

To: George Bailey  
Chairman, Gratiot County Board of Commissioners  
From: Keith J. Kushion, Prosecuting Attorney  
RE: Proposed COVID-19 Resolution  
Date: May 19, 2020

You have asked me for a written opinion with respect to a proposed resolution that commissioner Murphy intends to offer at your board meeting on May 19, 2020. I am not clear if commissioner Murphy intends to offer his original resolution or if he intends to offer the resolution passed by the Tuscola County board. Either way, as far as I am concerned, it does not matter.

The governor's executive orders are going to be enforced by office unless declared invalid by the judiciary. I have attached a letter from the Prosecuting Attorneys Association of Michigan, of which I am a member, explaining our position on COVID-19 enforcement. I would also advise, that to date, it has not been necessary to issue any appearance tickets for violations of the governor's executive orders. That is not to say that there have been no complaints, however, compliance has been achieved by less drastic means than issuing a formal ticket or arrest warrant. The people of Gratiot County have done a fantastic job during this very stressful time.

My concern with the board of commissioners passing a resolution that purports to sanction activities banned by the governor's executive orders is that some of our residents may not understand that the board has no authority to grant such permission. Nothing that the board may do is going to change the enforcement of the governor's executive orders by my office. That change has to come from the judiciary. Quite frankly, if the courts rule that the governor's executive orders expired on April 30, 2020, no one would be happier than me because dealing with the issues raised by these executive orders takes up an inordinate amount of my daily office time. I don't make the laws, but I have taken an oath to uphold the laws, and until the courts rule otherwise, the governor's executive orders have the force and effect of law – your resolutions do not.



# Prosecuting Attorneys Association of Michigan

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## PAAM Statement on COVID-19 Enforcement

On behalf of the Prosecuting Attorneys Association of Michigan, we want to thank our state's citizens for their efforts to keep people safe and healthy. We recognize that everyone has made costly and difficult sacrifices.

On Friday, the Court of Claims will hear arguments on the lawsuit the legislature filed against the Governor. Ultimately, this lawsuit will determine the scope of Governor's authority to issue Executive Orders under the Emergency Management and Emergency Powers acts. At this time, the Court has made no ruling regarding the legality of those orders. That means the Executive Orders are still in force.

During this time, prosecuting attorneys are working with their local communities to keep people healthy and safe. In most cases, that is accomplished through community education about the health risks COVID-19 presents. In extreme circumstances, after being warned and educated, prosecutors have had to exercise their discretion and issue criminal charges. This has not been our preferred method on how to handle these alleged violations. We will continue to request that violations of the Executive Orders be investigated by the police and prosecutors will review those on a case-by-case basis to determine if criminal charges are appropriate. It is important for businesses and communities to remember that criminal penalties are not the only, or even primary way to enforce the orders. License sanctions or revocations by state agencies and local health departments are also possible. Likewise, the Attorney General's Office and Michigan State Police can enforce criminal penalties for violations of the Executive Orders.

Like the rest of the State, we hope the court will quickly decide the case brought by the legislature against the Governor. In the meantime, we must continue to work together as a community so that we can overcome the hardships and challenges COVID-19 has presented as quickly as possible, while maintaining the health and safety of our citizens.

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