



GUIDANCE TO COUNTIES, MUNICIPALITIES, LAW ENFORCEMENT AGENCIES, AND DETENTION CENTERS

As we continue our efforts to prevent the spread and impacts of novel coronavirus 2019 (COVID-19), we are keenly aware of the effect of COVID-19 on detention centers. Our priority during this state of disaster emergency is to ensure the public's health and safety. Our law enforcement agencies should balance their safety and the safety of others, with our overarching public safety responsibilities and various statutory charges. Reducing the numbers of those arrested or incarcerated is vital to our efforts to limit and prevent the spread of COVID-19 in our communities, detention centers, and prisons.

At this time, I find it necessary to provide guidance to counties, municipalities, all law enforcement agencies, and all detention centers operating in the State on their efforts to protect public safety while limiting the spread of COVID-19.

FINDINGS

1. On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of community spread throughout the State. COVID-19 is a respiratory illness, and like other respiratory illnesses, it is transmitted through person-to-person contact or by contact with surfaces contaminated with the virus. Persons infected with COVID-19 may become symptomatic anywhere from two (2) to fourteen (14) days after exposure. Symptoms may be mild like those of a common cold or symptoms may be flu-like, including any combination of cough, body aches, fatigue, chest tightness, or fever. Some people may not develop a fever or a fever may not appear until several days into the illness.
2. A significant number of Coloradans are at risk of serious health complications, including death, due to COVID-19. In particular, individuals with serious chronic health conditions and older adults are most at risk for becoming very ill with or dying from this disease. Although most individuals who contract COVID-19 do not become seriously ill, persons with mild symptoms and asymptomatic COVID-19 illness may place other vulnerable members of the public at significant risk. A large surge in the number of persons with serious infections can compromise the ability of the healthcare system to deliver necessary health care to the public.
3. My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

4. The Centers for Disease Control and Prevention (CDC) in the United States Department of Health and Human Services recommends community mitigation strategies such as social distancing measures to limit spread of the virus. One area of concern for possible transmission of disease is when large numbers of people gather. The CDC has issued guidance concerning the factors to consider for mass gatherings, and the White House has recommended limiting mass gatherings to no more than ten (10) persons. On March 18, 2020, CDPHE issued Public Health Order 20-23, which prohibits any “activity that brings together ten (10) or more persons in a single room or space at the same time” in any “confined indoor or outdoor space.”

GUIDANCE

I am providing the following guidance for counties, municipalities, all law enforcement agencies, and all detention centers within the State concerning law enforcement interaction with the public and operation of all detention centers.

Guidance to Law Enforcement Agencies:

1. Increase the use of warnings or summons in lieu of arrest when safe to do so. Except when otherwise prohibited by statute, law enforcement should issue a warning or summons instead of effectuating a warrantless arrest when there is no clear risk of physical harm to others or the community. Law enforcement should extend the return date on the summons to minimize detention center and courthouse contacts.
2. In cases that proceed by indictment, information or complaint, judges, prosecutors, and law enforcement should issue a summons instead of a warrant where there is no clear risk of physical harm to others or the community, except where otherwise prohibited by statute.
3. Judges, prosecutors, and law enforcement should work together to develop procedures that allow law enforcement officers to issue a summons instead of effectuating an arrest in cases that have been initiated by indictment, information or complaint and a warrant has already been issued where there is no clear risk of physical harm to others or the community, except where otherwise prohibited by statute.
4. Attempt whenever possible to prioritize arrests of serious and violent offenses over non-violent crimes, while always considering victims’ rights.
5. Through the performance of their duties, uniformed members should be aware of and weigh the severity of the violation when a violator has any cold or flu-like symptoms, including but not limited to any combination of cough, body aches, fatigue, chest tightness, shortness of breath or fever (collectively, COVID-19 Symptoms), as well as the risk posed by continuing to remain in contact with the violator.

6. When contacting members of the public who appear to be visibly ill or have COVID-19 Symptoms and if the contact is for a violation unlikely to immediately compromise public safety, uniformed members should consider:
 - a. Adhering to the State's social distancing directives;
 - b. Limiting the amount of time they are exposed to the violator;
 - c. Documenting the violator's name and date of birth on their notepad, rather than exchanging documents through hand-to-hand contact; and
 - d. Allowing the violator to proceed with a verbal warning, when appropriate, so as to limit the time of the contact and potential exposure risk.

7. When contacting members of the public who appear to be visibly ill or have COVID-19 Symptoms, and the violation is serious in nature such that there is a clear risk of physical harm to others or the community, uniformed members should fully engage with the violator to uphold the law. In these situations, uniformed members should consider:
 - a. Donning issued personal protective equipment (PPE);
 - b. Putting a surgical mask on an arrestee to limit potential virus exposure and transmission risk;
 - c. Practicing personal hygiene, including hand washing and applying hand sanitizer, to protect against transmission; and
 - d. Cleaning and disinfecting duty belt and gear prior to reuse using a household cleaning spray or wipe according to the product label and following standard operating procedures for containing and laundering clothes.

8. Jurisdictions are encouraged to implement pretrial diversion and release methods to lower the number of individuals held in custody at any given time.

Guidance to All Detention Centers:

1. Ensure all individuals held in custody in a detention center are held in a manner that allows social distancing whenever practicable, including through changes in how individuals are housed or reductions in detention center populations. "Social Distancing" means maintaining at least a six (6) foot distance from other individuals, washing hands with soap and water for at least twenty (20) seconds as frequently as possible, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands or making other physical contact between individuals. The foregoing guidance may need to account for facility design and other physical, public safety, or law enforcement constraints.

2. In addition to Social Distancing, detention centers should take all reasonable steps to ensure that not more than ten (10) or individuals are gathered at the same time in any confined indoor or outdoor space including, for example, day rooms, booking areas, housing unit common areas, cafeterias, pill lines, shower lines, libraries, or visitation areas. In any situation where it is not possible to adhere to the ten (10) person guideline,

detention centers should still follow Social Distancing guidelines and space individuals at least six (6) feet from one another. In connection with this guidance, facilities should ensure that there is not a cumulative presence of ten (10) or more people in the same confined space between cleanings of those spaces to the greatest extent practicable. For example, when reasonable, before any new group of people enters a confined space such as a booking area, the contact surfaces of that booking area should be cleaned and disinfected so as to ensure that the cumulative contacts in that space do not exceed that of ten (10) or more individuals.

3. Ensure all detention centers develop and publicly announce a plan to disinfect and regularly sanitize all facilities, with most frequent disinfectant cleaning of contact surfaces where staff, contractors, individuals in custody, or permitted visitors are present. Such cleaning protocols should include phones and video screens between uses, gym equipment, common toilet facilities, and other similar high-use equipment.
4. Ensure each new intake to and release from all detention centers are screened for COVID-19 Symptoms and receive a temperature check and a request for a recent medical history regarding relevant health information, and provide appropriate safety equipment, such as gloves and surgical masks, to staff while performing any intake into or release from the detention center.
5. Ensure all staff, contractors, and visitors entering and exiting all detention centers are screened for potential COVID-19 Symptoms and receive a temperature check. Ensure clear communication that absence of symptoms does not rule out COVID-19 infection or the risk of transmission and ensure that Social Distancing is maintained.
6. Ensure that, where possible, in settings where group gatherings occur, all staff should follow Social Distancing, and in particular keeping six (6) feet of separation between individuals, such as at roll call or other gatherings, considering facility design and safety, and consider the use of video conference or other technologies to avoid physical in-person meetings.
7. Ensure that all individuals in custody in all detention centers who are exhibiting COVID-19 Symptoms are isolated from the general population, as facility design or safety permits, and are provided with necessary health care, utilizing telemedicine services when possible. Individuals in custody placed in isolation as a result of COVID-19 containment or treatment should not receive punitive measures and should have ample access to comfort, entertainment, and activity-related materials allowed by their custody level. Staff should establish protocols for regular check-ins with all individuals in custody who are experiencing COVID-19 Symptoms and ensure they have access to expeditious medical care if symptoms worsen. If an individual in custody requests a visit to the infirmary for a health check, such request should be granted, and the individual in custody should be provided with a surgical mask while transiting through other areas of the facility and adhere to Social Distancing.

8. Ensure that all staff or outside contractors who are exhibiting COVID-19 Symptoms are barred entry to all detention centers and directed to self-isolate. Under no circumstances should someone exhibiting COVID-19 Symptoms have interaction with those being held in custody. This also applies to staff or outside contractors who have known contact with third-party individuals outside the detention center who are exhibiting COVID-19 Symptoms.
9. Ensure that all individuals held in custody have access to personal hygiene products, including soap, taking account as appropriate of concerns related to misuse and detention center safety.
10. Temporarily suspend all visitation to all detention centers, including family visits and volunteer visits, except for those providing legal representation, and make accommodations for free phone or video conferencing calls, subject to local resources. The jurisdiction should consider adding volunteers to approved call lists, at the volunteers' request. Ensure that all attorneys exhibiting COVID-19 Symptoms do not interact with those individuals held in custody. This also applies to attorneys who have known contact with individuals exhibiting COVID-19 Symptoms. Provide free personal hygiene products, such as soap and hand sanitizer, to attorneys before and after their visitation with those individuals held in custody.
11. For legal representation, all detention centers should increase the availability of confidential phone or video calls to reduce the number of in-person visits. Any attorney-client calls must be free of charge. Costs for other calls should be minimized to the greatest extent possible.
12. Ensure that all staff, outside contractors, and individuals held in custody are educated on Social Distancing and best personal hygiene practices, such as proper handwashing, coughing into their elbows, and Social Distancing.
13. Ensure that the local public health agency is notified of any and all suspected or confirmed cases of COVID-19 that occur within a detention center.
14. Ensure that individuals in custody are not transferred from detention center to detention center within a jurisdiction or between jurisdictions.
15. In addition to the foregoing Guidance, I also encourage the courts and law enforcement, together with prosecutors and defense attorneys, to work to evaluate the detention centers' populations and determine how to reduce the number of individuals in custody without creating a public safety risk. In particular, I encourage the courts and law enforcement, together with prosecutors and defense attorneys, to work with the Chief Judge of each judicial district to quickly assess public safety risk and set personal recognizance bonds as much as possible.

16. We will continue to work with counties, municipalities, all law enforcement agencies, and all detention centers as the COVID-19 situation continues to develop. As Coloradans, we are all in this together and I am grateful for your service to our communities.

GIVEN under my hand
this twenty-fourth
day of March, 2020.



Jared Polis
Governor