



# **Rick Staly, Sheriff**

## **FLAGLER COUNTY SHERIFF'S OFFICE**

*"An honor to serve, a duty to protect."*

### **Flagler County Sheriff Weighs-in on Mandatory Mask Considerations**

Cities, counties and states across America are discussing the pros and cons on mandatory mask orders to help fight the COVID-19 pandemic. Looking at Florida and the United States it is obvious a "spike" of COVID-19 cases is occurring. We can debate all-day whether this is the result of more COVID-19 testing, the lack of social distancing, the lack of hand washing, not wearing face masks or a myriad of other causes.

In Flagler County, while we are seeing an increase in positive cases we remain significantly below the state percentage of cases. I attribute this to our residents following the CDC recommendations better than many other communities. However, the debate on whether to impose mandatory face masks continues.

Let me be clear on my position as your Sheriff. First, let's remember that when the pandemic started the CDC said face masks were not necessary. Then later it was necessary for older residents and now the CDC recommends wearing by everyone. Then there is debate on the effectiveness of various face masks from cloth masks to medical grade N-95 and higher masks.

The Florida Constitution guarantees citizens a right to privacy in their personal lives that is stronger than the right to privacy guaranteed in the federal constitution. Article I, Section 23 of the Florida Constitution states: "Every natural person has the right to be let alone and free from governmental intrusion in to their private life." On the other hand, state and local governments have very broad powers in Chapter 252 of the Florida Statutes during a declared state of emergency to protect health, safety and welfare of their residents. Flagler County and the State are in a declared emergency.

I trust the citizens and business owners in Flagler County to do what is right for themselves or their businesses. A mask mandate would be overly burdensome to enforce because of the myriad of proposed and legitimate exceptions. In addition, we are in a time of great unrest involving policing across America. To make the police the "enforcer" of a mandatory mask order will only exacerbate this issue. In addition, mask mandates are currently being litigated across Florida. This makes it impossible for FCSO to effectively enforce a mask mandate with expensive litigation likely if arrests and citations are made. This would cost the taxpayers significant amounts of money and tying up our already backlogged courts for many years, well past the pandemic. We simply lack the manpower to be in this regulatory role of being the mask police, and handle all the normal and ever growing calls for service from our community.

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We all want to keep everyone safe. Businesses want both their employees and customers to be safe. Many of our businesses already act in compliance with Center for Disease Control guidance to protect against transmission of COVID-19. My recommendation would be for our local governments to pass a resolution – not a regulatory mandate – expressing their full support for all businesses to follow CDC guidance to keep everyone safe. Federal, state, and local officials might also aid businesses with training and supplies. This enables our community to speak in one voice in strong support of a healthy Flagler County.

If a person becomes disruptive on private property over a business asking them to follow their practices to keep everyone safe, it would work like any normal trespass. The person leaves and if they return to cause trouble only then does law enforcement become involved.

This is an effective and reasonable approach most likely to result in the highest level of protection for citizens with fewer problems, less costs, and better outcomes for everyone.

As I am in the community a lot I have seen a significant increase in the wearing of masks since the spike in cases has been reported in the media. I encourage everyone to do their part to be responsible and respectful of others to help slow the spread of COVID-19 but it should not be made a criminal offense. Instead, the Sheriff's Office should be a strong partner with the cities and county in educating the public on the benefits of wearing a mask and joining together as a community to ensure the safety of all to get through this pandemic together as quickly as possible.

**Rick Staly**  
Sheriff

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1769 East Moody Blvd., Bunnell, FL 32110

386-437-4116 – Fax 386-586-4820

Mailing: P.O. Box 879, Bunnell, FL 32110

[www.flaglersheriff.com](http://www.flaglersheriff.com)