on a Law Enforcement Officer, Probation and Parole Officer, or Detention Facility Employee
- G.S. 14-34.7(a) or (b) – Assault on a Law Enforcement Officer, Probation and Parole Officer, or Detention Facility Employee Inflicting Serious Injury or Inflicting Serious Bodily Injury
- G.S. 14-34.6 – Assault on a Firefighter or Medical Personnel Inflicting Serious Bodily Injury or Assault on a Firefighter or Medical Personnel Using a Deadly Weapon
- G.S. 14-258.4 – Malicious Conduct by Prisoner
- G.S. 14-277.1 – Communicating Threats
- G.S. 130A-145 & G.S. 130A-25 – Failure to Comply with Control Measures
- G.S. 14-34.4 or G.S. 14-401.11 – Adulteration of Food or Beverage

Consultation with Your District Attorney is Recommended

Keep in mind, these lists are not to be considered exhaustive. As always, it is recommended that you consult with your District Attorney before pursuing criminal charges because charging is always dependent on the unique factual circumstances presented. Your District Attorney may feel these or other viable charges are available based upon the facts of your case.

We are grateful to Kimberly Overton Spahos, Chief Resource Prosecutor at the North Carolina Conference of District Attorneys, and the Conference for working with the 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

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