

Official Use Only
Complaint Number:

Notice of Alleged Safety or Health Hazards

Establishment Name: New York City Police Department

Site Address: Street: 1 Police Plaza

City: New York State: NY Zip: 10038

Site Phone: (646) 610-5410

Site Fax: _____

Mailing Address: Street: Same

City: _____ State: _____ Zip: _____

Mail Phone: _____ Mail Fax: _____

Management Official: Deputy Commissioner John P. Beirne Phone: (646) 610-5060

Type of Business: Police Department

Hazard Description and Location: Describe the danger(s) which you believe exist. Be specific and give details. Include the physical location of the alleged danger. Include the street, city, state, zip in the location, the specific area inside or outside of the site, and approximate number of employees exposed to or threatened by each hazard. Use additional sheets if needed.

Please see the attachment.

This condition has been brought to the attention of: the Employer a Government Agency, other than the Department of Labor. Agency name: _____

Complainant's Name (Required): David W. Morris

Choose one: Do NOT reveal complainant's name to the employer.

Complainant's name may be revealed to the employer.

Complainant's Home Address (Required): Street: 125 Broad St., 11th Floor

City: New York State: NY Zip: 10004

Phone (Required): (212) 298-9194 Email: dwillmorresq@gmail.com

I, the complainant signed below, believe that job safety or health hazard(s) exists at the establishment named in this form. I am:


an Employee

an Employees' (Union) Representative. Please enter the name of the union or organization you represent: _____

Your title: _____

a Safety and Health Committee member

Other, specify: _____

Signature (Required): 

Date: 3/9/20

EXHIBIT A

NOTICE OF ALLEGED SAFETY OR HEALTH HAZARD ATTACHMENT

HAZARD DESCRIPTION

We submit this complaint with respect to the following hazards which affect all police officers employed by the New York City Police Department's (the "NYPD" or the "Department").

The NYPD has failed to provide adequate personal protective equipment ("PPE") and training to its police officers with respect to Novel Coronavirus 2019 ("Covid-19"), in violation of the Occupational Safety and Health Act ("OSHA") General Duties Clause (29 USC § 654(a)), and OSHA's Personal Protective Equipment ("PPE") standards, including the general industry standard (29 CFR § 1910.132), the Respiratory Protection standard (29 CFR § 1910.134), and training standards relating to the appropriate use of PPE (29 CFR § 1910.132(f)).

As of the time of the filing of this complaint, 142 people have been diagnosed with the Covid-19 virus in the state of New York, and 19 people have been diagnosed in the City of New York. It is expected that the number of infected will increase in the coming days and weeks. According to the Centers for Disease Control ("CDC") infected people can spread COVID-19 through their respiratory secretions, especially when they cough or sneeze.¹

NYPD police officers have a high likelihood of exposure to Covid-19 in the course of their ordinary duties. They are often the first on the scene to respond to 9-11 calls relating to sick persons, which in the NYPD are referred to as "aided cases." We are informed that NYPD officers have already responded to several suspected Covid-19 related aided cases.

The NYPD's current procedure governing Covid-19 related cases can be found in an NYPD "Finest Message" dated February 3, 2020 ("Finest Message", attached hereto). With respect to aided cases that are suspected of Covid-19 infection, the Finest Message advises police officers to remain outside, "if possible." However, police officers encounter and assist thousands of people every day, and unquestionably risk exposure from encountering Covid-19 infected individuals in non-controlled public environments, as well as in circumstances where aided cases have not been reported as Covid-19 related. The Finest Message further instructs police officers to take basic infection prevention precautions regarding Covid-19, including "avoiding unnecessary exposure and maintaining safe distance, *wearing a mask and gloves*, washing hands frequently and using hand sanitizers." Finest Message (emphasis added). Despite the Department's identification of masks, gloves and hand sanitizers as appropriate PPE in the Finest Message, it is our understanding that at the time of publication, the Department had not distributed these items to its police officers. The Department also did not possess a significant

¹ <https://www.cdc.gov/coronavirus/2019-ncov/about/transmission.html>

number of N95 respirators, which have been recommended by the CDC as the appropriate protective mask to prevent the spread of Covid-19.²

On or about February 23, 2020, the NYPD announced that it was procuring and distributing gloves and masks to its police officers. Our understanding is that most of the masks obtained by the Department since the announcement are N95 respirators. However, we are informed that the N95 respirators have not been distributed to police officers in many NYPD commands because there is a limited supply, and a new shipment of respirators will not be received until May of 2020. The NYPD has also stated publicly that it has not distributed the respirators because it does not want to cause a panic among the public, though it is unclear to the PBA why providing respirators for its police officers to store on their duty belts, or in their vehicles for use if needed, would cause a panic. Finally, we have received reports in recent days that certain police officers who requested protective masks were given disposable dust masks rather than N95 respirators.

We are further informed that the Department has failed to provide adequate sanitizers and other cleaning supplies. Given the frequency with which police officers interact with the public, they require cleaners that will adequately remove Covid-19 virus from themselves, their uniforms and equipment, their vehicles and their facilities.

Aside from the NYPD's failure to distribute an adequate number of respirators and sanitizers to all police officers, it has also failed to provide the appropriate training regarding (i) how and when to don and doff mask, gloves and other PPE necessary to respond to Covid-19 cases, (ii) how to identify Covid-19 cases, and (iii) instructions on what to do in the event of an exposure or infection.

The General Duty Clause of OSHA, at 29 USC § 654(a)(1), requires employers to furnish to each worker "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm." Employers are required to "assess the workplace to determine if hazards are present, or are likely to be present, which necessitates the use of personal protective equipment. If such hazards are present, or are likely to be present, the employer shall (i) [s]elect and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment..." 29 CFR § 1910.132(d)(1). With respect to potential respiratory hazards, OSHA requires that "a respirator shall be provided to each employee when such equipment is necessary to protect the health of such employee." 29 CFR § 1910.134. Further, "the employer shall provide the respirators which are applicable and suitable for the purpose intended." *Id.* Where, as here, respirators are necessary to protect against a hazard, the employer is also responsible for the establishment and maintenance of a respiratory protection program. *Id.* Once the appropriate

² <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirator-use-faq.html>

PPE has been determined, the employer is further mandated “to provide training to each employee who is required by this section to use PPE.” 29 CFR § 1910.132(f).

The NYPD has failed to meet its obligations as an employer under the aforementioned regulations. First, while it is unclear to the PBA whether the NYPD has performed an adequate hazard assessment to determine the extent of the risks associated with Covid-19, the CDC has determined, and the NYPD has acknowledged, that the N95 respirator is the appropriate level of facial protection against Covid-19 infection. The NYPD has nonetheless failed to distribute N95 respirators, as well as related PPE such as sanitizers and cleaning materials, to its police officers. It has also failed to procure and maintain an adequate supply of PPE that will ensure that police officers are properly equipped to respond to Covid-19 cases for the duration of the threat. The NYPD’s conduct is in violation of its obligation to provide PPE to its employees pursuant to 29 USC § 654(a)(1), 29 CFR § 1910.132(d)(1), and 29 CFR § 1910.134. Further, the Department failed to properly train its police officers to properly use the appropriate PPE and respond to Covid-19 incidents is in violation of 29 CFR § 1910.132(f).

Accordingly, we ask that the PESH Bureau perform a review of the NYPD’s preparedness for Covid-19 responses and the NYPD’s policies with respect to providing PPE and training for incidents of this nature, find that the NYPD violated the laws and regulations cited above and others that may be determined in the course of the investigation, direct the NYPD to provide appropriate the PPE to respond to Covid-19 cases to all NYC police officers, and direct the NYPD to provide adequate training for its police officers to safely respond to Covid-19 cases.



DATE: 02/03/2020
TIME: 19:15:09
SER#: 36711764

FINEST MESSAGE

General Administrative Information

TO: ALL COMMANDS

RE: GUIDELINES FOR PREVENTION OF EXPOSURE TO NOVEL CORONAVIRUS (NCOV)

MEMBERS OF THE SERVICE ARE REMINDED THAT BASIC INFECTION PREVENTION PRECAUTIONS SHOULD ALWAYS BE UTILIZED WHEN COMING IN CONTACT WITH ANY INDIVIDUAL TO GUARD AGAINST COMMON INFECTIONS, AS WELL AS EMERGING INFECTIONS, SUCH AS NOVEL CORONAVIRUS (NCOV). BASIC PRECAUTIONS INCLUDE: AVOIDING UNNECESSARY EXPOSURE AND MAINTAINING A SAFE DISTANCE, WEARING A MASK AND GLOVES, WASHING HANDS FREQUENTLY AND USING HAND SANITIZERS. MOS ON ASSIGNMENTS IN PUBLIC AREAS OF HOSPITALS, EMERGENCY ROOMS, AND PATIENT ROOMS, SHOULD BE GUIDED BY THE MEDICAL STAFF ON HAND REGARDING ANY SAFETY PRECAUTIONS TO BE TAKEN.

THE NCOV IS A CONTAGIOUS RESPIRATORY ILLNESS WITH NO KNOWN CASES OCCURRING IN NEW YORK CITY. SYMPTOMS APPEAR WITHIN 2 - 14 DAYS AND INCLUDE; FEVER, COUGH AND DIFFICULTY BREATHING. THE GREATEST RISK OF INFECTION IS FOR PEOPLE WHO HAVE TRAVELED TO CHINA IN THE PAST 14 DAYS, OR WHO HAVE BEEN IN CLOSE CONTACT WITH PERSONS INFECTED WITH THE VIRUS. COMMANDING OFFICERS WILL IMMEDIATELY REVIEW COMMAND PERSONNEL ON VACATION LEAVE WITHIN THE LAST 14 DAYS, AND MUST NOTIFY OPERATIONS DIVISION AND MEDICAL DIVISION IF A MEMBER OF SERVICE IS CURRENTLY ON VACATION OR HAS RECENTLY RETURNED FROM CHINA.

IN THE EVENT OF A PICK-UP OR RADIO RUN OF A SUSPECTED NCOV AIDED CASE WHICH WAS NOT INITIALLY RECORDED AS NCOV, MOS MUST ENSURE THAT THE COMMUNICATIONS SECTION DISPATCHER IS NOTIFIED VIA LANDLINE. IF POSSIBLE, REMAIN OUTSIDE, CONFER WITH EMERGENCY MEDICAL PERSONNEL AND LIMIT ACCESS TO THE LOCATION. MEMBERS WILL NOT ACCOMPANY THE AIDED TO THE HOSPITAL IN THE BODY OF AN AMBULANCE. PREPARE AIDED REPORT WORKSHEET, FORWARD IN THE USUAL MANNER AND SEND A COPY TO THE MEDICAL DIVISION. MEMBERS OF THE SERVICE SHOULD IMMEDIATELY WASH THEIR HANDS WITH SOAP AND WATER AFTER HAVING BEEN IN CLOSE PROXIMITY TO, OR COMING INTO CONTACT WITH THE AIDED, AND ARE REMINDED NOT TO TOUCH THEIR FACE OR ANY MUCOUS MEMBRANES. THE ASSIGNED MEMBERS OF THE SERVICE MUST REPORT POTENTIAL EXPOSURE TO THE DESK OFFICER IF THEY WERE IN CLOSE PROXIMITY TO THE AIDED FOR SUBSEQUENT NOTIFICATION TO THE MEDICAL DIVISION.

ADMN - SER#: 36711764

IN CONFORMANCE WITH PATROL GUIDE PROCEDURE 216-01, "AIDED CASES GENERAL PROCEDURE," CALLS FOR PERSONS WHO ARE ROUTINE SICK AT HOME WHERE NO INVESTIGATION IS NEEDED, THE AIDED PERSON IS CONSCIOUS, DOES NOT REQUIRE POLICE SERVICES AND HAS NO UNCARED-FOR DEPENDENTS IN THEIR HOUSEHOLD WILL BE MARKED "10-55 AMBULANCE CASE NO R.M.P. REQUIRED" PRIOR TO RESUMING PATROL.

COMMANDING OFFICERS WILL ENSURE THAT THE CONTENTS OF THIS MESSAGE ARE BROUGHT TO THE ATTENTION OF ALL MEMBERS OF THEIR COMMAND.

AUTHORITY: CHIEF OF DEPARTMENT

OPERATOR: DET SMERTIUK

LOG #: OCD 2020-463

APRT