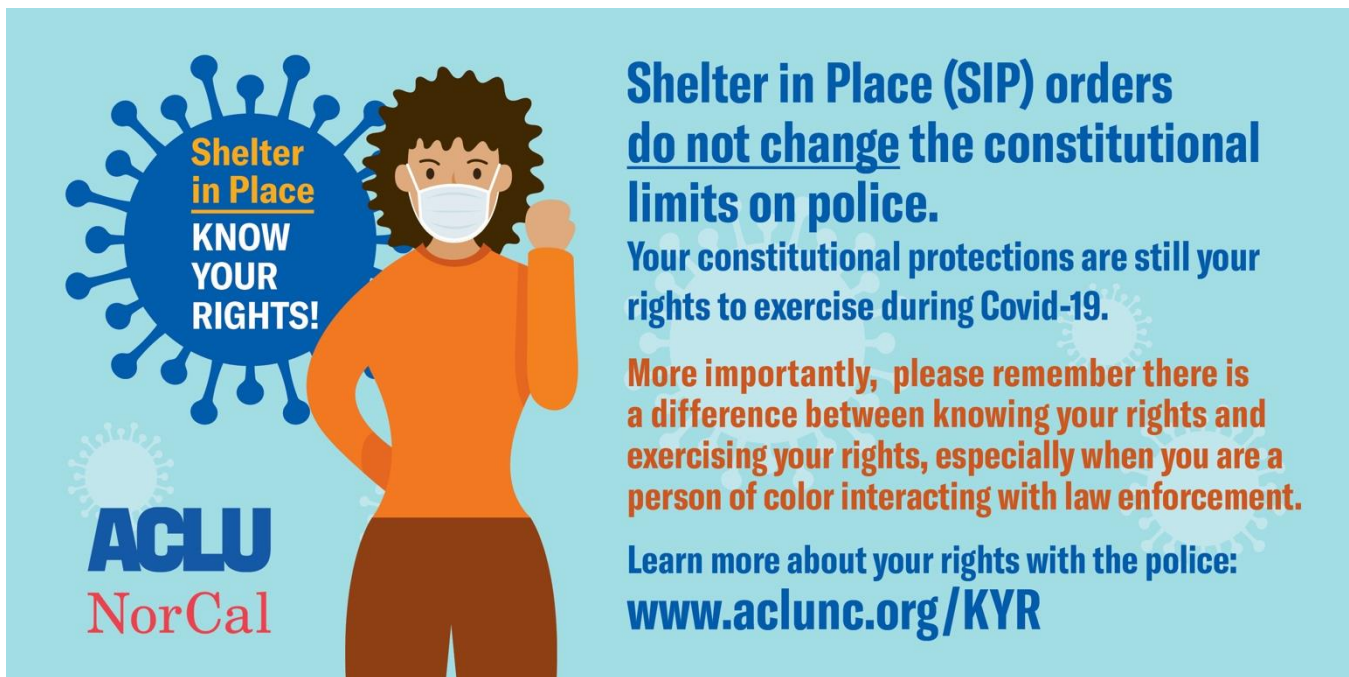


KNOW YOUR RIGHTS with Law Enforcement During Covid-19



The infographic features a woman with curly hair wearing a white face mask and an orange long-sleeved shirt. To her left is a large blue virus-like icon with the text "Shelter in Place KNOW YOUR RIGHTS!". Below this icon is the "ACLU NorCal" logo. To the right of the woman, the text reads: "Shelter in Place (SIP) orders do not change the constitutional limits on police. Your constitutional protections are still your rights to exercise during Covid-19. More importantly, please remember there is a difference between knowing your rights and exercising your rights, especially when you are a person of color interacting with law enforcement. Learn more about your rights with the police: www.aclunc.org/KYR".

These rights we list below are information for you to be educated, but each person must use their best judgement in exercising your rights safely to avoid harm to yourself at the hands of law enforcement.

"Shelter in place" (SIP) is the term used to describe rules requiring people to generally stay in their homes. The term "safer at home" is also sometimes used for the same rules. There are different shelter in place requirements at the state and county levels, so check for local information.

Can I get arrested for not sheltering in place?

Yes. On March 21, 2020, [Governor Newsom issued a state order](#) requiring people to shelter in place except where an exception applies.

Under state law, [violating a shelter in place order is a misdemeanor](#), and if convicted of the misdemeanor, you can be punished by a fine of not to exceed one thousand dollars (\$1000) or by imprisonment for not to exceed six months or by both such fine and imprisonment."



The advertisement has a blue background with the text "FILM THE POLICE!" in large white letters. Below it, it says "Get the ACLU Foundations of California's free MOBILE JUSTICE CA smartphone app (available for iOS and Android)." There is a screenshot of the app interface showing a person's face with a hand raised in front of them. The app logo "MOBILE JUSTICE CA" and "EMPOWERED BY THE ACLU OF CALIFORNIA" are visible. A small text overlay on the phone screen says "Video sent to the ACLU".

Some CA counties have also issued their own county SIP orders:

In [Contra Costa County](#) and [Alameda County](#), a violation of or failure to comply with their orders is a misdemeanor punishable by fine, imprisonment, or both.

In [Sacramento County](#), a person can get arrested for not sheltering in place. This is a legal order issued under the authority of California law. You are required to comply.

[Fresno County](#) and [Stanislaus County](#), have ended their county shelter in place orders to revert to the State of California's current stay at home orders, which has no set end date.

Can police question me while congregating with people?

Yes. The police can initiate a “consensual encounter” without any suspicion at all. Additionally, the police can detain you for questioning you if they have reasonable suspicion or probable cause that a crime is being committed. However, nothing in the state order prohibits members of a single household or living unit from engaging in [Essential Travel, Essential Activities, Outdoor Activities, or Additional Activities](#) together. The California Department of Public Health has determined that all public gatherings with people who are not members of your household—in any indoor or outdoor space—should be postponed or canceled to curb community spread of COVID-19.

State agencies are not currently issuing permits for any gatherings—of any size, or any kind. Gatherings will be permitted again once public health officials determine they can be conducted in a manner consistent with public health and safety. In the meantime, consider whether you can find alternative ways to host your event that does not require an in-person, physical gathering.

In [Contra Costa County](#), all public and private gatherings of any number of people occurring outside a single household or living unit are prohibited.

In [Alameda County](#), small public and private gatherings comprised of individuals within a Social Bubble or comprised of children and adults within a single Childcare or Youth Extracurricular Activity Unit, are permitted. A “Social Bubble” means a stable group of not more than 12 individuals, who may attend outdoor social or other events together. A Social Bubble may be comprised of a combination of households, but no household or individual may participate in more than one Social Bubble. Members of these bubbles are strongly encouraged to comply with social distance requirements and wear face coverings to the extent feasible. However, these small public and private gatherings still violate state law.

In [Sacramento County](#), people are required to continue to stay at their place of residence unless performing an essential duty. For most people, this means you and those you live with should remain at home.

Both [Fresno County](#) and [Stanislaus County](#) lifted their county shelter in place orders and have stated that they will not enforce the state's shelter in place order.

Is it illegal to not wear a face mask or violate social distancing requirements?

Yes. Under the state's executive order, [all Californians must wear cloth face masks in all indoor public spaces and in outdoor spaces](#) where people can't maintain at least six feet of distance from one another. Face coverings are also required when riding in taxis and rideshare cars, taking public transit, standing in line to enter a building, or walking through common areas like hallways, stairways, elevators, and parking garages.

Each person should check their county's order as each county may be different.

[Stanislaus County](#) has implemented a mandatory face covering order. However, Sheriff Jeff Dirkse and Modesto Police Chief Galen Carroll stated they have no plans to enforce the county or state mask order.

[Contra Costa County](#) legally requires people to wear a face mask when people leave their home. When people need to leave their place of residence for the limited purposes allowed in the county's order, they must also strictly comply with social distancing requirements.

In [Alameda County](#), when people need to leave their place of residences for the limited purposes allowed in the order, they must strictly comply with social distancing requirements.

The [Sacramento County Public Health Order](#) includes face coverings and should be worn any time social distancing of 6 feet or more is not possible – both indoors and outdoors. Additionally, face coverings should be worn in public places such as grocery stores and when using public transit or ride-sharing services. Drivers of any public transportation or paratransit vehicle, taxi, private car service, or ride-share vehicle must wear a face covering while operating the vehicle. Face coverings are not required for people driving alone or with other members of their household in a private vehicle. [Read the Public Health Order Face Covering FAQs.](#)

[Fresno County](#) has declared that its residents “should” wear face mask, eliminating any county mandate. However, Fresno residents are still governed by the state's order.

Can an officer pull you over to ask where you're going?

No. An officer cannot pull you over just to ask where you are going regarding shelter in place violation. The cop must have probable cause or reasonable suspicion that there was a criminal violation. The mere fact that someone is walking, driving, taking public transportation, or waiting in a public place does not give police reasonable suspicion to detain and question them about why they are out and what they are doing.

There are many exceptions to the shelter-in-place orders that allow people to be out in public for essential activities. For example, people can go to gas stations, pharmacies, banks, laundromats, essential jobs, and to get food. Reasonable suspicion requires [“specific, articulable facts which, together with objective and reasonable inferences, form a basis for suspecting that a particular person is engaged in criminal conduct.”](#) Given the wide variety of reasons people may legally be out in public, the mere fact that a person is out does not provide “an objective and reasonable basis for suspecting” that a person is in violation of the stay-at-home order.

However, you can be pulled over if you violate traffic laws, such as speeding. Then, it is possible that the officer will ask, “where you are going?”

What is the role of the National Guard in a state of emergency?

The National Guard serves both a state and federal mission. Any state governor or the president can deploy the National Guard. If the National Guard is deployed by the Governor of California, then citizens still have the same constitutional rights against the National Guard as they do with law enforcement. However, if President Trump deploys the National Guard, then they will be under federal guidance. In that case, it will be uncertain what rights citizens have if the President deploys the National Guard.

Can the National Guard arrest or use force on people inside California in times of emergency?

Yes, though it may depend whether they are being commanded by the state or federal government. The law tends to provide more leeway for National Guard participation in law enforcement when they are operating under the command of a state governor than when they are under the command of the federal government. As of April 2nd, at least 17,250 National Guard members are aiding in the coronavirus response in all 50 states, as well as in Washington, D.C., and Puerto Rico. The state and federal government generally claim that the role of the National Guard is to provide food and medical supplies, as well as shut down places of public gathering. However, governors have wide leeway to use their state or territory's guard members as they see fit, and they could be used to assist with policing, enforcing quarantines, or enforcing other emergency mandates, as they were in New Orleans following Hurricane Katrina.

Glossary of Terms

Fourth Amendment rights: The Fourth Amendment of the United States Constitution states, "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Reasonable Suspicion: In order for a police officer to detain a person, an officer must have reasonable suspicion that there are articulable facts or circumstances, which would lead a reasonable person to suspect that a crime has been, is being, or will be committed.

Detain means to hold a person in custody, often for purposes of questioning. Detained generally means to prevent from proceeding; to restrict freedom of movement.

Custody means that a reasonable person would believe that they are not free to leave the detention.

Probable Cause: In order for an officer to arrest you, there must be probable cause. Probable cause is a set of trustworthy facts or knowledge that is sufficient to warrant a reasonable person to believe that the person committed a crime.

COVID-19 Executive Health Orders by County

Alameda County

<http://www.acphd.org/2019-ncov.aspx>

Contra Costa County

<https://www.coronavirus.cchealth.org/>

Fresno County

<https://www.co.fresno.ca.us/departments/public-health/COVID-19>

Sacramento County

<https://dhs.saccounty.net/PUB/Pages/PUB-Home.aspx>

Stanislaus County

<http://www.schsa.org/corona-virus/ph-order/>