




U.S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

March 24, 2020

TO: MEMORANDUM FOR ALL HEADS OF LAW ENFORCEMENT
COMPONENTS, HEADS OF LITIGATING DIVISIONS, AND UNITED
STATES ATTORNEYS

FROM: THE DEPUTY ATTORNEY GENERAL 

SUBJECT: Department of Justice Enforcement Actions Related to COVID-19

As you know, we have seen an unfortunate array of criminal activity related to the ongoing COVID-19 pandemic. Capitalizing on this crisis to reap illicit profits or otherwise preying on Americans is reprehensible and will not be tolerated. I am issuing this Memorandum to inform you of the sorts of schemes that have been reported, to identify certain authorities that I am directing you to consider deploying against these schemes, and to emphasize the importance of state and local coordination during this difficult time.

I. REPORTED SCHEMES RELATED TO COVID-19

To date, the U.S. Attorney's Offices have received reports of individuals and businesses engaging in a wide range of fraudulent and criminal behavior. This includes:

- Robocalls making fraudulent offers to sell respirator masks with no intent of delivery;
- Fake COVID-19-related apps and websites that install malware or ransomware;
- Phishing emails asking for money or presenting malware;
- Social media scams fraudulently seeking donations or claiming to provide stimulus funds if the recipient enters his or her bank account number;
- Sales of fake testing kits, cures, "immunity" pills, and protective equipment;
- Fraudulent offers for free COVID-19 testing in order to obtain Medicare beneficiary information that is used to submit false medical claims for unrelated, unnecessary, or fictitious testing or services;
- Prescription drug schemes involving the submission of medical claims for unnecessary antiretroviral treatments or other drugs that are marketed as purported cures for COVID-19;

- Robberies of patients departing from hospitals or doctor offices;
- Threats of violence against mayors and other public officials; and
- Threats to intentionally infect other people.

You should be on the lookout for these sorts of schemes, as well as any others like them.

II. SPECIFIC AUTHORITIES TO PUNISH WRONGDOING RELATED TO COVID-19

Consistent with the Attorney General's March 16 Memorandum, I am directing your Offices to focus your attention on the following categories of offenses that may be relevant to the kinds of pandemic-related crimes we have seen reported.

First, we know that there are individuals and businesses taking advantage of the COVID-19 crisis to engage in fraudulent or otherwise illegal schemes. Depending on the specific facts, these acts may violate any number of provisions in Title 18. *See, e.g.*, 18 U.S.C. § 1341 (mail fraud); *id.* § 1343 (wire fraud); *id.* § 1030 (computer fraud); *id.* § 1347 (healthcare fraud); *id.* § 1349 (conspiracy to commit fraud); *id.* §§ 1028–1028A (identification fraud and aggravated identity theft); *id.* § 1040 (fraud in connection with major disasters and emergencies); *id.* § 2320 (trafficking in counterfeit goods).

Moreover, the sale of fake drugs and cures may be prohibited under Title 15, *see* 15 U.S.C. § 1263(a) (introduction of misbranded or banned hazardous substances into interstate commerce), constitute a violation of the Food, Drug, and Cosmetic Act, *see* 21 U.S.C. § 333 (introduction of misbranded or adulterated drug or device into interstate commerce), or constitute a violation of the Consumer Product Safety Act, *see* 15 U.S.C. § 2068 (sale, manufacture, distribution, or import of a consumer product or other product that is not in conformity with consumer-product-safety regulations).

Second, you may encounter criminal activity ranging from malicious hoaxes, to threats targeting specific individuals or the general public, to the purposeful exposure and infection of others with COVID-19. Because coronavirus appears to meet the statutory definition of a “biological agent” under 18 U.S.C. § 178(1), such acts potentially could implicate the Nation's terrorism-related statutes. *See, e.g., id.* § 175 (development/possession of a biological agent for use as a weapon); *id.* § 875 (threats by wire); *id.* § 876 (threats by mail); *id.* § 1038 (false information and hoaxes regarding biological weapons); *id.* § 2332a (use of a weapon involving a biological agent). Threats or attempts to use COVID-19 as a weapon against Americans will not be tolerated.

Third, individuals or businesses may be accumulating medical supplies or devices beyond what they reasonably need on a daily basis, or for the purpose of selling them in excess of prevailing market prices. As discussed in a memorandum issued by the Attorney General today, it is illegal to acquire medical supplies and devices designated by the Secretary of Health and Human Services (HHS) as scarce in order to hoard them or sell them for excessive prices. Such conduct may be prosecuted under the Defense Production Act. *See* 50 U.S.C. §§ 4512, 4513.

Although no items have yet been designated, the Department will work closely with the HHS Secretary in connection with that process in the days ahead. Your Offices should coordinate with the newly constituted task force led by Craig Carpenito, the United States Attorney in the District of New Jersey, when investigating and prosecuting this conduct.

Finally, conspiracies between individuals or businesses to fix prices, rig bids, or allocate markets with respect to COVID-19 materials are prosecuted criminally under the federal antitrust laws. *See* 15 U.S.C. § 1. Monopolization or anticompetitive agreements related to critical materials needed to respond to COVID-19 can be pursued civilly under the Sherman and the Clayton Antitrust Acts. *See, e.g.*, 15 U.S.C. § 1 (anticompetitive agreements); *id.* § 2 (monopolization); *id.* § 14 (exclusive dealings). And when the United States is injured as a result of those practices, the government may bring suit to recover its damages. *See id.* § 15a (damages actions when the government is the victim).

The legal authorities set forth above are not an exhaustive list, and there may be situations where other authorities could be applied. You are encouraged to consult with either Adam Braverman or William Hughes in my office if a COVID-19-related issue warrants consideration of other authorities.

III. STATE AND LOCAL COORDINATION

While the Department of Justice is the world's premier law enforcement institution, we cannot protect the public from these schemes alone. Your Office is thus encouraged to work closely with state and local authorities to ensure both that we hear about misconduct as quickly as possible and that all appropriate enforcement tools are available to punish it.

We have also publicized a hotline for individuals to report coronavirus-related complaints – The National Center for Disaster Fraud (NCDF) Hotline – 1-866-720-5721 or disaster@leo.gov. I remind you to consult, as needed, with the Civil Division's Consumer Protection Branch (Gus Eyler), the Criminal Division's Fraud Section (John Cronan), and the Antitrust Division (Richard Powers) for additional guidance on how to detect, investigate, and prosecute these schemes.

We must do the best we can to protect Americans' rights and safety in this novel and troubling time. I thank you all for your service to this country.