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ATTORNEY-GENERAL'S ADVISORY TO LAW ENFORCEMENT AGENCIES ON ENFORCEMENT OF MEASURES TO MITIGATE SPREAD OF COVID-19 IN EKITI STATE.

Background

1. The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.
2. On March 18, 2020, the Ministry of Health and Human Services identified the first presumptive-positive case of COVID-19 in Ekiti State. The Ekiti State COVID-19 Task Force has identified 42 direct and indirect contacts of this identified index case.

Purpose of this Advisory

3. To mitigate the spread of COVID-19, the Government of Ekiti State has undertaken several measures including the proclamation of executive order 2020-4 on the temporary prohibition of large assemblages and events, temporary school closures and prohibition of excess passengers in Commercial Vehicles, Motorbikes and Tricycles.

These measures in addition to the directives given by the Ekiti State Task Force on COVID-19 require enforcement by Law Enforcement Agencies.

The purpose of this advisory is to clarify the legal framework for the effective prosecution of persons who violate State sanctioned measures for the prevention of the spread of COVID-19 in Ekiti State.

Prohibited Activities to Curb the Spread of COVID-19

4. Measures and Applicable Law

4.1 Prevention and prohibition of gatherings

All assemblages of more than 20 people in a single shared space and all events of more than 20 people are prohibited in this State, except for assemblages for the purpose of: industrial or manufacturing work; mass transit; or the purchase of groceries or consumer goods.

The prohibited activities include:

- a) Religious gatherings including worship and prayer services, night vigils, house fellowships and NASFAT meetings;
- b) Social gatherings including burials, weddings, family meetings and parties of any kind in night clubs, bars, beer joints;
- c) Political gatherings, including rallies, congresses, ward meetings;

A Law Enforcement Officer must, where such prohibited gathering takes place—

- (a) Order the persons at the gathering to disperse immediately; and*
- (b) If they refuse to disperse, take appropriate action, which may, subject to the Criminal Code Law, Cap C 16 Laws of Ekiti State, 2012 and the Constitution of the Federal Republic of Nigeria, 1999 (as amended) include arrest and detention.*

4.2 Closure of Schools

All primary schools and secondary schools buildings in this State must close to students for educational purposes from Monday March 23 through April 5, 2020. This period may be extended. This requirement includes all public, nonpublic, and boarding schools in the State.

A Law Enforcement Officer who observes a violation of this directive must:

- (a) Direct those present in such school to disperse immediately; and*
- (b) If they refuse to disperse, take appropriate action¹, which may, subject to the Criminal Code Law, Cap C16 Laws of Ekiti State, 2012 and the Constitution of the Federal Republic of Nigeria, 1999 (as amended) include arrest and detention.*

4.3 Prohibition of excess passengers in Commercial Vehicles, Motorbike and Tricycles

Operators of commercial vehicles, motorbikes and tricycles shall not carry excess passengers and must observe the following:

- (1) Taxi drivers must ensure that only one person is sitting in the front seat with the driver and not more than 3 passengers in the backseat
- (2) Bus Drivers must ensure that they carry two passengers in front and not more than 3 passengers in each row of the bus. Provided in the case of mini buses (*Akoto*) only one passenger shall be allowed in front with the driver.
- (3) Commercial Motorcycles (*Okada*) must carry only one passenger each and Tricycles (*Keke NAPEP*) must carry no more than three persons.

A Law Enforcement Officer who observes excess passengers in any commercial transport must:

¹ Including informing the Ministry of Education, Science and Technology

- (a) *Direct the driver of such transport to immediately disembark the excess passengers; and*
- (b) *If such driver refuses, take appropriate action, which may, subject to the Road Traffic Law, Cap R8, Laws of Ekiti State, 2012 include impounding the vehicle, motorcycle or tricycle or subject to the Criminal Code Law, Cap C16 Laws of Ekiti State, 2012 and the Constitution of the Federal Republic of Nigeria, 1999 (as amended) include arrest and detention.*

4.4 Refusal of Medical Examination, Prophylaxis, Treatment, Isolation and Quarantine

Any person

Who has been clinically, or by a laboratory, confirmed as having COVID-19, or who is suspected of having contracted COVID-19, or who has been in contact with a person who is a carrier of COVID-19:-

- (a) Shall submit to a medical examination, including but not limited to the taking of any bodily sample by a person authorized in law to do so
- (b) Shall submit to mandatory prophylaxis, treatment, and isolation or quarantine or isolation in order to prevent transmission.

A Law Enforcement Officer faced with a person unwilling to comply with this directive

- (1) Shall with the help and under the guidance of an authorized medical practitioner use reasonable force to ensure that such person is arrested, transported and securely placed in isolation or quarantine at the authorized Ekiti State Isolation Center.
- (2) Shall apply to a magistrate court for a warrant for the detention of such person in the isolation center in the case of a person who has been clinically confirmed to have contracted COVID - 19, or for a detention period of 48 hours for a person whose status is yet to be confirmed to enable medical examination be carried out as contemplated in paragraph (a).

- (3) This warrant must include an oath or affirmation by the Law Enforcement officer that:
- (a) The person is confirmed as having been infected with COVID-19; or
 - (b) The person is on reasonable grounds suspected of having contracted COVID-19, or
 - (c) The person has been in contact with, or on reasonable grounds suspected to have been in contact with a person who is a carrier or infected with COVID-19.

4.5 Prohibition of Unauthorized Persons in Places of Quarantine and Isolation

It is the responsibility of Law Enforcement Officers to ensure the security of designated places of quarantine and isolation in the State. Only authorized persons with verified identification must be allowed into these places.

A Law enforcement officer shall, where unauthorized persons seek to gain entrance into places of quarantine and isolation:

- (a) Order such person(s) to leave immediately;*
- (b) If such person(s) refuse to leave, take appropriate action, which may, subject to the Criminal Code Law, Cap C16, Laws of Ekiti State, 2012 and the Constitution of the Federal Republic of Nigeria, 1999 (as amended) include arrest and detention.*

4.6. Applicable Law for the Prosecution of Offenders

Law Enforcement Officers are invited to note the provisions of the Criminal Code Law, Cap C 16, Laws of Ekiti State, 2012 as they apply to the prosecution of persons who fail to comply with or contravene the measures adopted by the Government of Ekiti State.

(1) Any person who—

- (a) Convenes any gathering of more than 20 persons; or
- (b) Permits more than 20 persons in a premises for any religious, social or political gathering;
- (c) Being an operator or driver of a commercial vehicle, motorbike or tricycle carries excess passengers, or
- (d) Being a proprietor, owner or person in charge of a school, permits its use for educational or any other purpose,
- (e) Seeks to gain unlawful entry into an isolation center,
- (f) Hinders, interferes with, or obstructs a Law Enforcement Officer in the exercise of his or her powers, or the performance of his or her duties in terms of these measures,

May be prosecuted for an offence under the provisions of Sections 61, 202 and 203² of the Criminal Code Law, Cap C 16, and Laws of Ekiti State 2012.

(2) Any person who -

- (a) Intentionally misrepresents that he, she or any other person is infected with COVID-19

May be prosecuted for an offence under Section 59³ of the Criminal Code Law, Cap C 16, and Laws of Ekiti State, 2012

² A person convicted of an offence mentioned in Section 61 is liable on conviction to imprisonment not exceeding three years. Conviction on offences under Sections 202 & 203 attracts one-year imprisonment

³ A person convicted of an offence mentioned in Section 59³ is liable on conviction to imprisonment not exceeding three years.

(3) Any person who -

(a) Publishes any statement, through any medium, including social media, with the intention to deceive any other person or the public about—

(i) COVID-19;

(2) COVID-19 infection status of any person; or

(3) Any measure taken by the Government to address COVID-19,

May be prosecuted for an offence under Section 60 of the Criminal Code Law, Cap C 16, Laws of Ekiti State, 2012⁴

(4) Any person who-

(a) Intentionally exposes another person to COVID-19

May without prejudice to the provisions of Section 247b of the Criminal Code Law, Cap C16, Laws of Ekiti State, be prosecuted for the offence of assault, attempted murder or murder as applicable in the circumstance.

Law Enforcement officers are invited to note that there is no time limit to commence criminal proceedings against persons who violate these measures. Given the existing public health situation and the need to avoid overcrowding of places of detention, it may be desirable to grant immediate administrative bail to deserving offenders with a view to commencing prosecution at a later date.

5. Respect for Citizens' Fundamental Human Rights

The Government of Ekiti State is committed to the promotion and protection of the rights of all those living in Ekiti State regardless of their gender, ethnic origin, economic status, religion or any other

⁴ A person convicted of an offence mentioned in Section 60 is liable on conviction to imprisonment not exceeding two years. This is without prejudice to the provisions of Section 24(b) of the Cybercrime Act which on conviction attracts a term of imprisonment of three years or a fine of N7,000,000.00 or to both such fine and imprisonment

attribute. None of the measures adopted by Government to mitigate spread of COVID-19 should be interpreted to give any Law Enforcement Officer the power to violate the rights of any citizen except under circumstances prescribed by Law.

All Law Enforcement Officers shall in the course of enforcing state sanctioned measures for the prevention of the spread of COVID-19 ensure respect for and observance of constitutional provisions on Human Rights as provided for in Chapter 4 of the Constitution of the Federal Republic of Nigeria, 1999(as amended).

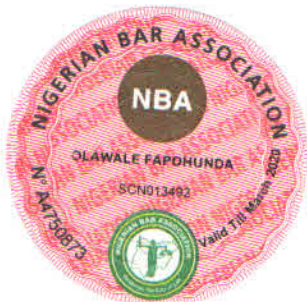
Where a Law Enforcement Officer willfully and unlawfully violates the rights of a citizen, such conduct amounts to gross misconduct and such officer may be liable to criminal prosecution without prejudice to the right of the victim to seek civil remedies including compensation.

6. Suspension of public visits to places of detention

It is advisable that heads of Law Enforcement Agencies consider the desirability of suspending visits by members of the public to:

- (a) The State Correctional Center;
- (b) Holding Police Cells.

For a period of 30 days from the date of publication of this advisory, which period may be extended for any period as determined by the evolving situation.



Issued Under My Hand and Seal

This ^{28th} day of ^{March} 2020.

Olawale Fapohunda

Honourable Attorney General & Commissioner for Justice
Ekiti State
Federal Republic of Nigeria