



Office of the Attorney General
Washington, D. C. 20530

April 27, 2020

MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS AND
ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL *UPBarr*
SUBJECT: Balancing Public Safety with the Preservation of Civil Rights

The current national crisis related to COVID-19 has required the imposition of extraordinary restrictions on all of our daily lives. Millions of Americans across the nation have been ordered to stay in their homes, leaving only for essential and necessary reasons, while countless businesses and other gathering places have been ordered to close their doors indefinitely. These kinds of restrictions have been necessary in order to stop the spread of a deadly disease—but there is no denying that they have imposed tremendous burdens on the daily lives of all Americans.

In prior Memoranda, I directed our prosecutors to prioritize cases against those seeking to illicitly profit from the pandemic, either by hoarding scarce medical resources to sell them for extortionate prices, or by defrauding people who are already in dire circumstances due to the severe problems the pandemic has caused. We have pursued those efforts vigorously and will continue to do so. Now, I am directing each of our United States Attorneys to also be on the lookout for state and local directives that could be violating the constitutional rights and civil liberties of individual citizens.

As the Department of Justice explained recently in guidance to states and localities taking steps to battle the pandemic, even in times of emergency, when reasonable and temporary restrictions are placed on rights, the First Amendment and federal statutory law prohibit discrimination against religious institutions and religious believers. The legal restrictions on state and local authority are not limited to discrimination against religious institutions and religious believers. For example, the Constitution also forbids, in certain circumstances, discrimination against disfavored speech and undue interference with the national economy. If a state or local ordinance crosses the line from an appropriate exercise of authority to stop the spread of COVID-19 into an overbearing infringement of constitutional and statutory protections, the Department of Justice may have an obligation to address that overreach in federal court.

I am therefore directing the Assistant Attorney General for Civil Rights, Eric Dreiband, and Matthew Schneider, the U.S. Attorney for the Eastern District of Michigan, to oversee and coordinate our efforts to monitor state and local policies and, if necessary, take action to correct them. They should work not only with all Department of Justice offices and other federal agencies, but with state and local officials as well.

Many policies that would be unthinkable in regular times have become commonplace in recent weeks, and we do not want to unduly interfere with the important efforts of state and local officials to protect the public. But the Constitution is not suspended in times of crisis. We must therefore be vigilant to ensure its protections are preserved, at the same time that the public is protected.

I thank you for your attention to this important initiative and for your service to our country.