

OPINION • Opinion Columnist

# Barbara Ferrer and Adam Schiff vs. freedom of speech in Los Angeles County



Los Angeles County Department of Public Health Director Barbara Ferrer and Chief Medical Officer Dr. Rita Singhal hold an in-person media briefing on COVID-19 and monkeypox at the Balboa Sports Complex vaccine site in Encino on Thursday, September 8, 2022 where the new bivalent COVID-19 booster and monkeypox vaccine are being offered. (Photo by Sarah Reingewirtz, Los Angeles Daily News/SCNG)

By **WILL SWAIM** |

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Los Angeles County Director of Public Health Barbara Ferrer leveraged relationships with Rep. Adam Schiff in an effort to bully Twitter into silencing critics of her universal mask mandate in July 2022.

Schiff's role, part of Ferrer's broader campaign to suppress her critics, is described in a remarkable July 26 court filing by attorney Julie Hamill of the Alliance of Los Angeles County Parents. The Alliance is suing the Department of Public Health and others, including Ferrer herself, for First Amendment violations. A trial is set for Oct. 16.

Ferrer's censorship campaign went beyond Twitter. Hamill's filing shows Ferrer's effort included attempts to suppress unfavorable content on Facebook and Instagram, and the elimination of public-comment features on government websites. In at least one instance, her staff even lobbied a newspaper editor to spike unflattering commentary.

Ferrer's campaign began shortly after her July 7, 2022, announcement that COVID-19 cases were rising so quickly in Los Angeles County that she would re-impose a universal indoor mask mandate, effective July 29, 2022.

"With the continued increase in cases, and now as you're seeing the corresponding increase in hospitalizations ... we're really worried," she told the Los Angeles Times.

With the local economy still weak and the first day of school just weeks away, the public blowback was swift. Social media traffic surged, much of it super-heated and aimed directly at Ferrer. By month's end, Hamill, who is also a Palos Verdes school board trustee, had filed suit on behalf of parents who reasonably feared that Ferrer's mask order would trigger another round of teacher union-backed school closures and renewed union demands for "hero" pay.

Things got especially hairy for Ferrer when video leaked of a July 13 meeting among doctors at County-USC Medical Center. Their diagnoses directly contradicted Ferrer's dire assessment. Yes, the doctors said, Covid case counts are up. But serious infections and hospitalizations?

"We're just seeing nobody with severe COVID disease," said one doctor. "We have no one in the hospital who had pulmonary disease due to COVID — nobody in the hospital," said another. It went on like that: "Certainly there is no reason from a hospitalization-due-to-COVID perspective, to be worried at this point"; "We're seeing a lot of people with mild disease in urgent care or [in the Emergency Department] who go home and do not get admitted." "A lot of people have bad colds, is what we're seeing."

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For Ferrer's communications director Brett Morrow that meant appealing directly to Twitter. He "emailed Twitter's then-Director of U.S. Public Policy, Lauren Culbertson, for assistance dealing with 'harassment' from 'anti-maskers' as the County was 'likely going to bring back indoor masking,'" Hamill writes.

Notably, Morrow identified his connection to Schiff, writing, "I was referred to you by my friend Patrick Boland, who I used to work with in Congressman Schiff's office." Hamill notes that Morrow included "Boland's name in capital letters in the subject line of the email and copied Mr. Boland on the email."

"At the time of the Twitter Exchange, Mr. Schiff was Chair of the House Permanent Select Committee on Intelligence (HPSCI), and Mr. Boland was employed as Chief of Staff to Mr. Schiff and as a Staff Member with HPSCI," Hamill writes. Morrow's opening email "led to an exchange of at least 15 messages between Morrow and Twitter."

Copying Schiff's top staffer on emails was meant to intimidate Twitter, Hamill says. "The HPSCI has oversight and investigative authority over social media companies, including Twitter, and had conducted investigations and hearings relating to content moderation on social media," Hamill writes. "Prior to the Twitter exchange, Congressman Schiff and the HPSCI had publicly discussed amending Section 230 of the Communications Decency Act, which provides immunity to social media companies for content posted by their users. Further, prior to the Twitter exchange, Congressman Schiff sent letters to social media companies demanding information about content moderation policies (a polite term for 'censorship')."

Hamill summarizes Morrow's threat this way: "Twitter was under the regulatory thumb of Schiff and HPSCI."

At the same time, Morrow was fighting on a more conventional front. On July 22, 2022, newspapers in the Southern California News Group (SCNG), including this one, published "Bringing back a mask mandate in Los Angeles County is unjustified," a commentary by four medical experts affiliated with the University of Southern California. Within hours of publication, Morrow asked SCNG Opinion Editor Sal Rodriguez to remove the commentary. Rodriguez declined.

Morrow's Twitter campaign continued. On July 26, 2022, he emailed Twitter's Culbertson to protest "misinformation going around LA County and upcoming mask requirements." As evidence of "misinformation," Morrow said Ferrer's critics were saying "Dr. Barbara Ferrer is a fake doctor, LA County is lying about hospitalization numbers, CDC is not recommending masks" and "Masks are not effective for adults or children." Ironically, Morrow's claims are, themselves, textbook misinformation. It's true that Ferrer is a doctor — if by "doctor" one means that she earned a Ph.D. in Social Welfare but not medicine. Criticism of Ferrer's hospitalization numbers came from legitimate sources, including Los Angeles County-USC doctors. Morrow's claim about CDC mask recommendations depends on which day you asked the CDC. In February 2020, CDC director Dr. Jerome Adams declared masks were useless. Two months later, the CDC abruptly reversed course, declaring that everybody — even two-year-olds — should be masked. Dr. Anthony Fauci later explained that Adams' original guidance was a noble lie aimed at saving medical masks for frontline health workers. The debate continues. Last week, an Oxford University team led by epidemiologist Tom Jefferson concluded that masks are useless. "There is just no evidence that they make any difference — full stop," Jefferson told a reporter.

Americans have reason to be skeptical of any single source of mask information. To declare otherwise, as Ferrer and Co. insist we must, is misinformation — full stop.

Meanwhile, on "July 30, 2022, defendants disabled public comment on the [county's] social media accounts." Given that "County Board of Supervisors meetings were still closed to the public . . . the closure of public comments on the [county's] social media accounts eliminated the only accessible public square for discussion of public health mandates." On August 5, 2022, Hamill writes, an Alliance member "responded by creating a Twitter account called @ALT\_lacph." The new account would retweet Ferrer's official Twitter communications but with this crucial difference: unlike Ferrer's official account, @ALT would "allow public discussion and debate."

"On that same day," Hamill writes, "Morrow sent [Twitter officials] a link to the Alt account Twitter page and asked, 'Can this be shut down?' Following an exchange of at least seven emails between Morrow and Twitter regarding the Alt Account," Twitter permanently suspended the Alt Account on Aug. 23, 2022.

By that time, Ferrer had backed off her mask mandate, citing new data — "new data" that was clear weeks before. It's more likely that Ferrer surrendered in the face of overwhelming evidence she was wrong — and that nearly everybody understood that.

Ferrer's turnabout doesn't end the matter for Hamill. "Defendants may argue that these arguments are moot now that traditional public fora have reopened," she writes. But there are several reasons to press forward.

First, Hamill reminds the court, Ferrer has demonstrated her readiness to withhold government

Second, Hamill says Ferrer’s actions “harmed untold numbers of Angelenos by prolonging an illusion of consensus about a pandemic that was not nearly as dire as defendants wanted the public to believe. As a result, people remained frightened and treated fellow citizens with suspicion and disdain, children remained masked longer, and children suffered physical, psychological and emotional harm.”

That harm must be mitigated, but Hamill’s group isn’t looking for money. They simply want the court to prevent Ferrer “from engaging in further violations of the constitutionally protected right to speak and receive information.”

Whatever the outcome when Hamill’s case goes to trial in L.A. Superior Court in October, we can celebrate today. A talented attorney stepped up to defend a constitutional right. Doctors dared to contradict media hype and political theater. A newspaper editor resisted the authoritarian impulse that runs through our political culture. Thousands of parents acted swiftly to protect their children from teachers union leaders determined to treat those children as means to political ends. Brothers and sisters, I say again, we have already won.

*Will Swaim is president of the California Policy Center and co-host with David Bahnsen of National Review’s “Radio Free California” podcast.*

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