



Justice Centre

for Constitutional Freedoms

November 17, 2020

Emergency Management Chief Tom Sampson
Calgary Emergency Management Agency
673 1 St NE
Calgary, AB T2E 6R2

Dear Sir,

I write in response to your recent public threat against the people of Calgary to close their businesses, to violate their *Charter* protected freedoms to gather, assemble, associate and worship, and to punish them for not complying with your proposed draconian measures.

The mission of the Justice Centre is to protect the *Charter* freedoms of Canadians. We therefore reject your threat to impose a 28-day "circuit breaker" lockdown with stringent and destructive restrictions that would shut down whatever you personally deem to be "non-essential."

Your threat to lock down the City of Calgary is a gross usurpation of authority. There is no statutory authority for your proposed exercise of this power, nor historical precedent for the use of such extraordinary authority in the history of this nation by an official such as yourself. No such power is delegated to you under the *Municipal Government Act*, or the Constitution of Canada. Further, you are not a medical officer of health in the Province of Alberta.

On what legal basis do you threaten to dramatically infringe the *Charter* rights and freedoms of over a million people?

Moreover, the purported reason for your threat is not grounded in relevant facts and considerations such as deaths, hospitalizations, and ICU capacity, but is based only on hysteria regarding "cases" of COVID-19. Your claims of an emergency are simply not supported by reality.

According to Alberta Health Services (AHS) there were 10,031 COVID-19 cases on November 13, but only 264 hospitalizations, with 57 patients in Intensive Care. There have been 427 deaths, in the context of more than 27,000 Albertans dying every year: more than 500 each and every week. Two thirds of COVID-19 deaths are among people aged 80 and higher; three quarters are among people with *three or more* serious comorbidities, with 97% of deaths involving at least one comorbidity. Only 1.6% of deaths occur amongst those under the age of 60, with zero deaths under the age of 20.

AHS data makes it clear that 97% of people who contract COVID-19 are entirely asymptomatic or only mildly ill. Aside from the lack of reliability of PCR testing, with false positives as high as 90%, fewer than 3% of these "cases" concern people who require hospitalization.

You claim that the health care system risks being overrun, but according to the most recent AHS statistics, COVID-19 patients are currently using less than 3% of Alberta's hospital beds. As announced by the provincial government in April, ICU capacity can be expanded to 1,374 beds; currently COVID-19 patients are using only 4% of this total ICU capacity.

Your claim that there is an emergency, and that hospitals will be overrun by COVID-19 patients, is simply not supported by AHS data.

It is worth remembering that this same fearmongering took place in March and April of 2020, and never materialized. To the contrary, Alberta's hospitals were largely empty from mid-March through to early May, because so many patients needing medical care were frightened away from hospitals by the irresponsible public statements of officials such as yourself.

In March Dr. Neil Ferguson of Imperial College claimed that millions of people would die of COVID-19. His claims have been thoroughly discredited, but you are now engaging in the same kind of baseless fearmongering. False predictions should no longer form the basis of public policy. Further, the claims made in March and April, that COVID-19 threatens children, youth and healthy adults, have also been entirely discredited.

There is a catastrophe afflicting society: lockdown measures which have crippled, and continue to cripple our economy and our society. Albertans have died and are dying because of cancelled surgeries, delayed cancer diagnoses, drug overdoses, and suicides. Lockdowns have imposed serious harms on patients denied access to their physiotherapists, massage therapists, optometrists, chiropractors, osteopaths, podiatrists and dentists. Outside of the privileged public sector, countless Albertans have been driven into unemployment, poverty, despair, isolation and loneliness. The economy has been decimated, and the hopes and futures of tens of thousands of Albertans are destroyed, not because of a virus, but because of the policies for which you advocate.

Your proposed "circuit-breaker" lockdown would cost Calgarians their jobs, their businesses and their livelihoods, and harm their physical and mental health. Your salary and pension are secure for you, as a public official. It has no economic or monetary consequence to you personally, if lockdowns inflict massive suffering on the Calgarians who pay for your salary and pensions.

More than 45,000 medical doctors, epidemiologists, professors of medicine, health economists, biostatisticians, microbiologists, immunologists, oncologists, and infectious disease experts from around the globe have signed the Great Barrington Declaration, which opposes the lockdowns.

The Great Barrington Declaration mentions worsening cardiovascular disease outcomes, fewer cancer screenings and deteriorating mental health, leading to greater excess mortality in years to come, as examples of lockdown harms. The Declaration holds out "focused protection" of the vulnerable as "the most compassionate approach that balances the risks and benefits of reaching herd immunity, [allowing] those who are at minimal risk of death to live their lives normally to build up immunity to the virus through natural infection, while better protecting those who are at highest risk."

As the 45,000 medical professionals who signed on to the Declaration maintain: "nursing homes should use staff with acquired immunity and perform frequent PCR testing of other staff and all visitors. Staff rotation should be minimized. In contrast, those who are not vulnerable should immediately be allowed to resume life as normal. Schools and universities should re-open for in-person teaching; sports, arts, music, culture and other extracurricular activities should be resumed; restaurants and other businesses should open fully."

Dr. David Nabarro of the World Health Organization recently warned countries about imposing lockdowns because of the significant harm they cause, and said they should be used only “as a last resort.”

Why would you ignore Dr. Nabarro and the 45,000 medical doctors and public health experts who endorse the Great Barrington Declaration?

Under the *Charter*, government has no right to arbitrarily restrict citizens' liberty. This is especially so when restricting rights and freedoms will cause unnecessary negative effects on citizens' mental and physical health, without in fact reducing the risk of transmission of COVID-19 to the vulnerable who need protection. The Constitution is the supreme law of Canada. Neither you nor Mayor Nenshi have the mandate to lock down the city of Calgary or its homes, businesses, schools, and houses of worship.

The *Canadian Charter of Rights and Freedoms* places the onus on government to show that lockdown measures have, in fact, saved more lives than the number of lives which lockdown measures have destroyed. The *Charter* does not place any burden on citizens to prove that lockdowns do more harm than good. To date, government officials have speculated that lockdowns have saved lives, but have not provided evidence to support that claim. Speculation is not evidence, and conjecture is not science.

Rather than advocating for locking down society and the economy with measures that clearly violate our most fundamental *Charter* freedoms, you should instead advocate for protecting the vulnerable, and doing so without inflicting harm on society and the economy.

By way of this letter, you are on notice that if you attempt, or if City Council attempts, to fulfill your threat against Calgarians, we will immediately commence court proceedings for injunctive relief.

Yours truly,



John Carpay, B.A., LL.B.
President
Justice Centre for Constitutional Freedoms

- cc. Naheed Nenshi, Mayor
- cc. The Honourable Premier of Alberta, Jason Kenney