

D.3 Covid 19 Update Reports December 15 2020

Diana Becton, District Attorney, Gary Koeppel, Deputy DA

The DA's office is a partner with multiple county agencies that come together to think about how to enforce the local health orders as well as state health orders. As part of the multi-agency cooperative working group, the Health Services Department has authorized (see Ordinance 2020-21 Establishing Administrative Fines for Violations of Public Health Orders Pertaining to The Covid-19 Pandemic) two of the inspectors from the Contra Costa County DA's office to enforce the ordinance.

The two senior health inspectors are located in the consumer protection unit. They are specifically assigned to investigating any complaints regarding the health orders. Additionally there are two prosecutors and a paralegal assigned to the enforcement team. A hotline is available, it's a covid-19 hotline, 925-957-8608 and the website has an online function for reporting. When a complaint is received, the DA's office works with partner agencies to refer potential violations for further investigation, or often investigate as well. Ms. Becton has spoken with all of the police chiefs in the county about the task force and the officers have participated in a training with county partners about how to enforce the orders. So that the burden doesn't fall on just one agency. The community is approached first with the education, second with notice of violation, then notice of fines. In addition to our local partner agencies, with state agencies, to refer possible cases to them. That might include the Board of Cosmetology, Cal OSHA, and others.

At the beginning of the pandemic in March, emphasis was placed on education. The ordinance provided flexibility to encourage businesses to come into compliance with fining authority. The office issues warnings, Notices of Violations and fines. The use of fines has become more prevalent to deter future violations. The fine structure is \$250 for the first offense, \$500 for the second, and \$1000 for the third. The \$1000 fine can be issued daily until the business comes into compliance. The vast majority of businesses have come into compliance once contacted by law enforcement. A tiny few continue to violate the health orders.

There is the option, in terms of enforcement, to file a misdemeanor criminal complaint against a business and even against an individual. But it is important to recognize that as that process winds its way through the courts, it can take months and months to come to a place of resolution. The office does not see that as the best option to add criminal offenses to solve a health crisis. It's really difficult to prosecute our way out of a health crisis. But the tool is there and everything will be done to deter the behavior.

As of December 10th, the DA's office had received just under a thousand complaints, and has investigated over half of those. About a third of them have been referred to other agencies and there are just over 200 of them still being investigated and are pending. Since November we have issued 1913 fines totaling \$4600 and 2 Notices of violations. Ten of the fines, just in general categories concern gyms, six different gyms in our county in total. There has been a spike in the activity recently. In November for example the office was receiving about six complaints a day, but so far in December, not even halfway through the month, there is an average of about 15 complaints a day coming in from all of the county. There is no particular area the office has focused on complaints in general, ranging from concerns about individuals wearing a mask, to social distancing, whether businesses should be operating at all. Other complaints received this month cover any possible violation in the shelter in place order or violations of the health order.

Sheriffs Department, John Lowden

The goal of the Sheriff's Department is to provide quality law enforcement services and public safety. This pandemic kicked off in March, filled with uncertainty, so the initial approach was one of education and

compliance. Since the health order was modified in July the department has shifted over primarily to compliance as most people that we come into contact with have been educated. The Department has worked and established a working group with the Sheriff's Office, the DA, the Environmental Health division of Health Services, Conservation and Development Code Enforcement, County Counsel and County Health Services Department. We regularly have discussions. We have a type of think tank to figure out what the best approach is for businesses or individuals that are non-compliant. From the Office of the Sheriff what we find is when an officer of deputy shows up, we typically gain compliance, primarily based upon the presence of the uniform and the badge, and the officer and the contact with the business or individual. Most recently we have had groups that overtly state that they have no intentions of following the health order. Typically those have been businesses such as eateries, wineries, nail salons and so we are dealing with those individuals. Primarily they are located in our contract cities and in some of our incorporated areas. It appears for the Sheriff's Office most of the areas that we have concentrated defiance are in the central area, Danville as you are aware has been a hot topic. The offices is working with the town of Danville, and the Chief, Alan Sheffield, rectifying issues with those businesses. We support our officers and our deputies, and the citizens of Contra Costa County. Again, most individuals have been compliant. A very small fraction have decided they won't comply. The Sheriff's Office is not averse to issuing fines if they are warranted and will continue to educate and provide public safety in an effective manner.

John Kopchik, Director Department of Conservation (DCD)

DCD has a small code enforcement team and they have been doing double duty working on health order enforcement as well as their other typical duties. One of the key functions of the interdepartmental team is to coordinate on when to do and enforcement, so there is a standard, consistent enforcement approach. That group put together a training for all the line staff, talked through the difficult cases, and critically in order to make sure that we were as effective as possible, developed a division of labor. Jurisdictions were mapped out that our various agencies could operate in, and then the group assigned different business categories to different agencies. For example DCD, most agencies were assigned their home base already, so of course construction, that's one of the things that DCD is responsible for., in the unincorporated area and the five contract cities, Lafayette, Moraga, Orinda, Clayton and Hercules., that contract with the county for code enforcement support as well as building permits. Construction, gyms and indoor sports, outdoor sports, retail stores, salons of all kinds, cemeteries, mortuaries, these kinds of things. We have, our experience, we have had less cases assigned to us than other departments, In each of the instances, where the department has had to engage, we either found them in compliance or we were able to achieve an end to the activity, without the issuance of a fine.

Randy Sawyer, Director, Environmental Health Division

Overall, the Environmental Health team has responded to over 850 direct complaints investigations. Also all of staff are out inspecting those facilities on an ongoing basis. There are a lot of environmental health inspections of restaurants and other facilities that are subject to environmental health. There have been ten notices of violation issued by the group, and 16 Notice of Fine's. Four of those were second or later violations. The Department has learned today that the Town of Danville is actually issuing some violations, one restaurant has a second and third fine. EH is also working with the Town of Danville, looking at possibly, pulling permit on restaurant, already fined up to 1000 still defying health order. The department is continually performing inspections of restaurants, pools, and other facilities and other facilities affected by health order.

Environmental Health may revoke an operating permit. Conservation and Development states that revocation of a land use permit is a separate different procedure.