

# MEMORANDUM

**RE: Covid-19 Response and the Current Law**

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This document is not intended to be political in nature rather it is intended to be a synopsis of the current law in the State of Oklahoma relating to the current policies and procedures of covid-19 contact tracing. The writer attempts to avoid speculation and the intent of this document is for the purposes of examining the laws of the State of Oklahoma that are in effect as of May 15, 2020.

On March 24, 2020 Governor Stitt filed Executive Order 2020-07 which in part gave the Oklahoma Health Department authority to “promulgate any emergency rules necessary” to respond to the Covid-19 issue. **(Ex. 1; Executive Order at Pg 2. ¶ 5.)** On April 30, 2020 the Oklahoma Department of Health (OSDH) introduced its “Covid-19 Public Health Reopening Plan.” **(Ex. 2)** Contained in this plan the Oklahoma State Department of Health specifically adopted all of the guidelines that have been introduced by the Center for Disease Control. **(Ex 2 at ¶ 1)** The OSDH then specifically indicated, in partnership with local hospitals and the National Guard, would be deploy contact tracers which would be separated into teams and distributed to the 11 public health regions of Oklahoma. **(Ex 2 at Section 2)** These contact tracers are deployed in order to investigate people that any individual who has a positive covid-19 test *may* have been in contact with over a (presumably) 14 day period prior to the positive test confirmation. These contact tracers are then to provide instructions on “isolation” to the infected individual. Further, the contact tracer is to locate and notify the individuals potentially contacted by the positive patient and “advise to immediately get tested and to quarantine for 14 days.” **(Ex 2; Section 2.)** Whether the individual is mandated to get tested and be quarantined is not defined in this document.

On May 1, 2020 Governor Stitt indicated that his goal is to have “at least 1,000 contact tracers ready to be deployed as needed.” **(Ex. 3; Stitt Proclamation)** Therefore it would be prudent to investigate the procedure and laws surrounding these contact tracers and how it applies to the people of Oklahoma. On May 13, 2020 the Center for Disease Control issued its “Health Departments: Interim Guidance on Developing a COVID-19 Case Investigation & Contact Tracing Plan.” **(Ex. 4, Health Department Rules)** I strongly encourage the reader to read this document in its entirety as again, The Oklahoma Department of Health has adopted all of the CDC Guidelines as law. **(Ex. 2)** Therefore, the law of Oklahoma pursuant to this document is as follows:

1. Oklahoma is to implement contact tracing in order to separate people who have (or may have) an infectious disease from people who do not. (Id. at Pg. 1 ¶ 1.)

2. There are many different employment positions that will be involved in the contact tracing mechanism which are fully detailed on pages 6 through 8. Of note the document indicates that one position will be called the “Server of Public Health Orders” who is to be “officially deputized, acting on behalf of local health officers” to “serve public health orders” for isolation and/or the quarantine of individuals “who are non-compliant with public health recommendations.” (Id at page 8)

3. According to recent job listings these individuals working as contact tracers would not be employees of the OSHD, however, will be employed by private companies. (Ex. 5 and 6, Job Opening Notifications for Contact Tracers.) That being said, based on the CDC Guidelines it doesn’t appear that the states or local governments have any oversight over these contact tracers as that will be left up to their individual *private* employers.

4. Individuals who are being investigated as potential contacts are specifically prohibited from being informed of the name of the person they were allegedly in contact with that was found to be potentially infected. Further, the contact tracer does not have the duty to confirm that the individual was ever actually in contact with the other potentially positive patient. (Ex. 4, at Pg. 25)

5. The names of contact tracers will be considered confidential. Therefore, the investigated people will not be informed or be able to identify the individuals that are investigating them and ordering them to quarantine, isolate, and test. (Ex. 4 at Pg 16)

6.) The contact tracers will have access to individual’s private health records prior to making contact with the individual in order to investigate the person’s other health concerns. (Ex. 4 at pg 15.)

7.) A case investigator will be deployed to individual’s houses in order to make an “assessment” of the patient’s ability to properly self-isolate and self-quarantine. The document defines proper self-quarantine as when “a contact remains in a specific room separate from other non-exposed people and pets in the home, ideally with access to a separate bathroom.” (Ex. 4 at pg 28 and Pg. 17) The CDC indicates that for a portion of the US population, self-isolation and quarantine will be a “challenge” especially for “single parents, nursing mothers, parents with children and toddlers, or other primary caregivers that may affect their ability self-isolate.” When this occurs, and as determined by the case manager, “social services, housing and other supportive services will be needed for those patients “unable to separate themselves from others in the current living situation.” (Ex. 4 at pgs 17 and 28.)

8.) The document continues, "Throughout the nation, there are many close-knit families with multiple generations in the same household. Patients and contacts in these living situations may need to be supported with alternate living arrangements in order to protect families and other household members." (Ex. 4 at Pg 44.) Multiple generational households logically include people living with children. (Ex. 4 at pg 50) Thus, the individual, the children or both, must go to a separate facilities for self-isolation and quarantine. Apparently the child care will be assumed by social services. (Ex. 4 at Pg. 43.) "To address this situation jurisdictions should identify facilities that can be used for alternate housing.....Jurisdictions are using local hotels, dormitories and disaster relief housing for individuals who need to be relocated from their homes. Others are setting up outreach systems to monitor patients at tent encampments." (Ex. 4 at pg 44)

9.) The Center for Disease Control (and therefore the Oklahoma State Department of Health) has adopted and defined Alternate Care Sites as places where, "patients with COVID-19 can remain and receive medical care for the duration of the isolation period. These are typically established in non-traditional environments such as converted hotels or mobile field medical units." (Ex. 7 at Pg 1; CDC Consideration for Alternate Care Sites) The Alternative Care Sites with "open floor plans" should keep the beds at least 6 feet apart with a physical barrier in between them and place in an alternating head to toe formation. (Ex. 7 at pg 2 ¶ 3.) Visitors are strictly prohibited. "Signage at the entrances of the facility indicating this policy," will be in place. (Ex. 7 at Pg. 3 ¶ 3.) The facility must have at least 1 toilet for every 20 people and 1 shower for every 25 persons. (Ex. 7 at Pg. 6)

10.) The individuals that are found eligible to stay home and self-isolate/self-quarantine must report to their contact tracing officer each day at a specific time (via video conferencing or telephone call) in order to report on their condition and "protocol must address follow-up actions for patients who do not report." (Ex. 4; at 20 ¶ 6.) The document indicates that electronic devices should be considered to ensure that people in quarantine comply. (Ex. 4 at ¶ 6) While not specifically stated, ankle bracelets and cameras could be utilized to ensure compliance, they also recommend downloading individuals contact list from a person's phone to assist with further contact tracing. (Ex. 4 at pg 19.)

11.) A person can be ordered to self-quarantine in a specific room and separate from their families, even if this person has a negative covid-19 test and are showing no symptoms of illness. (Ex. 4 at Pg. 27.) "If a patient refuses to comply with *voluntary* isolation instructions, state and local jurisdictions have the authority to mandate isolation." (Ex. 4 at pg 17.) These unidentified contact tracers and, the private companies that employ them without government oversight, have the power to quarantine basically anyone.

12.) Individuals under quarantine (whether at home or a “non-hospital setting”) are not allowed to leave their “sick room” until the case manager determines that the individual is no longer contagious. (Ex. 4; pg 22) As the document reads, there is no predetermined amount of time an individual is to be isolated and the decision as to when they are to be freed is left to an a nameless individual who makes the patient’s physical assessments. It is further not understood as to whether or not family members will know the location of their parents, children, and other family members in the event that the contact tracer determines that they are not “eligible” for self-isolation at their own homes for whatever reason they decide.

There are many more issues contained in the documents provided that should be discussed at length. However, I wanted to provide you the reader with this information in a timely fashion so perhaps things can be done to prevent these things from happening. The writers understanding is that the contact tracers have been or are being “deployed” today May 15, 2020. If accurate, then every person that obtains a positive covid-19 test from today forward (and I believe even an asymptomatic patient with a positive antibody test) will undergo contact tracing interrogation and all of the individuals that these people have potentially been in contact with will have to go through the above described process as well. Then everyone that these people have will have been in contact with etc. etc. etc. While I am not a mathematician it is possible and even probable that this contact tracing (and the isolation requirements) will affect every citizen.

If you are as troubled as I am about this I would think now is the time to express your concerns. My understanding is that Governor Stitt can change his position on contact tracing anytime he chooses. I would think that if enough of us voice or serious concerns about the ramifications of contact tracing he could be persuaded to change his stance on it.

Feel free to send this memo to anyone you choose as I think the more people who are aware of the current laws the better chance we have to potentially change a negative outcome.