



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

May 22, 2020

Mayor Eric Garcetti
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012

Director Barbara Ferrer
County of Los Angeles
Department of Public Health
313 North Figueroa Street
Los Angeles, CA 90012

Dear Mayor Garcetti and Director Ferrer:

Reports of your recent public statements indicate that you suggested the possibility of long-term lockdown of the residents in the City and County of Los Angeles, regardless of the legal justification for such restrictions. Any such approach may be both arbitrary and unlawful.

In particular, it has been reported that on May 12, 2020, Public Health Director Ferrer stated that a form of stay-at-home restrictions will remain in Los Angeles County “for the next three months” unless a vaccine for COVID-19 is developed. On May 13, 2020, during an interview on ABC News’ “Good Morning America,” Mayor Garcetti stated that Los Angeles would “never be completely open until we have a cure” for COVID-19. More recently, Mayor Garcetti clarified some of these comments. However, we remain concerned about what may be an arbitrary and heavy-handed approach to continuing stay-at-home requirements.

The U.S. Department of Justice recognizes and appreciates the duty that you have to protect the health and safety of the residents of the Los Angeles area in the midst of a pandemic that is unprecedented in our lifetimes. The Department also acknowledges that mayors and other public officials have broad authority to act to protect their residents during a public health crisis. Governmental authority, however, is not limitless, and must be exercised reasonably. As the United States Supreme Court recognized 115 years ago, temporary emergency measures may restrict our constitutional rights, but they must also

have some “real or substantial relation” to the emergency. *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 31 (1905). In assessing a local government’s powers in a public health emergency, the “power of a local community to protect itself against an epidemic threatening the safety of all, might be exercised in particular circumstances and in reference to particular persons in such an arbitrary, unreasonable manner, or might go so far beyond what was reasonably required for the safety of the public, as to authorize or compel the courts to interfere for the protection of such persons.” *Jacobson*, 197 U.S. at 28.

The Department of Justice does not seek to dictate how cities and counties such as Los Angeles determine what degree of activity and personal interaction should be allowed to protect the safety of their citizens. However, we are charged with protecting the federal statutory and constitutional rights of all persons in our country, and ensuring that governmental restrictions are not unconstitutionally burdensome. Even in times of emergency, when governments may impose reasonable and temporary restrictions, the Constitution and federal statutory law prohibit arbitrary, unreasonable actions. Simply put, there is no pandemic exception to the U.S. Constitution and its Bill of Rights.

Thank you for your attention to this matter. Should you wish to discuss this further, please contact Nicola T. Hanna, United States Attorney for the Central District of California, at (213) 894-2406.

Sincerely,

Eric S. Dreiband

05/22/2020

Eric S. Dreiband

Assistant Attorney General

Civil Rights Division

cc: Nicola T. Hanna, United States Attorney, Central District of California