
Coates' Canons Blog: A Stay at Home Order is Not a Quarantine: The Case for Semantic Precision

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I have been on a quixotic mission to try to get people not to use the word “quarantine” to refer to the stay-at-home orders that have been issued in North Carolina and elsewhere. I’ve lost this argument in popular culture, and I know it. I’m on Twitter so I’ve seen the hashtags and memes, as well as some very useful articles for how to manage the challenges of “quarantine”—everything from keeping children safely engaged with their friends, to cutting your own hair. For popular culture purposes, I surrender: Go ahead and call it a quarantine. It’s a concise term and everybody knows what you mean.

My argument for semantic precision is directed to North Carolina local governments. Everyone in North Carolina is under a statewide stay-at-home order issued by the Governor. Some of us are also under local stay-at-home orders issued by local elected officials or their delegates. And yes, some of our state’s residents are under quarantine (or isolation) orders issued by public health officials.

Why should semantic precision matter to local government? Because these are different orders, issued by different people under different legal authority, with different consequences for the recipients of the orders, and different enforcement mechanisms if they are violated.

The intent of this post is to provide a quick summary of the key distinctions between the different types of orders, and to provide resources where local governments can learn more. I won’t get into the details of each type of order, as there are terrific resources that do that already. For example, my colleague Norma Houston has written several posts for this blog about emergency orders and who has the authority to do what. I don’t need to repeat that work, but I will summarize some of it, and provide specific links to Norma’s posts and other resources that provide more comprehensive information.

Stay-at-Home Order

What is it?

The North Carolina Emergency Management Act does not use the term “stay-at-home order,” but as my colleague Norma Houston explained in a recent blog post, it authorizes both the state and local governments to take actions that taken collectively amount to an order for people to stay home, including:

- Restricting or prohibiting the movement of people in public places,
- Imposing curfews,
- Controlling ingress to and egress from an area under a declared state of emergency,
- Closing roads and other means for vehicular travel to most persons (not including emergency services, essential service providers, and certain others),
- Restricting or prohibiting the operation of businesses and other establishments or places where people travel or congregate, and
- Imposing restrictions or prohibitions on other activities as permitted under applicable laws and declarations.

By late March, several North Carolina local governments had imposed local orders that, by combining a set of restrictions, amounted to stay-at-home orders.

On March 27, Governor Roy Cooper issued Executive Order 121 (EO 121), imposing a statewide stay-at-home order that took effect on March 30. Among other things, the order:

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- Directed all persons in the state, including visitors, to stay in their homes except for essential activities, essential governmental operations, or to access essential businesses or operations;
 - Closed all businesses and operations except those that are defined in the order as essential;
 - Lowered the mass gathering restriction to no more than 10 persons; and
 - Directed all persons and entities to comply with social distancing requirements, including maintaining at least 6 feet of distance from other persons.

There is an exemption to the stay-at-home requirement for people experiencing homelessness, and people who are or become unsafe in their homes are permitted to leave to stay in a safe location elsewhere.

Because this post's theme is semantic precision, I want to note that earlier in the pandemic, the term "shelter in place" was sometimes used to refer to stay-at-home orders. However, that term was imprecise, as Professor Houston explains in this post. "Shelter in place" is generally understood to mean remaining in a specified location for the duration of an immediate crisis, such as a natural disaster when neither evacuation nor rescue is feasible—for example, a hurricane. "Stay at home" more accurately describes the restrictions that have been imposed during the extended crisis of COVID-19.

Who orders it?

A city or county may impose the restrictions that amount to a stay-at-home order if the city or county has clear legal authority to do so, and the restriction is reasonable. Norma Houston's March 23rd post discusses these requirements in detail. For purposes of this post, I'll highlight just one very important aspect: the city or county must have a local ordinance that authorizes it to impose the restrictions or prohibitions that amount to a stay-at-home order.

The Governor may impose the restrictions amounting to a statewide stay-at-home order using the authority granted to him under G.S. Chapter 166A, the North Carolina Emergency Management Act.

Neither the State Health Director nor a local health director can order stay-at-home under their public health legal authorities in G.S. Chapter 130A.

Who enforces it?

Violations of EO 121 and local stay-at-home orders are a class 2 misdemeanor. State or local law enforcement officials may enforce the orders.

How is it being used in COVID-19?

A statewide stay-at-home order (EO 121), in conjunction with other statewide orders addressing matters ranging from the operation of restaurants, to mass gathering restrictions, to the implementation of social distancing strategies in essential businesses such as grocery stores, are being used to attempt to slow the spread of COVID-19 within the state. A list of all the COVID-19 executive orders is available on the emergency management section of the School of Government's coronavirus microsite.

Some local governments have adopted orders pursuant to their own emergency management ordinances that may be more restrictive than the statewide orders. For more information about the interaction between the state and local orders, I'll quote Professor Houston's statement of the general rule in the present crisis: "Simply put, the more restrictive measure controls." To date, the only exception to this rule in the current emergency has been Executive Order 131, which imposes social distancing requirements on retail establishments, and rescinds any local restrictions that are in direct conflict with the statewide order. For example, EO 131 limits the maximum occupancy of operating retail establishments to no more than twenty percent of fire capacity or five customers per 1000 feet of the location's total square footage. A local order that imposed a more stringent maximum occupancy limit—say fifteen percent—is rescinded under EO 131. For a complete analysis, please see Norma's March 29th post.

Quarantine (or Isolation) Order

What is it?

A *quarantine order* is an order issued by a public health official, that limits the freedom of movement or action of an individual who has been exposed to a communicable disease, or who is reasonably suspected of having been exposed. In North Carolina, a quarantine order can also be used to limit access to an area or facility that has been contaminated by an infectious agent, or to limit the freedom of movement or action of an unimmunized person during an outbreak of a vaccine-preventable disease. G.S. 130A-2(7a).

When a person is infected with a communicable disease, or reasonably suspected of being infected, an *isolation order* may be used to limit the person's freedom of movement or freedom of action. G.S. 130A-2(3a).

Both quarantine and isolation orders can restrict *freedom of movement* or *freedom of action*. These terms aren't defined in law. In practice, an order limiting freedom of movement essentially prohibits an individual from moving freely in society. It may require the person to stay home, or it may prohibit the person from going to work, school, or other places during the time period the person may pose an infection risk to others. In contrast, an order limiting freedom of action addresses the person's behaviors, but not the ability to move freely. For example, orders limiting freedom of action are sometimes used to direct individuals to comply with testing or treatment regimens.

A quarantine or isolation order is authorized only when and for so long as the public health is endangered, when all other reasonable means for addressing the problem have been exhausted, and when no less restrictive alternative exists. Orders limiting freedom of movement may not be longer than 30 days, unless a court authorizes an extension. G.S. 130A-145(a); (d). The 30-day limit does not apply to orders limiting freedom of action.

Who orders it?

Quarantine or isolation may be ordered by either a local health director or the State Health Director. G.S. 130A-145(a). In North Carolina, no other state or local official can order quarantine or isolation.

Who enforces it?

Violation of a quarantine or isolation order is a class 1 misdemeanor. G.S. 130A-25; 14-3. A local health director or the State Health Director may seek charges against a person who violates an order. Alternatively, a health director may bring an action for injunctive relief. G.S. 130A-18.

For information about law enforcement's role in enforcing orders, see this April 11 memo from the North Carolina Sheriffs' Association.

How is it being used in COVID-19?

For COVID-19, quarantine orders have been used to restrict the freedom of movement of individuals who have known or suspected exposures to the coronavirus that causes the disease. Quarantine could also be used to restrict access to areas or facilities that are housing infected people or that need to be decontaminated because infected people have been in them. Isolation orders have been used to restrict the freedom of movement of individuals who have known or suspected infections with the coronavirus that causes the disease.

Local health departments have received template isolation and quarantine orders from the North Carolina Division of Public Health.

Conclusion

Every person present in North Carolina is under a statewide stay-at-home order issued by the Governor. Some of us are under local stay-at-home orders as well. These orders are issued by the Governor or local elected officials under their emergency management authorities.

Some individuals in North Carolina have been, are, or will be subject to quarantine or isolation orders by public health officials, if and when the criteria for issuing such orders are met under the state's public health laws. This type of order is going to affect a relatively small proportion of the population.

In other words, most of us aren't under quarantine, and I want you to remember that when you're applying the law! But for casual conversation, go ahead and use the Q word. I'll know what you mean.

Where to Learn More

For more information about stay-at-home orders in North Carolina:

- Blog Post: Governor Cooper's COVID-19 Statewide Stay at Home Order: What Effect Does It Have On County and City Emergency Restrictions? (Norma Houston, March 29, 2020)
- Blog Post: Can Counties and Cities Order "Stay-at-Home"? (Norma Houston, March 23, 2020)
- Blog Post: COVID-19: Who Has What Emergency Authorities at the Local Level? (Norma Houston, March 13, 2020)
- N.C. Office of the Governor, Executive Order 121: Stay at Home Order and Strategic Directions for North Carolina in Response to Increasing COVID-19 Cases (March 27, 2020)
- N.C. Office of the Governor, Frequently Asked Questions for North Carolina's Stay at Home Order (March 27, 2020)
- N.C. Sheriffs' Association Memo: Governor's Executive Order No. 121 and Frequently Asked Questions (FAQs) (April 7, 2020)

For more information about quarantine and isolation in North Carolina:

- N.C. Department of Health & Human Services, Frequently Asked Questions about COVID-19: What is the difference between self-monitoring, isolation, and quarantine?
- Blog Post: Isolation, Quarantine, and Social Distancing: What's the Difference? (Jill Moore, March 10, 2020)
- Book Chapter: North Carolina Communicable Disease Law, Chapter 6: Isolation and Quarantine (Jill Moore, 2017). The chapter is available for free here. Information about how to order the book is here.
- N.C. Sheriffs' Association Memo: Quarantine Orders and Isolation Orders—Law Enforcement's Authority (April 11, 2020)

Links

- twitter.com/JillDMoore1
- ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_166A/Article_1A.pdf
- files.nc.gov/governor/documents/files/EO121-Stay-at-Home-Order-3.pdf
- ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_166A.html
- ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_130A.html
- www.sog.unc.edu/resources/microsites/coronavirus-covid-19/emergency-management
- www.sog.unc.edu/resources/microsites/coronavirus-covid-19
- files.nc.gov/governor/documents/files/EO131-Retail-Long-Term-Care-Unemployment-Insurance.pdf
- www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-2.html
- www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-145.html
- www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-25.html
- www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-3.html
- www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-18.html
- ncsheriffs.org/wp-content/uploads/4.11.20-Quarantine-Orders-and-Isolation-Orders-Law-Enforcements-Authority.pdf
- files.nc.gov/governor/documents/files/200327_FAQ-SAH-Order_FINAL.pdf
- ncsheriffs.org/wp-content/uploads/4.7.20-Governors-Executive-Order-No.-121-and-Frequently-Asked-Questions-FAQs.pdf
- www.ncdhhs.gov/divisions/public-health/covid19/frequently-asked-questions-about-covid-19#what-is-the-difference-between-self-monitoring,-isolation-and-quarantine?
- www.sog.unc.edu/resources/microsites/north-carolina-public-health-law/covid-19-coronavirus
- www.sog.unc.edu/publications/books/north-carolina-communicable-disease-law