

18 February 2021

Tim Walters

Chairman Reopen Maryland

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Subject: TESTIMONY IN SUPPORT OF HJ02 (Resolution to End the State of Emergency)

My Name is Tim Walters and I am the Chairman and a cofounder of Reopen Maryland. Reopen Maryland operates as a 501c (4) and advocates for the responsible opening of religious, commercial, educational and social life of all Marylanders. We currently have over 26,000 members.

Let me be clear that we have unequivocally acknowledged the virus is real from the very beginning. However, we believe that Governor Hogan utilized Public Safety Article 14 in a manner inconsistent with its intent, as well as the US and Maryland Constitutions. In fact, Article 44 of the Declaration of Rights in the Maryland Constitution states the following;

“That the provisions of the **Constitution** of the United States, and of this State, apply, as well in time of war, as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good Government, and tends to anarchy and despotism.”

All Marylanders almost a year ago stood in these uncertain times together and obeyed the first unconstitutional emergency order as not enough information was known. Unfortunately as more information became known and we were quickly able to see who was vulnerable to COVID-19 the Governor never once adjusted his Emergency Order to reflect the science and facts and open our state back up. The Maryland Health Department’s own COVID Dashboard show precisely who is impacted by this virus and yet we are on our 12th Emergency Order. Children have lost almost two school years. Businesses are shuttered. Our economy is in tatters. Meanwhile the government of Maryland continues passing laws and executing business as if nothing is amiss.

This needs to end now. For all of our sakes.

Consider Article 44 in the context of the definition of tyranny. Today’s Webster Miriam Dictionary defines tyranny as “*an oppressive, harsh, or unjust act*”. Consider the definition of Tyranny in the Webster’s 1828 Dictionary; “*Arbitrary or despotic exercise of power; the exercise of power over subjects and others with a rigor not authorized by law or justice, or not requisite for the purposes of government. Hence tyranny is often synonymous with cruelty and oppression.*”

The Governor's tyranny of deciding who is essential and who is not, of making people unequal, regardless of his elected position is fundamentally un-American and in conflict with our ALL of our founding documents. The use of this emergency is in direct violation of Article 44.

The founding Fathers feared this and created a government of enumerated powers and declared what precisely the Federal Government could do and by omission, what the States could do. The sanctity of the US and Maryland Constitutions is codified in Article of 44. Governor Hogan has shredded this right in the name of "emergency". An emergency he declared with no means to protest or discuss, with no means to end it or even know when it will end.

As free men and women we are fundamentally opposed to the illegal concept of capricious lock downs with out any end in sight nor any metrics to understand their importance or durability.

On 05 March 2020 Governor Hogan announced his first (of many) Emergency Order (EO). Initially everyone was willing to sacrifice to buy time for the country and states to understand what was occurring. The rationale was to flatten the curve on ICU and critical care beds on our state hospitals. Everything but "essential" businesses had to shut down. Non-essential organizations included churches, schools, gyms, restaurants. But Walmart's, Home Depots, liquor stores were considered essential. A woman could not be tested for breast cancer but could get an abortion. There was no consistency applied or decisions explained.

On 10 April, 2020 Governor Hogan released his Road Map to recovery and laid out his intent of his phased approach to shutting down and opening the state. The plan stated the following; "The principle behind "flattening the curve" is ensuring healthcare resources are not overwhelmed by a massive influx of COVID-19 patients. If such a "surge" or "spike" occurred, we would expect to see rapidly increasing morbidity rates. So long as hospitalizations remain steady, and ICU resources continue to be available, we can take a series of steps toward normalization."

In the Road Map the Governor cited Johns Hopkins data as the rationale for the lock down and flattening the curve. The Road Map states; "*The Johns Hopkins modeling showed that without physical distancing orders and closures 360,000 Marylanders would have been infected by June 1, 2020, and that as many as 12,240 could have died.*"

To be fair, the models were bad as not much was known. Unfortunately, this was never corrected nor did the State make adjustments but instead double downed using the same data. JHU said the model estimated 12,240 deaths by 01 June. Although horrible, as of 26 January 2021 we have only lost half that number. Their forecast was incredibly wrong as was all the models.

This Road Map was blatantly disregarded by the Governor. We never moved towards normalization based on the State's metrics as stipulated in this Road Map. It is also important to point out the plan also discussed the creation of the Maryland Strong Recovery Team and its role in advising the Governor and Governor Hogan cited them in almost every presser. Yet, when Reopen Maryland submitted a public information Act (PIA) under the Open Meetings Act, the Administration responded with the answer that the Task Force was not an instrument of government. The Task Force that Governor Hogan himself, cited for his decisions was off limits. This is again tyranny and at best, implies a "shadow government". The media received the same

response from the Administration. This should alarm everyone who believes in governmental transparency.

Given the experts models were wrong, given that the spread has continued and deaths have not stayed consistent with exposures we need to focus on the cost of this tyranny. We successfully flattened the curve but increased the curves for every other societal ill; suicide, overdoses, homelessness, depression, child abuse, spouse abuse, teen pregnancy, divorce, small business loss, addiction, on and on.

As a retired veteran I would like to take just a second to speak specifically to the increase in military suicides. As a Navy Explosive Ordnance Disposal (EOD) Technician I am always sadden that my joint service EOD community has the highest rate of suicide of all military jobs. The following is a statement from a Baltimore Sun article published recently; *“Experts are also monitoring suicides among members of the military. The Associated Press reported this month that military suicides have jumped by as much as 20% this year compared to the same period in 2019. The increase is even greater for suicides among active-duty soldiers.”* 20% this year. The change is the draconian lock down measures that remove human contact and mental health measures in the name of a one size fits all common good safety measure.

For the first time in American history the first thing closed was the church. As a nation, in emergencies the church was the first places many people went to be encouraged, to feel safe and to check the fear running rampant and being pushed by the government and media. Churches were treated completely differently than business as business was given percentage capacities per their sizes, but churches were told a specific number of people. This is proof of a lack of science and a bias applied.

This is detrimental to all faiths. For Christians we believe in the unerring Word of God as found in scriptures. Hebrews 10:24-25 is very clear on our responsibility to meet in person;

*“And let us consider how we may spur one another on toward love and good deeds, **not giving up meeting together**, as some are in the habit of doing, but encouraging one another—and all the more as you see the Day approaching.”*

I think we stand on the common belief that educating children is investing in our State’s future. Yet schools were closed and an entire generation has lost a year of education, and all the other associated things that come with class room interactions. For the first time we taught our children that fear trumps American values and our ability to solve issues like this. These used to be fundamental values for us as a nation and we used to teach this in school. Now despite the national “dark winter” Governor Hogan is citing that the science does not support closed schools. The same science that does not support this does not support keeping anything closed.

Small business drives our economy and feed the government and they have been decimated. The impacts are going to be catastrophic and long term for Maryland. We need to get back to work now and open up. Where schools build our future, businesses are the now as well as the future. Business impacts every aspect of our lives from providing goods and services, to providing jobs

that feed families, to paying taxes that support our ever-growing government. To shutter businesses, is literally to constrict our very society.

With these massive impacts how can we be surprised at the increases in all the bad metrics mentioned above. If adults are struggling in these changing and fearful times how much more disastrous is it for our children.

You might think that the courts will decide this and you, as Legislators do not need to. This is a flawed line of thought as it presumes that the Courts make law. Let me explain why. Although we fully expect to prevail ultimately at the Supreme Court this is not the best answer for the citizens of Maryland. If forced to challenge Governor Hogan's tyranny and ultimately Public Safety Article 14, this would create more issues for Maryland than it solves when we win.

- First, it impacts the legacy of your law and your good intentions following 9/11.
- Secondly, it WILL open the state up to follow on law suits that will take years, be incredibly expensive, and most likely disastrous to the State as injured citizens win civil case after civil case against the State.

In an era of huge budget deficits this would be disastrous, and to be frank, have tremendous impact on political careers. In the recent case, Catholic Diocese versus Cuomo, the Supreme Court upheld the complaint against the state of New York based on the constitutional violations and the fact that emergencies do not trump the people's rights. In fact, Justice Gorsuch said the following;

"Government is not free to disregard the First Amendment in times of crisis. At a minimum, that Amendment prohibits government officials from treating religious exercises worse than comparable secular activities, unless they are pursuing a compelling interest and using the least restrictive means available."

Additionally, this ruling did not give the Jacobson defense argument much support. If our case goes to SCOTUS, we are confident we will prevail against Governor Hogan's tyranny and invalidate his emergency and by implication, Public Safety Article 14. Which means you will have to address this again.

We are not seeking to eradicate the Governor's authority to deal with emergencies, we are seeking to constrain those authorities and restore the principle of constitutional checks and balances. This is for the sake of the people's God given rights. Rights such as freedom of religion, speech, press, assembly, and petition; the right to petition the government, the right to due process, right to a speedy trial, and the right to own property. These are rights that originate from God, NOT either the Federal or State government. Sometime we need to be reminded that government exists to PROTECT these rights of the people from the government. These are bedrock principles and what you took an oath to protect.

As the Chairman for Reopen Maryland many of our community members share their impact stories with us and they are heart rending. Dozens every week. Stories about a community that had domestic violence in three houses on one street where everyone got along before the virus. About a Senior Wrestling All-star 4.0 student who watched all his work disappear as his senior

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year evaporated. About a third-generation business that went under after decades of being a community partner, about life savings disappearing, about children of all ages who no longer can get the help they need for their autism, about the junior who took her life for becoming so isolated, addicts who lost their support networks and died of overdoses, on and on. You have the power to put an end to the suffering of tens of thousands of people. I am begging you to help them.

Please honor your oath and support HJ02 and end this tyrannical abuse of Executive power and restore both liberty to the people and the constitution balance to government.

Thank you for your time.

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