

LIBERTY, TYRANNY, AND ACCOUNTABILITY: COVID-19 AND THE CONSTITUTION

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BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION AND
LIMITED GOVERNMENT
OF THE
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LIBERTY, TYRANNY, AND ACCOUNTABILITY: COVID-19 AND THE CONSTITUTION

Tuesday, April 16, 2024

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 2:37 p.m., in room 2141, Rayburn House Office Building, the Hon. Chip Roy [Chair of the Subcommittee] presiding.

Members present: Representatives Roy, Jordan, McClintonck, Bishop, Kiley, Hageman, Hunt, Fry, Armstrong, Scanlon, Nadler, and Balint.

Also present: Representative Massie.

Mr. ROY. The Subcommittee will come to order. Without objection, the Chair is authorized to declare a recess at any time. We welcome everyone to today's hearing on American civil liberties during the COVID-19 pandemic.

Without objection, the gentleman from Kentucky, Mr. Massie, will be able to participate in today's hearing for the purpose of questioning witnesses if a Member of the Subcommittee yields him time for that purpose. Now, before I recognize myself for an opening statement, we have a video prepared on behalf of the Committee.

[Video shown.]

Mr. ROY. I'll now recognize myself for an opening statement. I thank our witnesses for being here today. The government response to the COVID-19 pandemic triggered some of the most aggressive usurpations of freedom present-day Americans have experienced.

When we look back at the trillions of dollars spent, the immeasurable loss of freedom, the loss of jobs and businesses, the lost confidence of public health, and the immense societal harm created, Americans deserve to know it will not happen again. Every level of government, Federal, State, and local, to some degree took part in this attack on the liberty of the American people. Corporate America, academia, and the media were happy to oblige.

An apology, if we were lucky to get one, does not change the fact that the effects of COVID-19 tyranny are permanent if we don't act to change them. I will remind both my Democrat and Republican colleagues that the liberties reflected in our Constitution are not optional and as a general matter should not be suspended for polit-

ical expediency nor times of crises. In fact, the Constitution was written to constrain the power of government and secure liberty that the founders knew would be challenged specifically in those times of crises.

On March 16, 2020, the Trump Administration announced, quote, “15 days to slow the spread.” Far too few government leaders did anything to stop the unconstitutional tyranny that would follow over the past four years. Four days after that announcement, I wrote an op-ed in the *National Review* urging Americans that we need a, quote,

Date certain to return to their normal lives or the government action in response to the pandemic would be worse than the virus itself.

A year after 15 days to slow the spread, I wrote another op-ed calling for an end to the capacity limits on businesses, rules about what the vaccinated could and couldn’t do inside and outside, and vaccine passports. Here we are. It was clear the COVID-19 measures were not about science or safety but compliance and control with a strong urging of the Federal Government with particular propaganda from Drs. Fauci and Birx.

By late April 2020, 42 States collectively leading approximately 316 million people were subject to stay at home orders violating their fundamental rights to life, liberty, and the pursuit of happiness. Churches across the country were subject to strict social distancing and attendance limitations while favored businesses were allowed to carry on, violating freedom of religion guaranteed in the First Amendment. Perhaps most egregiously, here in D.C., Mayor Bowser joined thousands of Black Lives Matter protests while effectively banning church services for groups greater than ten people.

The White House and the CDC colluded with social media companies to suppress opposing views related to COVID-19, ranging from Ivermectin to vaccine and mask mandates, violating freedom of speech protected in the First Amendment in addition to common sense. Many Democratic Governors did not consider gun stores to be essential businesses during the lockdowns while considering marijuana dispensaries and liquor stores essential, undermining the Second Amendment. States forcibly closed businesses and deemed certain essential and others nonessential.

The CDC implemented a 120-day eviction moratorium, many of which would arguably violate the Fifth Amendment which requires government compensation for the taking of private property for public use or a public purpose. COVID-19 measures delayed court proceedings, undermining Americans’ right to a speedy trial protected by the Sixth Amendment. I could go on and on.

These constitutionally problematic government actions inflicted intense societal damage. We are still seeing the results and the consequences. The American economy experienced 14 trillion dollars in damages due to lockdowns and governmental measures.

The United States spent six trillion dollars in the name of COVID, more than what the United States spent on World War II in today’s dollars. This led to rampant inflation that has yet to subside. One reason analysis found that the typical American household must spend an additional 11,400 dollars annually just to

maintain the same standard of living they enjoyed in January 2021, right before inflation soared to 40-year highs.

Forced school closures and remote schooling erased decades of progress for students in math and reading and resulted in a quarter of our Nation's students being chronically absent. We saw record high suicides, an increase of 5,000 from before the pandemic and almost 50,000 annually. Drug overdoses hit 100,000 a year.

Tens of millions of Americans lost their jobs and were forced on government assistance. In April 2020, the unemployment rate hit 15 percent, an all-time high since the data has been recorded. Over 100 million Americans were forced to take a vaccine with a veiled threat, your job or the jab.

Regardless of what radical progressive Democrats want to claim, these vaccines were not voluntary. The Federal Government mandated vaccines for military personnel, healthcare workers, government contractors, and all businesses with more than 100 workers. The Biden Administration bragged that their mandates covered more than two-thirds of American workers.

The government lied about its efficacy and effectiveness to make these mandates more palatable. Dr. Fauci said,

It's as simple as black and white. You're vaccinated, you're safe. You're unvaccinated, you're at risk. Simple as that.

I'm not sure the truth has borne that out.

Former CDC Director Rochelle Walensky said the following.

Our data from CDC today suggest that vaccinated people do not carry the virus, don't get sick.

They teased the prospect of freedom if we would just suck it up and do what they said.

How did that work out? They were dead wrong. Instead, we got one of the biggest bait and switches of all time. We decided to inject 700 million people with vaccines regardless of the risk COVID-19 poses to them. Here's the aftermath.

A million adverse events from the COVID-19 countermeasures have been reported to the government. Only 11 have been compensated while Big Pharma enjoys complete immunity from liability stemming from COVID-19 vaccine injury. Hundreds of thousands of small businesses shut down permanently while big businesses like Amazon, Walmart, and Target raked in billions.

All of this for the CDC to announce last month to treat COVID-19 infections like the flu. What are we going to do to ensure our liberty is protected going forward? What are we going to do to ensure that unelected public health bureaucrats who promoted this on the American people are held accountable?

We need to pass emergency powers reform to ensure Congress can stop the expansion of the size and scope of government during times of crisis. We need to stop the funding of organizations who perpetuated this tyranny like the United Nations World Health Organization, and not accede to their power as maybe occurring this month. We should pass legislation to enhance Congressional oversight of the runaway healthcare bureaucracy.

We need to hold officials like Dr. Fauci and Birx accountable. God forbid something like this would happen again, we should re-

ject mandates, vaccine mandates, mask mandates, lockdowns, and trillion-dollar spending bills. This is a good place to start.

We will likely hear the following today. We should view our response to the COVID-19 pandemic as a success. We should give the people in charge the benefit of the doubt since it was a stressful and uncertain time.

Sure, there are things we can improve on for the next pandemic. Freedom is just one factor in the many complicated case-by-case calculations governments must make. Ignore all this.

Our rights are not to be negotiated. No matter how much they try to change the subject or rewrite history, we should never forget what they did to us. We must not be the victim of another government science experience ever again, and that's exactly why we're here today. I appreciate the witnesses for being here, and I will now recognize the Ranking Member, the gentlewoman from Pennsylvania, Ms. Scanlon, for her opening statement.

Ms. SCANLON. Thank you, Mr. Chair. When the Chair noticed this hearing about liberty and tyranny, one might've wondered if our Republican colleagues wanted to have a real discussion about the civil rights and liberties guaranteed to all Americans. Given that his hearing is being convened by the same majority that changed the name of this Subcommittee from the Subcommittee on the Constitution, Civil Rights, and Civil Liberties to the Subcommittee on the Constitution and Limited Government.

It's no surprise that civil rights and liberties are once again taking a back seat to culture wars because you can't have a hearing on liberty without mentioning one of the most important civil liberties issues facing our country today, a woman's freedom to make existential decisions about her own healthcare without the meddling of politicians. You can't have a hearing about tyranny without acknowledging that a person being denied medical care because of someone else's political or religious beliefs is certainly an exercise of tyranny. Since the Supreme Court overruled *Roe v. Wade* two years ago, State legislatures nationwide have passed laws that threaten women's reproductive healthcare with medically unnecessary restrictions.

One in three women of reproductive age lives in a State with an abortion ban. Doctors and pharmacists during their jobs and even women who suffer miscarriages have been threatened with criminal charges. Women who are denied access to healthcare are vulnerable to harm and even sometimes death.

To be clear, the Supreme Court's misguided *Dobbs* decision did not take away a woman's underlying right to the freedom to make her own reproductive healthcare decisions. It did take away an important legal protection. At a time when a majority of the public, 62 percent, disapproves of the Supreme Court's decision to overturn *Roe*, Congress must pass the Women's Health Protection Act to enshrine this fundamental freedom into law.

Now, with all that said and despite the subjection of women currently occurring across America, reproductive freedom is, of course, not the topic chosen for today's hearing by our Republican colleagues. Instead, they're proving, yet again, that their supposed passion for limited government is, in fact, a passion for imposing the political and religious views of a noisy far right majority on all

Americans. Today's hearing is a destructive exercise of revisionist history.

So, let's try to correct the record a little bit. Four years ago, our public health officials faced a daunting crisis, the global spread of COVID-19. I find it very disturbing that the majority in its effort to cast legitimate public health measures as tyranny, just showed a very misleading video in which they also tried to blame the Biden Administration for actions which were implemented under the Trump Administration.

The actual history, public servants had to make critical decisions confronted with limited information and a mounting death toll to keep people safe from a fast moving and deadly disease for which there was at least initially no cure, no treatment, and no vaccine. They utilized broad powers based on longstanding Supreme Court precedent and statutory authority. They acted in good faith to keep our communities the best that they could with existing knowledge.

It's these very efforts to keep people safe that our MAGA colleagues want to paint as tyrannical here today. It is a deeply cynical view of government that I wholeheartedly reject. For two centuries, courts have recognized that the State's possess significant general police power under the Constitution to respond to public health threats.

Of course, the Constitution commands that individual rights must be protected even in an emergency and rightly so. Yet, courts have also recognized that even a fundamental constitutional right is not absolute. It's important to recognize that the idea of freedom espoused by our founders is not, as some of our colleagues suggest, a right completely devoid of personal responsibility.

From experience in my community, I know that our public health leaders' decisions, especially early on in the pandemic, saved countless lives because during a public health emergency, individual decisions are not isolated. They affect other people. While one person might be willing to risk illness or death in exchange for going without a mask or a vaccine, not everyone is.

People can suffer when their fellow Americans make irresponsible choices. When our framers gathered in Philadelphia to write the Constitution, they were explicit about the purposes of that founding document which included promoting the general welfare. How can we do that if our leaders don't embrace basic steps to keep people safe and healthy in extraordinary circumstances, which is, I'll add, something our government has done throughout our Nation's history.

George Washington mandated smallpox inoculations for all continental soldiers in 1777. In 1918, Dwight Eisenhower, then commanding the Army's tank corps in Pennsylvania, in Gettysburg, successfully controlled the influenza epidemic among his troops by employing familiar strategies like quarantining, masking, disinfecting, ventilating, and making sure that everyone was up to date on their vaccines. That experience informed his later advocacy as President to vaccinate all Americans to eradicate polio.

We could've used this hearing today to seriously discuss how best to protect our national public health against future pandemics. That includes how to best strike a balance between safeguarding individual rights and ensuring the public good. Instead, our Repub-

lican colleagues want to rehash old culture wars and sow mistrust in public health and giving a platform to vaccine skeptics to peddle more dangerous conspiracy theories and public health misinformation.

We're already seeing the insidious effects of vaccine skepticism as infectious and serious diseases we once thought were contained like measles are spreading again, especially among school children. With this hearing today, our MAGA Republican colleagues are once again trying to force their bleak and divisive vision of our country on everyone. It's a vision where Congressional powers wielded to intimidate public servants, reject the common good, and abandon our most vulnerable fellow Americans.

It's not responsible governance. It's not government at all. Americans deserve so much better. I yield back.

Mr. ROY. I thank the gentlelady from Pennsylvania. I now recognize the Chair of the Full Committee, Mr. Jordan, for his opening statement.

Chair JORDAN. I thank the Chair for having this hearing. That's what we did just last week when we're talking about freedom of the press. The former Attorney General said, "the Constitution is not suspended during a crisis."

In fact, I would argue that's when it's the most important. It was certainly during COVID government attacked Americans' rights saying we were in a pandemic in a crisis. I'll just say some of the same things I said last week at the start of that hearing.

Every single liberty we enjoy under the First Amendment was assaulted during COVID, every single one. You had people tell Americans they couldn't go to church on Sunday. Holy cow.

I always use the example, I spoke to the New Mexico—right to—you think of all five rights, right to practice your faith, right to assemble, freedom of the press, free speech, and your right to petition the government. All five were attached. I told the story many times.

I spoke to the New Mexico Republican party in Amarillo, Texas, because they had to leave their own darn State where they pay taxes to go to another State where they had the freedom to actually get together because their Democratic Governor wouldn't let them do it in their own State. Your right to petition your government, you wanted to talk to a Member of Congress. For two years, you couldn't go talk to them in your Congress, in your Capitol that you pay for because Nancy Pelosi wouldn't let you in. You had to meet them somewhere else. Couldn't meet them at your Capitol.

Free press, I'll use the example. Jen Psaki stood at the podium probably two years ago, I guess, stood at the podium in the White House, in the press room talking to the press. She said these two sentences:

Most Americans now get their news from social medial platforms. We, the Biden Administration, are working to limit what those social media platforms can post.

Think about the irony. The press person in the pressroom talking to the press about restricting the press. Crazy. The biggest one, of course, is speech. That's the one they go after.

I tell people all the time, if you can't talk—it's the most important right you have because if you can't talk, you can't practice

your faith, can't share your faith, and can't petition your government. We don't have a free press. That's the one they go after, the censorship effort which this Committee and the Select Committee spend a boatload of our time trying to get to.

That's the scariest one of all, so this hearing is important. Here's the other thing. Here's the other thing. So many of the things they told us when they were restricting our First Amendment liberties during the pandemic, so many of the things that particularly the Biden Administration told us turned out to be wrong.

Bad enough, you got to give up your rights. When you give them up when they're telling you for wrong reasons you could go down the list. They told us it wasn't our tax dollars using the lab in China. Yes, it was. Yes, it was.

They told us they weren't doing gain-of-function research. Yes, they were. They told us it didn't start in a lab. It didn't start in a lab. Sure looks like it did. They want us to believe it was a bat to a pangolin to a hippopotamus to Joe Rogan. Now, we all get the virus, right?

That's what they want us to think. I kind of think it started in a lab. No, no, no. We're all stupid. They're so much smarter than us. They're going to restrict our liberties while they're telling us they're smarter than us even though they were wrong.

They said if you got the vaccinated you couldn't get it. They said if you got the vaccinated you couldn't transmit it. They said makes work. They said kids couldn't go to school. That was a good—I mean, you can just keep going down the list.

There's the other one. They said for the first time in history, we have a virus where there's no natural immunity. Wow. Ground-breaking. So, this hearing is important because just for the simple purpose of reminding the country how wrong they were while they were taking away our freedoms, while they were attacking the First Amendment.

So, I appreciate our Chair for putting this together. I really appreciate our witnesses and the strong positions they've already taken saying some of these things already. God bless you for doing that and thank you for being here today. I yield back.

Mr. ROY. I thank the Chair of the Committee, Mr. Jordan. I would now recognize the Ranking Member of the Full Committee, Mr. Nadler.

Mr. NADLER. Thank you Mr. Chair. Mr. Chair, I appreciate your announcement a little while ago, that 700 million people were vaccinated out of a population of 330 million. Quite an accomplishment.

Mr. Chair, a former colleague and current Ambassador to Japan, Rahm Emanuel, is often quoted as saying, "You never want a serious crisis to go to waste." I believe that my Republican colleagues think that this idea applies to the topic of today's hearing. The COVID-19 pandemic was a serious public health crisis.

Four years later, House Republicans are still attempting to capitalize on that global trauma for political spin. Today's hearing is nothing more than a platform for extreme MAGA Republicans to spread skepticism of public health officials to advance the conservative persecution complex that has become the cornerstone of their political identity. Any reasonable reading of the facts from that

time makes it clear that this portrayal is a bogus, politically motivated hit job.

Public health officials at the local, State, and Federal levels are dedicated public servants who at the time had to act on the limited information available in response to a nationwide public health crisis. The facts demonstrate that they took reasoned, good-faith actions in response to an infectious disease that even to this day quite literally continues to evolve. I would note, however, that the House Judiciary Committee has no expertise on matters of public health policy or medical science.

If the Republicans wanted a discussion about lessons learned from the Nation's experience with COVID-19, I would welcome it. As to whether officials had the authority to take the steps that they took, that authority was and largely remains broad, even after years of legal challenges stemming from the pandemic. That is to say that while individual constitutional rights are always enforced, even during a public health emergency, the Constitution is not a suicide pact.

No legal right is absolute. The Constitution itself accounts for the need for government to respond to protect a Nation from serious threats. Given the chaotic and uncertain circumstances in which they were operating, not every decision by a public health official may have struck the ideal balance between the need to protect public health and respect for individual rights.

That is why we have a court system. Nonetheless overall, those public officials' decisions were made in good faith and saved countless lives during a public health emergency involving a novel and rapidly spreading infectious disease that was killing more than 1,000 people a day in the early part of the pandemic and which so far has killed more than million Americans. Individuals may have varying tolerances for personal risk.

The individual choices about vaccination, quarantining, masking, or other public health measures can also seriously affect other people's health. In particular, the most vulnerable members of our society are at risk during an event involving infectious disease. This includes the very young, the very old, those of preexisting conditions, and the working poor who historically lack access to healthcare and are disproportionately represented among ethnic and racial minorities.

According to the apparent viewpoint of extreme MAGA Republicans, the government should've done nothing during the pandemic to protect the public while vulnerable Americans were left to fend for themselves. That is not my idea of freedom. This apparent callousness demonstrates that for some of our colleagues, public health policy is just another angle for which to cast the government officials as power hungry bureaucrats to suit their narrow political interest, no matter what the facts may be.

While the MAGA Republicans may think that a revisionist hearing like this, relitigating the government response to the COVID-19 pandemic to recast it as a tyrannical power grab is a political winner. There is, in fact, no winner. Instead, the American people will lose.

Politicizing public health policy has real consequences for the American people. Even outside of a once in a century pandemic,

one must look no further than the impact of vaccine skepticism has had on the spread of infectious diseases that we once thought contained, but that are now spreading again because of people like Dr. Ladapo who tell us myths about vaccines. I would just write today's hearing off as, yet another MAGA extremist rant were it not for the corrosive impact on American's trust in public health officials. The American public deserves better than this hearing. I thank the witnesses, and I yield back.

Mr. ROY. I thank the Ranking Member for his remarks. I would only note that the commentary of about 700 million Americans or individuals receiving vaccines because there was multiple rounds of vaccines administered. So, there were 700 million administrations of vaccines, or 700 million people received vaccines. A lot of those were the same people getting two, three, four, and five versions of it.

That's the facts. There were 700 million vaccines administered. I would also note that we are uniquely suited in the Judiciary Committee to deal with issues involving constitutional questions and size and scope of government in response to what the Chair said. I'm just responding to what the Ranking Member said.

The Ranking Member takes his time to question what the opening statement. As the Chair, I wanted to respond to it. So, with that, I'm going to introduce the witnesses and thank them for being here.

First, I'd like to recognize Ms. Harmeet Dhillon. Ms. Dhillon is a nationally recognized civil rights lawyer and the Founder and Chief Executive Officer of the Center for American Liberty. The Center for American Liberty is a nonprofit organization dedicated to defending the civil liberties of Americans. She is a graduate of Dartmouth College and the University of Virginia School of Law.

Dr. Joseph Ladapo, Dr. Ladapo is the Surgeon General of the State of Florida and a Professor at the University of Florida College of Medicine. He previously served as an Associate Professor at the David Geffen School of Medicine at UCLA, on the faculty at the NYU School of Medicine, and as a staff fellow at the Food and Drug Administration. Dr. Ladapo completed his undergraduate studies at Wake Forest University, earned his medical degree from Harvard Medical School, and earned a Ph.D. in health policy from Harvard.

Next, I would introduce Ms. Claudine Geoghegan. Ms. Geoghegan is a visiting fellow at the Independent Women's Forum. She's also a Co-founder of Freedom in Education, a nonprofit organization that works to enhance education and increase educational opportunities for children. Ms. Geoghegan is a former elementary school teacher.

Finally, Professor Michelle Bratcher Goodwin. Ms. Goodwin is the Linda D. and Timothy J. O'Neill, Professor of Constitutional Law and Global Health Policy at the Georgetown University Law School. She's also the Co-faculty Director of the O'Neill Institute for national and global health law. Professor Goodwin previously served as a Chancellor's Professor at UC, Irvine, and as the Abraham Pinanski Visiting Professor of Law at Harvard Law School.

We will begin by swearing you in. Would you please rise and raise your right hand? Do you swear or affirm under penalty of

perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record reflect that the witnesses have answered in the affirmative and they may be seated. Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask you to summarize your testimony in five minutes. Ms. Dhillon, you may begin.

STATEMENT OF HARMEET K. DHILLON

Ms. DHILLON. Good afternoon, Chair Roy, Ranking Member Scanlon, and the Members of this Committee. Thank you for inviting me to testify before you on a topic that I believe to be the most significant civil rights crisis of my lifetime, the use of so-called COVID emergency to eviscerate American's most cherished constitutionally protected freedoms. During the pandemic, we witnessed the radical dismantling of the guardrails that the framers of our Constitution specifically designed to reign in imperious government actors.

In the guise of an emergency, government officials instituted unlimited executive fiats to control and control and curtail every aspect of our lives. These actions by the government were not nearly tailored nor based on credible science. As such, the government's escalating and often arbitrary restrictions were not meaningfully limited.

The government closed our schools, locked down our houses of worship, destroyed our small businesses, criminalized our free speech, banned travel, kept us from our loved ones at their most desperate hours, even shut down the beaches of Orange County and the skate parks so that children could not play. The government wrested unchecked and unprecedented control from the American people. The vast majority of American elected officials from both parties assumed the heretofore unimaginable powers with no qualms about history, precedent, or the consequences.

Thankfully, due to a wave of legal challenges against these restrictions, the Supreme Court eventually issues rulings that piece by piece return some measure of protection to our threatened First Amendment rights while others remained exposed and eroded to this day. COVID demonstrated just how vulnerable these rights are without affirmative protection from judicially unchecked government overreach. At any given time today, a State or Federal Government official could declare an emergency or fabricate some unfounded excuse and suspend our fundamental rights once again. Most courts will not stop them as we have unfortunately seen.

It is imperative that Congress intervene to make sure that the COVID legal history cannot and will not repeat itself. One of the most egregious violations of our First Amendment freedoms was the treatment of religious Americans as second-class citizens as vectors of disease. From the very beginning of the pandemic, Governors across the country discriminately labeled houses of worship and by extension the First Amendment as, quote, "nonessential," while at the same time leaving their secular counterparts open for business.

In my State California, marijuana, liquor, and big box retailers were deemed essential, but God was banned. There were different rules for the elites compared to the people as well. A Member of this Committee, Congressman Bush, held protests on the steps of the Capitol while Nancy Pelosi barred our client, a reverend, Patrick Mahoney, from praying at the same place.

The Center for American Liberty and law firm represented several American faithful citizens in their fight to live according to their religious beliefs. In three of these cases, the U.S. Supreme Court agreed with us: *Gish v. Newsom*, *South Bay United Pentecostal Church v. Newsom*, and *Tandon v. Newsom*. We represented pastors and congregants in California who did everything they could to keep their church's doors open safely.

They offered distancing. They offered sanitization. They offered masking. None of it was good enough for the government. This discrimination against religious Americans did not end once restrictions lifted.

We currently represent three individuals who were fired from the North Carolina Symphony where they requested religious exemptions to the vaccine mandate. All three musicians submitted exemption requests that included guarantees they would take additional social distancing and masking measures to avoid violating anybody else's rights. This was not good enough.

The symphony denied their request and fired these musicians who remain fired to this day, even though the symphony has lifted its vaccine mandate. As a result of these discriminatory actions, these artists lost their livelihoods and the American dream. These violations of our civil rights were made possible by the lack of due process and judicial scrutiny during the pandemic.

When Governors invoked emergency status, many Federal judges threw all three standards of scrutiny, rational basis, intermediate, and strict scrutiny, to the wind in the name of an emergency. I heard judge after judge chillingly dismiss rulings in our cases challenging government overreach. This complete disregard for a critical check was a result of an outdated Supreme Court ruling, *Jacobson v. Massachusetts*, which hails from even before the Jim Crow era in our country and yet remains the law in this country to this day.

Jacobson handed unbridled power to the government to declare when an emergency occurred and what to do about it. There was no room for judges to make their own rules based on facts, experts, and the law. Executive fiat was rubber stamped, and our fundamental rights abridged.

In conclusion, I urge Congress to enact legislation that limits the Federal Government's ability to use outdated legislation and rulings like *Jacobson* and others to curtail our constitutional freedoms and to apply instead modern tiered scrutiny and due process analysis developed by the courts. No emergency, especially one defined by the government, should warrant the erosion of our freedoms and a complete disregard for the judicial scrutiny the court used to preserve them in every other instance. Thank you.

[The prepared statement of Ms. Dhillon follows:]



**TESTIMONY OF HARMEET K. DHILLON
CEO OF THE CENTER FOR AMERICAN LIBERTY**

**BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED
GOVERNMENT OF THE COMMITTEE ON THE JUDICIARY**

Good afternoon, Chairman Roy, Ranking Member Scanlon, and members of the committee.

Thank you for inviting me to testify before you today on a topic that I believe to be the most significant civil liberties crisis of my lifetime: the use of the so-called COVID “emergency” to eviscerate Americans’ most cherished constitutionally protected freedoms.

During the Covid-19 pandemic, we witnessed the radical dismantling of the guardrails that the Framers of our Constitution specifically designed to reign in imperious government actors. Under the guise of an emergency, government officials issued unlimited executive fiats to control every aspect of our lives: they closed our schools, locked down our houses of worship, destroyed our small businesses, criminalized our free speech, banned travel, kept us from our loved ones at their most desperate hours—even shut down our beaches! The government wrested unchecked and unprecedented control from the American people, and the vast majority of elected officials—from both parties—assumed their heretofore unimaginable powers with no qualms about history, precedent, or the consequences.

Thankfully, due to a wave of legal challenges against these restrictions, the Supreme Court eventually issued several rulings that, piece-by-piece, returned some measure of protection to our threatened constitutional rights, while others remain exposed and eroded. COVID demonstrated just how vulnerable those rights are without affirmative protection from judicially unchecked government overreach. At any given time, a state or federal government could declare an emergency—or fabricate some other unfounded excuse—and suspend our fundamental rights once again.

It is imperative that Congress intervene and make sure that COVID legal history cannot and will not repeat itself.

An Emergency Based on Debunked “Science”

At the outset, it is important to highlight that much of the “science” on which COVID-19 restrictions were based has since been debunked. So-called experts—and the government officials beholden to them—literally lied to the American people. “15 days to stop the spread” turned into weeks, months, and nearly years of government mandates that did little to substantially stop the spread of COVID.

We were lied to about the origins of COVID, the dangers it posed to our health, how it spreads, and what actions could prevent individuals from transmitting or catching the virus. Americans who dared challenge this deceptive government narrative were vilified, censored, and denounced for spreading “misinformation.”

Of course, it is unelected government officials, aided by so-called experts and boosted by media and technology figures, who determined what is misinformation and what is truth.

The result was excessive, illogical, and inconsistent restrictions that violated our constitutional rights and failed to significantly protect the public health. When the government can invoke an emergency on such faulty grounds and use that emergency to trample freedom, we know the next instance of executive overreach cannot be far away.

Making Religious Americans Second-Class Citizens

The sheer scope of individual rights that the government violated during the COVID pandemic is almost incomprehensible and demonstrates just how far the government was willing to go to exert complete control over our lives. These actions were not targeted, not based on sufficiently credible science, and as such, the government made no attempt to limit its overbearing restrictions in any meaningful way.

One of the most egregious violations of our First Amendment freedoms was the treatment of religious Americans as second-class citizens. From the very beginning of the pandemic, governors across the country discriminately labeled houses of worship, and by extension the First Amendment, as “non-essential,” while leaving secular counterparts open for business. Marijuana, liquor, and big-box retailers were deemed essential, but God was not.

The houses of worship and religious leaders I represented implemented social distancing and health protocols often more aggressive than what the government prescribed for “essential” businesses it allowed to remain open, yet the governors banned Americans from gathering in person to worship. These restrictions forced Americans to make an untenable choice—obey God or government, but not both.

For millions of Americans, in-person gatherings are a central tenant of their faith. Worship services, prayer, acts of service—all require individuals to be together in person. But government bureaucrats decided that those central faith practices were within the jurisdiction of government to regulate, as though the First Amendment only applies selectively by gubernatorial fiat. In California, they even regulated in-home Bible studies by prohibiting more than three family units from gathering in private residences to pray and study together.

Yet, somehow an unlimited number of family units were permitted to gather outside the home in certain secular gatherings. COVID restrictions unleashed blatant discrimination against religious individuals versus their secular counterparts. Many governors issued mandates that included tailored exemptions, but few of those exemptions applied to religious activities.

For example, in some states, there were exemptions for reporters so they could continue to do their jobs freely. There were exemptions for liquor stores, marijuana dispensaries, and even Hollywood sets. BLM protesters gathered in the thousands in major cities across America. But when it came to religion, the government ignored the First Amendment’s protections and didn’t allow exemptions.

The Center for American Liberty and Dhillon Law Group represented several faithful Americans in their fight to live according to their religious beliefs.

In *Gish v. Newsom* and in *South Bay United Pentecostal Church v. Newsom*, we represented pastors and congregants in California who did everything they could to keep their churches’ doors open during Gov. Gavin Newsom’s radical restrictions on religious gatherings. They employed social distancing and sanitation guidelines, but nothing was enough to satisfy the government’s insatiable desire to shut down the free exercise of religion.

When states finally began to roll back some of their restrictions, they continued to discriminate against religious Americans. In some states, secular businesses were allowed to open with various health precautions in place—but churches that

implemented the same restrictions were still forced to keep their doors closed. You could gather at a Costco, but not at a cathedral.

This discrimination against religious Americans did not end once restrictions finally lifted. The Center for American Liberty presently represents three individuals who were fired from the North Carolina Symphony when they requested religious exemptions to the Symphony's vaccine mandate. All three musicians submitted exemption requests that included guarantees that they would take on additional social distancing and masking requirements in order to avoid having to violate their religious beliefs by taking the vaccine. The Symphony denied the requests and fired all three musicians.

The Symphony eventually lifted its vaccine mandate, but refused to re-hire these religious musicians. As a result of the government's discrimination against their Constitutionally-protected religious beliefs, these talented artists lost their livelihood.

Such disparate treatment of religious Americans clearly violates the guarantees of the First Amendment.

Destroying Our Kids' Educational Future

Moreover, the government unconstitutionally shut down schools, permanently damaging the educational progression of a generation of America's children. This is especially true of those children with special needs, those learning English as a second language, and economically disadvantaged children.

By relegating education to online distance learning, the government violated federal due process, equal protection guarantees, and the right to an effective education for special-needs children—all, for a class of Americans who were always considered the least vulnerable to COVID.

In *Brach v. Newsom*, the Center for American Liberty and Dhillon Law Group represented a diverse group of parents as they sought to overturn these damaging shutdowns and restore basic education for their children. At a minimum, the Fourteenth Amendment guarantees parents a fundamental right to direct the upbringing and education of their children. The Ninth Circuit agreed that shutting down private schools uniquely denied parents their right to choose how to educate their children, before overturning *Brach* on mootness grounds.

Silencing the Right to Protest

When freedom-loving Americans objected to the violations of their rights, they discovered even their right to protest had been revoked.

In California, citizens decided they needed to speak out about the State's erasure of their Second Amendment rights during a pandemic. Our clients Ron Givens and Christine Bish planned a socially distanced protest on the grounds outside the state Capitol in Sacramento, fully intending to comply with sanitation and social distancing guidelines. However, the California Highway Patrol denied these individuals' permit applications to use the State Capitol grounds for their demonstrations, in direct violation of their First and Fourteenth Amendment rights.

In times of crisis, the government often seeks to curtail fundamental freedoms, such as the right to assemble and petition the government. But it is precisely at those times that these rights become the most critical to the preservation of liberty.

The government used COVID-19 as an excuse to deny Americans their freedom, and then deny Americans the right to protest these violations. This is the very definition of tyranny.

The Loophole to a Critical Check on Executive Power

These unabashed violations of our civil liberties were made possible by the lack of due process and judicial scrutiny during the pandemic. When governors invoked "emergency" status, federal judges tossed all constitutional scrutiny aside, and the government had free reign to control virtually every aspect of our lives.

Under modern jurisprudence, when the government enacts a law or policy that violates a constitutionally protected right, courts apply varying levels of scrutiny—depending on the rights in question—to determine whether the government's action is constitutional.

Under the default rational basis test, the burden is on the petitioner, not the government, to show that the regulation or law in question is not rationally related to a legitimate state interest. Specific instances merit a heightened intermediate scrutiny, whereby the regulation or law in question must be substantially related to an important government interest.

Finally, when a regulation or law infringes on a fundamental right or discriminates against a protected class of people, the burden shifts. Under strict scrutiny, the burden is on the government, not the petitioner, to prove constitutionality. Strict

scrutiny requires that the government demonstrate that it has a compelling government interest in violating said right, and that it narrowly tailored the law to achieve that interest. This burden-shifting analysis may sound arcane, but it is often dispositive. It is very difficult for a petition to convince a court that the government shouldn't prevail under a rational basis review, as its degree of scrutiny is very low. Likewise, it is extremely difficult for the government to prevail when facing strict scrutiny, as there is almost always a less restrictive means of achieving the government's compelling interest.

During COVID, the states violated American's fundamental rights indiscriminately. From religious freedom to freedom of speech, government officials aggressively trampled on these most basic liberties—and many federal judges threw all three standards of scrutiny aside in the name of an "emergency," ruling instead that the government was entitled to deference because it uttered the magic word "emergency," an incantation that trumped decades of tiered legal scrutiny jurisprudence.

Judge after judge uttered similar, chillingly dismissive rulings in our cases challenging government overreach. This complete disregard for such a critical check on the executive branch was the result of an outdated Supreme Court ruling from over a century ago.

The 1905 case *Jacobson v. Massachusetts* involved a vaccine mandate. A Massachusetts law allowed cities to require residents to be vaccinated for smallpox. Cambridge resident and pastor Henning Jacobson refused to comply with the requirement and was fined by the city. Jacobson sued, arguing that the vaccine mandate violated his Fourteenth Amendment right to liberty.

The Supreme Court ruled in favor of Massachusetts, claiming that police powers are "wholly" within the discretion of the state so long as they are not exercised in an "arbitrary and oppressive manner." Because local health departments had determined that mandatory vaccines were needed, the requirement could not be deemed unreasonable, nor arbitrarily imposed.

In effect, the *Jacobson* decision handed unlimited power to the government to declare what was needed to protect public health and safety and then implement restrictions to achieve this self-determined goal.

But federal courts applied *Jacobson* to COVID-19 lockdown challenges in error. The Court decided *Jacobson* decades before the First Amendment's Establishment and

Free Exercise Clauses were held to apply to the States by incorporation. And since the Court's adoption of its modern analytical framework, the Court has never set it aside during an emergency.

Yet applying *Jacobson*, there was no room for judges to make their own determinations; the executive fiat was to be endorsed, and our fundamental rights abridged.

Such a significant and dangerous loophole in the American system, that judges refused to correct, must now be closed by legislation.

Congress Must Limit the *Jacobson* Loophole

Jacobson remains a threat to constitutionally-protected liberty during future emergency situations, as many courts will undoubtedly still apply it. *Jacobson* is the very reason that four years after the start of the pandemic, we are still having this conversation about the civil liberties violations during the COVID-19 era. The guardrails remain vulnerable to deterioration and complete removal as long as *Jacobson* remains intact due to Congressional inaction.

Congress must step up and ensure this may never happen again.

I urge Congress to enact legislation that limits the federal government's ability to use the *Jacobson* decision to curtail our constitutional freedoms ever again. No emergency—especially one defined by the government—should warrant the erosion of our freedoms and a complete disregard for the judicial scrutiny the courts use to preserve them. We must maintain the rule of law regardless of the circumstances. Without it, as we learned during the pandemic, our freedoms are at the whim of power-hungry politicians guided by pseudo experts who are eager to be free of the barriers set in place by the Framers of our Constitution.

President Ronald Reagan's words serve as a stirring reminder in the wake of the COVID lockdowns:

Freedom is never more than one generation away from extinction. We didn't pass it to our children in the bloodstream. It must be fought for, protected, and handed on for them to do the same, or one day we will spend our sunset years telling our children and our children's children what it was once like in the United States where men were free.

COVID nearly sent our fundamental freedoms into extinction. Without brave patriots standing up against this government tyranny, the “emergency” would never have ended. The violation of our rights would persist.

Without taking aggressive legislative action to ensure this cannot happen again, that freedom will never be passed to the next generation. We must fight to preserve it.

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Mr. Roy. Thank you, Ms. Dhillon. Dr. Ladapo.

STATEMENT OF JOSEPH A. LADAPO

Dr. LADAPO. Thank you, Chair Roy, Ranking Member Scanlon, and distinguished Members of the Subcommittee. It's an honor to appear before you today to discuss liberty, tyranny, and accountability, COVID-19, and the Constitution. My name is Dr. Joe Ladapo, and I currently serve as Florida State's Surgeon General and also as a Professor at the University of Florida.

I was born in Nigeria and immigrated to the United States when I was five years old with my family. After graduating from Wake Forest University, I earned my medical degree from Harvard Medical School and a Ph.D. in health policy from Harvard Graduate School of Arts and Sciences. When COVID-19 hit the United States in 2020, I felt the heavy hand of California's public health policy, this is a recurring theme, not only as a resident, father, and a husband, but also as a professor and hospitalist physician at UCLA taking care of patients with COVID and other medical conditions.

I saw fear supplant thoughtful decisionmaking. In contrast, I looked to Florida. It was clear that Governor DeSantis was laser focused on evidence-based approaches to COVID-19.

Since the beginning, Governor DeSantis took courageous steps to ensure that his pandemic response decisions were rooted in data and served his population, even when these decisions were wildly unpopular. With over six million senior residents, the highest risk of serious illness and death, Governor DeSantis prioritized access to COVID-19 vaccines for them, a deviation from CDC recommendations at the time. A few months later, the CDC followed his lead.

The invitation to serve as Florida State Surgeon General came in August 2021. Escaping the tyranny of California sounded like a breath of fresh air. Most importantly, my wife said OK.

While many States required proof of vaccination to leave their front door, Florida outlawed COVID-19 vaccine passes. Governor DeSantis refused to let the fear that gripped our Nation shape the State of Florida. He ensured that personal liberties would be protected.

Florida has led the Nation by codifying permanent health protections to ensure medical freedom, protect jobs, and prohibit COVID-19 vaccine and mask mandates. While other States locked the doors of schools, Florida was the first State in the Nation to mandate in-person learning for students and welcome students back into the classroom. As the Federal Government continued to solely rely on preventive strategies that were not halting transmission, Florida launched the Nation's first monoclonal antibody treatment network.

This lifesaving treatment minimized the risk of severe illness and alleviated pressure on our hospitals. At their peak, 25 sites were serving as many as 5,000 patients a day. Unfortunately, the Federal Government made it increasingly difficult for Florida to receive the supply of treatments because they maintained control of supply and allocation.

Eventually, U.S. Health and Human Services eliminated access to any monoclonal antibody treatment. These policy decisions were

not clinically sensible. Florida was forced to cancel 2,000 appointments overnight among high-risk patients with COVID-19 across the State.

Meanwhile, global research had been detecting risks associated with COVID-19 mRNA vaccines. Data continued to surface on adverse events, including myocarditis, acute cardiac injuries, Bell's palsy, encephalitis, and other blood clotting events. Even the FDA themselves identified safety signals among seniors following COVID-19 vaccine administration.

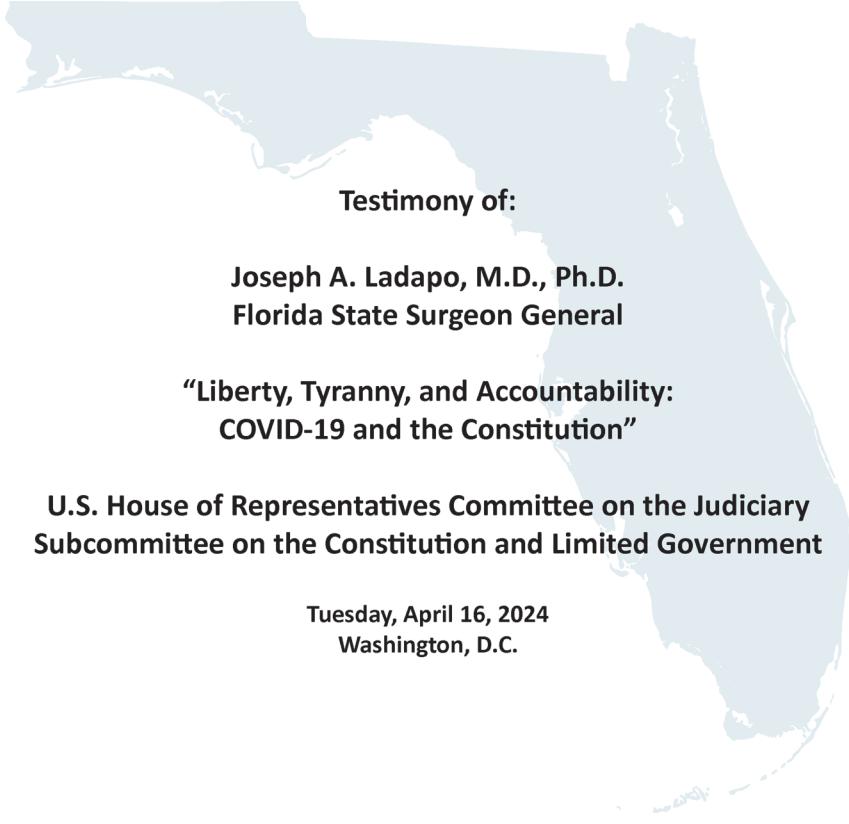
To this day, this evidence is largely ignored and often smeared as hysteria or myths. Americans are not pharmaceutical guinea pigs. Based on years of evidence across the world and lack of transparency from the FDA and CDC, I called for a halt to the use of mRNA COVID-19 vaccines earlier this year.

In 2022, Governor DeSantis petitioned the Florida Supreme Court for a statewide grand jury to investigate crimes committed against Floridians related to COVID-19. This year, the first interim report of these findings revealed exactly what we are here today to discuss. They concluded that mask mandates and lockdowns did more harm than good, resulting in depression, excuse me, substance abuse, and suicidal behavior.

The jury also found that higher excess mortality occurred in lockdown areas and that CDC COVID-19 hospitalization data were likely inflated due to financial incentives that impacted reporting. Unfortunately, the WHO is in the process of drafting a pandemic treaty. This treaty would expand the power, their power, in response to a pandemic, and this would have pernicious implications for the sovereignty of the United States and our citizens here.

Under the leadership of Governor DeSantis, Florida has always been a leader in protecting personal freedoms. I'm honored to be here today to discuss these issues. I'm grateful to the Committee's commitment to upholding individual liberties and common sense, and I am very grateful to the Committee's recognition that these impulses to curtail individual rights and overcome personal responsibility and individual liberty are still present and unfortunately just as strong as they ever were four years ago.

[The prepared statement of Dr. Ladapo follows:]



Testimony of:

**Joseph A. Ladapo, M.D., Ph.D.
Florida State Surgeon General**

**“Liberty, Tyranny, and Accountability:
COVID-19 and the Constitution”**

**U.S. House of Representatives Committee on the Judiciary
Subcommittee on the Constitution and Limited Government**

**Tuesday, April 16, 2024
Washington, D.C.**

**Florida
HEALTH**

Joseph A. Ladapo, M.D., Ph.D.
"Liberty, Tyranny, and Accountability: COVID-19 and the Constitution."

Introduction

Chairman Roy, Ranking Member Scanlon, and distinguished members of the Subcommittee, it is an honor to appear before you today to discuss "Liberty, Tyranny, and Accountability: COVID-19 and the Constitution."

My name is Dr. Joseph A. Ladapo. I was born in Nigeria, and immigrated to the United States when I was 5 years old, along with my family when my father came to this country to pursue his doctoral studies in microbiology at the University of Georgia.

When my wife Brianna and I are not busy chasing our three beautiful young sons, I serve as Florida's State Surgeon General and as a professor at the University of Florida. For the last two and a half years, I have worked closely with Governor Ron DeSantis on public health policy leading the Florida Department of Health. The Florida Department of Health is an integrated public health agency of 12,000 public servants and county health departments across all of Florida's 67 counties. Our teams work around the clock to save lives every day, and it is remarkable to work alongside them.

My passion for health has been shaped and bolstered by every opportunity I have had throughout my career – especially as a track and field decathlete at Wake Forest University. After graduating, I earned my Medical Degree from Harvard Medical School and PhD in Health Policy from Harvard Graduate School of Arts and Sciences – focused on how I could use these two areas of study to complement one another. I pursued a residency program in internal medicine at the Beth Israel Deaconess Medical Center in Boston. My next opportunity would lead me out of Boston to work as a clinician researcher at New York University, where I was awarded a grant to study the diagnosis and management of cardiovascular disease through the National Institute of Health (NIH). Another research opportunity from the Robert Woods Foundation gave me a grant that would allow me to study smoking cessation strategies in hospitalized patients to support better health outcomes for patients seeking to stop smoking. This research ultimately earned me the Annals of Internal Medicine Junior Investigator Award, as my desire kept growing to use these strategies to help others.

In 2016, I began my career at University of California Los Angeles (UCLA) as a research professor teaching at the David Geffen School of Medicine. Here, I worked as Associate Professor with Tenure, and as a Core Scientist at the Center for HIV Identification, Prevention, and Treatment Services at UCLA. During my time at UCLA, I also led NIH-funded clinical trials on obesity and hypertension.

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COVID-19: The Tyranny Starts

The spring of 2020 challenged the public health community in a way most of us had only seen in textbooks. As I continued my work at UCLA and living in Los Angeles, my education and experiences made me question the health policy decisions that were being made not only in California, but around the world. Working as a hospitalist during this time, I was cognizant of the ways fear was propelling every decision in the hospital environment, not only in clinical decision making but also administrative protocols. As the number of COVID-19 cases increased and public health officials became increasingly drastic in their attempts to stop the spread, infringements on civil liberties were becoming increasingly evident. I was driven to find an outlet to share the truth about these mandates and lockdown policies. I started writing about the tangible mishaps that I was seeing happen throughout California, offering the public my critical analysis of what was wrong with the mainstream approach to the increasing number of cases.

In my Wall Street Journal op-ed, *The Looming Civil Liberties Battle*, published April 29, 2020, I foreshadowed exactly what brings me here to Washington. From the father that was arrested while playing with his family at a park to the surfer in California that "violated stay-at-home orders" by seeking comfort on the water, these policies were doomed from the start. Not only were lockdowns and mandates an infringement on American liberty, but I knew they would not work.¹

As society allowed fear to be our driver, it became the norm to reject data and evidence. This flawed public health narrative was driving a divisive wedge in our homes and communities. My frustrations with mandates and lockdowns from the State of California only grew as these measures prevented families from gathering, kids from learning, and even individuals from exercising. Children in schools across the State of California were having difficulties with remote learning, being forced to stare at a screen for hours on end, separated from their peers and diminishing social development. Parents were strained between accommodating their work schedules with the demands of keeping their child at home while they attended online schooling. Blindly looking for rescue, the mask was the quickest fix to the panic and uncertainty of what was going on. Alongside my wife, we diligently ensured the fear and government overreach would not enter our home or impact our children.

The invitation to serve as Florida's Surgeon General came in August of 2021 at a time when I was tenured at UCLA, participating in clinical studies and caring for a family that had now put roots in the Los Angeles community. Escaping the tyranny of California sounded like a breath of fresh air. As a physician and

¹ (Ladapo, The Looming Civil Liberties Battle, 2020)

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public health researcher, it was the opportunity of a lifetime to use my academic interest and clinical experience in conjunction with policy expertise to guide the health policy of a state of over 22 million. In a matter of weeks, my family and I were making the move to Florida where we would begin again in a new state, this time, a state that let freedom reign and put fear aside. Even from California, it was clear that Governor DeSantis was laser focused on an evidence-based approach to COVID-19. He did not automatically adhere to the Centers for Disease Control and Prevention (CDC) recommendations - he focused on what Florida's specific population needed. With over 6 million senior residents at the highest risk of severe illness and death, Governor DeSantis prioritized their access to COVID-19 immunization – a deviation from CDC recommendations at the time.² A few months later, the CDC followed his lead.³

Lockdowns and Mandates

Leading by common sense and sound science was a priority for Florida from day one of COVID-19. Governor DeSantis has continued to take crucial actions to ensure that Florida is free from burdensome and unscientific local regulations. While many states required proof of vaccination to leave their front door, Florida outlawed COVID-19 vaccine passes.⁴

Florida recognized the importance of in-person learning for students. While other states locked the doors of their schools, Florida was the first state in the nation to mandate in-person learning for students and welcome students back into the classroom. Because of Florida's approach, children avoided additional learning losses that we are just beginning to comprehend and warrant additional assessment.⁵

In 2021, COVID-19 continued to take its course, but herd immunity was improving. Rather than allowing fear to continue damaging our communities, businesses, and mental health, Governor DeSantis stood for the residents he represented and was dedicated to getting Florida back on track. That year, he signed legislation to protect Florida jobs, protect parents' rights to make health care decisions for their students, and ban mask mandates and private employer COVID-19 vaccine mandates.

In May of 2023, Governor DeSantis signed legislation codifying permanent COVID-19 protections in the state and positioned Florida as the national leader for medical freedom by permanently prohibiting:

- COVID-19 vaccine passports in Florida;

² (Florida Executive Office of the Governor, 2021)

³ (Lovelace, 2021)

⁴ (Florida Legislature, 2023)

⁵ (Florida Executive Office of the Governor, 2023)

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- COVID-19 vaccine and mask requirements in all Florida schools;
- COVID-19 masking requirements at businesses; and
- Employers from hiring or firing based on COVID-19 vaccination.

COVID-19 Vaccines

By working with Governor DeSantis in Florida, it has always been clear to me he has an appropriate understanding of how government should operate in the face of an emergency. After I left California, concerns around the COVID vaccines and the one-size-fits-all approach taken by the federal government only increased. I remained committed to ensuring that whoever I would be serving, whether one patient in a hospital or a state of more than 22 million, I would provide appropriate courses of action that are grounded in clear decision making and a mindful understanding of the situation at large.

As we continued to safeguard Floridians' freedoms, global research started to detect risks in the COVID-19 mRNA vaccines. Based on the currently available data in March of 2022, Florida was the first state to recommend against the COVID-19 vaccine for healthy children age 5 to 17.⁶

My surveillance of these risks continued to evolve as additional research came to light. By conducting a self-controlled case series, I sought to find the relative incidence of cardiac-related death in males age 18 to 39 within 28 days of receiving the mRNA vaccination. In October of 2022, I recommended against the COVID-19 mRNA vaccines for males age 18 to 39. The findings demonstrated that there was an 84% increase in the relative incidence of cardiac-related death within these parameters, demonstrating a significant cause for concern. At that point in the pandemic with the high level of global immunity, I concluded that the benefits received from vaccination were likely outweighed by this abnormally high risk of cardiac-related death.⁷

One year later, having been continuously cognizant of how the COVID-19 vaccines were still being mandated and promoted, my concerns persisted around the safety and efficacy of what was being considered a life raft to escape the virus. In February of 2023, we issued a *Health Alert on mRNA COVID-19 Vaccine Safety*, where I introduced findings from the Vaccine Adverse Event Reporting System (VAERS) reports from Florida. The Florida reports demonstrated that despite only a 400% increase in overall vaccine administration, there was a 1,700% increase in VAERS reporting after the release of the COVID-19 vaccines.⁸ The reporting of life-threatening

⁶ (Florida Department of Health, 2022)

⁷ (Exploring the relationship between all-cause and cardiac-related mortality following COVID-19 vaccination or infection in Florida residents: a self-controlled case series study, 2022)

⁸ (Florida Department of Health, 2023)

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conditions also drastically increased more than 4,400%. This was the impetus to write to the U.S. Food and Drug Administration (FDA) Commissioner Robert Califf and CDC Director Rochelle Walensky of what had been discovered.⁹

When the mRNA boosters were approved by the FDA in September 2023, there was no human clinical trial evidence to assess safety and efficacy, unlike the initial round of vaccines. Once again, the federal government failed Americans by refusing to be honest about the risks and not providing sufficient clinical evidence when it comes to these COVID-19 mRNA shots, especially with how widespread immunity had become. Based on outstanding safety and efficacy concerns, I recommended against the booster for individuals under 65.¹⁰

Debates over the safety and efficacy of COVID-19 vaccines have been smeared as “hysteria” since their development – and yet as additional research is conducted, concerns continue to emerge. While the federal government continued to ignore these concerns, I requested additional information from the FDA and CDC regarding the DNA integration risks of the product. In 2007, the FDA published guidance on regulatory limits for DNA vaccines in the Guidance for Industry: Considerations for Plasmid DNA Vaccines for Infectious Disease Indications (Guidance for Industry)¹¹. This Guidance for Industry highlights important considerations for vaccines that use novel methods of delivery regarding DNA integration:

- DNA integration could theoretically impact a human’s oncogenes – the genes which can transform a healthy cell into a cancerous cell.
- DNA integration may result in chromosomal instability.
- The Guidance for Industry discusses biodistribution of DNA vaccines and how such integration could affect unintended parts of the body including blood, heart, brain, liver, kidney, bone marrow, ovaries/testes, lung, draining lymph nodes, spleen, the site of administration and subcutis at injection site.

Based on this Guidance for Industry, the efficacy of the COVID-19 mRNA vaccine’s lipid nanoparticle delivery system, and the presence of DNA fragments in these vaccines, it is essential to human health to assess the risks of contaminant DNA integration into human DNA. On December 14, 2023, the FDA provided a written response that did not provide data or evidence that the DNA integration assessments they recommended themselves

⁹ (Ladapo, Florida VAERS Letter to FDA, 2023)

¹⁰ (Florida Department of Health, 2023)

¹¹ (U.S. Department of Health and Human Services, FDA, 2007)

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have been performed¹². Instead, they pointed to genotoxicity studies – which are inadequate assessments for DNA integration risk. In addition, they obfuscated the difference between the SV40 promoter/enhancer and SV40 proteins, two elements that are distinct. If the risks of DNA integration have not been assessed for mRNA COVID-19 vaccines, I concluded that these vaccines are not appropriate for use in human beings.¹³

There is clear evidence of various risks associated with the mRNA vaccines that warrant further research and transparency from the FDA and CDC – and yet some policy makers still think that mandating this shot is appropriate. Americans are not pharmaceutical guinea pigs and deserve the truth.

COVID-19 Treatment Under Government Control

Meanwhile, the federal government spent more than \$30 billion on those COVID-19 mRNA vaccines with minimal resources allocated to effective treatment options. Beginning in August 2021, Governor DeSantis charged the Florida Department of Health with launching a network of state-run monoclonal antibody treatment sites statewide in a matter of weeks. At their peak, these sites were serving 5,000 patients a day, and nearly 30,000 per week. Florida responded with this innovative network to save thousands of people from being admitted to the hospital, alleviating pressure on the state's hospital system. In a matter of weeks, the state had 25 monoclonal antibody sites up and running — leading the nation in widespread early COVID-19 treatment availability.¹⁴

Florida was the only state to deploy this lifesaving network, and in turn, relied on a large supply of monoclonal antibody treatment. Unfortunately, this supply was totally controlled by the federal government – preventing states from directly ordering this treatment from manufacturers. We remained in close contact with federal health officials to ensure a steady supply, but Florida hit our first blockade of many when the United States Department of Health and Human Services (HHS) decided to shift to an allocation methodology – sharply reducing the available supply to Floridians while other states had the treatment collecting dust on shelves.¹⁵ As time went on, fewer and fewer monoclonal antibody treatments were allocated. While we worked to ensure treatment remained available, on the evening of January 24, 2022, without any advanced notice, the FDA revised the Emergency Use Authorizations (EUA) for bamlanivimab/etesevimab and REGEN-COV. The revised EUAs did not allow providers to administer these treatments within the United States effective immediately.¹⁶ As a result,

¹² (Marks, 2023)

¹³ (Ladapo, Florida State Surgeon General Calls for Halt in the Use of COVID-19 mRNA Vaccines , 2024)

¹⁴ (Florida Executive Office of the Governor, 2021)

¹⁵ (Florida Executive Office of the Governor, 2022)

¹⁶ (Administration for Strategic Preparedness and Response, 2022)

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every single monoclonal antibody treatment site in Florida was forced to be closed overnight. Over 2,000 appointments had to be immediately cancelled – that's 2,000 Floridians with COVID-19 and at high-risk of severe illness or death.¹⁷ Florida publicly disagreed with the decision that blocked access to any available treatments in the absence of clinical evidence from the FDA. As stated in one of the pre-print studies cited on the NIH website, "despite observing differences in neutralizing activity with certain monoclonal antibody treatments, it remains to be determined how this finding translates into effects on clinical protection against B.1.1.529."¹⁸

Throughout medical school, students learn of the importance of both prevention and treatment. Measures like social distancing, masking, and vaccines continued to be falsely pushed as the only solution. It is unthinkable that policy makers would bow to political pressure and utilize the heavy-hand of government power to hinder American citizens from accessing safe lifesaving treatment – especially when the so-called prevention methods were not only forced but often ineffective.

Florida's Protected Liberty: Confirmed by Grand Jury

On December 13, 2022, Governor DeSantis petitioned the Florida Supreme Court for a statewide grand jury to investigate crimes and wrongdoing committed against Floridians related to COVID-19. The findings of the grand jury demonstrate how going against federal mandates was the right choice for the health and freedom of all Floridians. The lasting damage done to Americans by COVID-19 mandates and government overreach was proven by this apolitical judicial process.

In their initial report, the non-partisan grand jury noted that their investigation was hampered due to the refusal to participate by various federal agencies, including the CDC and FDA. Even with this refusal from the federal government impeding a review to allow for transparency and accountability, the report's determinations were clear:

- Lockdowns and mask mandates caused more collateral damage than good. The jury identified anxiety, depression, suicidal behavior, and attention deficits were attributable to the "heavy-handed" policies of lockdowns.
- Lockdowns resulted in higher excess mortality rates. The jury found that jurisdictions that implemented lockdowns tended to have higher overall excess mortality rates.

¹⁷ (Florida Department of Health, 2022)

¹⁸ (VanBlargan, Errico, & Halfmann, 2021)

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- Evidence to support mask mandates were abysmal. "There is uncertainty about the effects of face masks," the jury concluded. There has never been sound evidence of effectiveness against the virus from face masks that provided statistically significant benefits.
- The CDC's COVID-19 hospitalization data is likely inflated. The jury found that the CDC's number of total COVID-19 hospitalizations is likely inflated due to asymptomatic or minor SARS-CoV-2 infections among patients that were classified as COVID-19 hospitalizations in order to financially benefit the hospital.¹⁹

Globalized Authoritarianism on the Horizon

It is evident that public health must return to patient-centric and evidence-based strategies – not lockdowns and mandates. COVID-19 has severely damaged public trust in health entities, and there is a lot of work to do to get that trust back. Unfortunately, the World Health Organization (WHO) doesn't seem to recognize this.

In December 2021, a special session of the World Health Assembly, WHO's highest decision-making body comprised of 194 sovereign member countries, established an intergovernmental negotiating body to draft and negotiate a treaty on pandemic prevention, preparedness, and response. Based on published drafts, the treaty would expand the WHO's authority to declare a pandemic and enhance their power over the sovereignty of member jurisdictions.

If the U.S. joins the treaty, it would "commit to prioritize and increase or maintain ... domestic funding by allocating in its annual budgets not lower than 5% of its current health expenditure to pandemic prevention, preparedness, response, and health systems recovery." The U.S. would be required to provide an undetermined percentage of its gross domestic product to "international cooperation and assistance on pandemic prevention, preparedness, response and health systems recovery, particularly for developing countries."²⁰ This will involve billions of U.S. taxpayer dollars.

The final decision must be submitted to the World Health Assembly by May of 2024. The United States should not sign any provision of this treaty. Public health isn't based on the dystopian world of George Orwell's 1984. Our world learned a lot from the COVID-19 pandemic, including the dangers of medical authoritarianism. This treaty was created to enhance that authoritarianism through the guise of globalization.

¹⁹ (Florida Supreme Court, 2024)

²⁰ (World Health Organization Intergovernmental Negotiating Body, 2024)

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Governor DeSantis already signed a law last year prohibiting global public health institutions, such as the WHO, from dictating policy in Florida.²¹ But this treaty would encompass the United States of America as a whole. The U.S. should only enter into agreements that ensure that States retain the freedom and power to represent and provide for the needs of our communities.

Conclusion

Florida's commitment to preserving our residents' rights and liberties has never wavered. Freedom is the basis of the United States of America – this cannot be neglected even during extraordinary challenges. Governor DeSantis has always chosen facts over fear, pushed to provide accurate information for our residents, and has advocated for Floridians every step of the way. Florida has been a national leader in prohibiting vaccine passports, protecting people from medical discrimination, prohibiting employers from ripping apart people's livelihoods over vaccination status, and protecting our children from the imposition of medical authoritarianism by government officials.

It is an honor to be here today to discuss the implications of medical tyranny as we look back on COVID-19 – a historic pandemic that impacted American life in ways we are just now beginning to understand. This is a critically important moment in history, for Americans and for public health. I applaud Governor DeSantis for his work to keep Floridians free, thriving, and healthy, and I am privileged to stand at his side every step of the way.

²¹ (Florida Legislature, 2023)

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References

1. Ladapo, J. (2020, April 29). The Looming Civil Liberties Battle. *Wall Street Journal*.
 2. Florida Executive Office of the Governor. (2021, January 23). *Governor Ron DeSantis: Florida Putting Seniors First and Leading the Nation in Vaccinations for Those 65+*. Retrieved from Ron DeSantis, 46th Governor of Florida: <https://www.flgov.com/2021/01/23/governor-ron-desantis-florida-putting-seniors-first-and-leading-the-nation-in-vaccinations-for-those-65/> / ::text=Hi, this is Governor Ron, total vaccinations going to seniors.
 3. Lovelace, B. (2021, January 12). CDC expands Covid vaccination guidelines to everyone 65 and older. *CNBC*.
 4. Florida Legislature. (2023). Section 381.00316, *Florida Statutes*.
 5. Florida Executive Office of the Governor. (2023, March 16). *Governor Ron DeSantis Highlights Three Years of Florida's Success After Rejecting COVID-19 Orthodoxy*. Retrieved from Ron DeSantis 46th Governor of Florida: <https://www.flgov.com/2023/03/16/governor-ron-desantis-highlights-three-years-of-floridas-success-after-rejecting-covid-19-orthodoxy/#::text=Florida%20recognized%20the%20importance%20of,students%20back%20into%20the%20classroom>.
 6. Florida Department of Health. (2022, March 8). *Guidance for Pediatric COVID-19 Vaccines*. Retrieved from https://ww1.doh.state.fl.us/comm/_partners/covid19_report_archive/press-release-assets/g2-itr_QWB74hJpqr_20220308-1923.pdf?utm_source=floridahealth.gov&utm_medium=referral&utm_campaign=respiratory_illness&utm_content=webpage&url_trace=7f2r5v6=https://www.floridahealth.gov
 7. *Exploring the relationship between all-cause and cardiac-related mortality following COVID-19 vaccination or infection in Florida residents: a self-controlled case series study*. (2022, October 7). Retrieved from https://floridahealthcovid19.gov/wp-content/uploads/2022/10/20221007-guidance-mrna-covid19-vaccines-analysis.pdf?utm_source=floridahealth.gov&utm_medium=referral&utm_campaign=newsroom&utm_content=article&url_trace=7f2r5v6=https://www.floridahealth.gov
 8. Florida Department of Health. (2023, February 15). *Health Alert on mRNA COVID-19 Vaccine Safety*. Retrieved from <https://www.floridahealth.gov/newsroom/2023/02/20230215-updated-health-alert.pr.html>
 9. Ladapo, J. (2023, February 15). Florida VAERS Letter to FDA.
 10. Florida Department of Health. (2023, September 13). *Guidance for COVID-19 Boosters*. Retrieved from <https://floridahealthcovid19.gov/wp-content/uploads/2023/09/20230913-booster-guidance-final.pdf>
 11. U.S. Department of Health and Human Services, FDA. (2007, November). *Guidance for Industry, Considerations for Plasmid DNA Vaccines for Infectious Disease Indications*. Retrieved from <https://www.fda.gov/files/vaccines,%20blood%20&%20biologics/published/Guidance-for-Industry--Considerations-for-Plasmid-DNA-Vaccines-for-Infectious-Disease-Indications.pdf>
 12. Marks, P. (2023, December 14). Letter to Joseph A. Ladapo, MD, PhD. Retrieved from <https://www.fda.gov/media/174875/download>
 13. Ladapo, J. (2024, January 3). *Florida State Surgeon General Calls for Halt in the Use of COVID-19 mRNA Vaccines*. Retrieved from <https://www.floridahealth.gov/newsroom/2024/01/20240103-halt-use-covid19-mrna-vaccines.pr.html>
 14. Florida Executive Office of the Governor. (2021, August 12). *Governor Ron DeSantis Announces Expanded Monoclonal Antibody Access in Florida with New Monoclonal Antibody Centers*. Retrieved from <https://www.flgov.com/2021/08/12/governor-ron-desantis-announces-expanded-monoclonal-antibody-access-in-florida-with-new-monoclonal-antibody-centers/>
 15. Florida Executive Office of the Governor. (2022, January 4). *Following Governor Ron DeSantis' Calls for Increased Monoclonal Supply – Florida Notified Planning Process for Shipment of 30,000 Additional*

Joseph A. Ladapo, M.D., Ph.D.
"Liberty, Tyranny, and Accountability: COVID-19 and the Constitution."

- Doses Has Begun.* Retrieved from <https://www.flgov.com/2022/01/04/following-governor-ron-desantis-calls-for-increased-monoclonal-supply-florida-notified-planning-process-for-shipment-of-30000-additional-doses-has-begun/>
16. Administration for Strategic Preparedness and Response. (2022, January 24). *Allocation of Bamlanivimab/Etesevimab and REGEN-COV Therapeutics Paused.* Retrieved from <https://public4.pagefreezer.com/browse/ASPR%20HHS/10-03-2024T06:40/https://aspr.hhs.gov/COVID-19/Therapeutics/updates/Pages/important-update-24January2022.aspx>
17. Florida Department of Health. (2022, January 24). *Monoclonal Antibody Sites Statewide Will Be Closed After FDA Removes Treatment Authorization.* Retrieved from <https://www.floridahealth.gov/newsroom/2022/01/20220124-fda-removes-treatment-authorization.pr.html>
17. VanBlargan, L. A., Errico, J. M., & Halfmann, P. J. (2021). An infectious SARS-CoV-2 B.1.1.529 Omicron virus escapes neutralization by several therapeutic monoclonal antibodies. *National Institute of Health.*
18. Florida Supreme Court. (2024, February 2). *First Interim Report of the Twenty-Second Statewide Grand Jury.* Retrieved from <https://www.flgov.com/wp-content/uploads/2024/02/22nd-Statewide-Grand-Jury-First-Interim-Report.pdf>
19. World Health Organization Intergovernmental Negotiating Body. (2024, March 13). *Revised draft of the negotiating text of the WHO Pandemic Agreement.* Retrieved from https://apps.who.int/gb/inb/pdf_files/inb9/A_inb9_3-en.pdf
20. Florida Legislature. (2023). 381.00322.

Mr. Roy. Thank you, Dr. Ladapo. Ms. Geoghegan.

STATEMENT OF CLAUDINE GEOGHEGAN

Ms. GEOGHEGAN. Chair Roy, Ranking Member Scanlon, and the Members of the Subcommittee. Thank you for inviting me to appear today. My name is Beanie Geoghegan.

I'm a visiting fellow at the Independent Women's Forum, an educator, and a mother of four children, three sons and one daughter, all whom were profoundly impacted by the cruel COVID era policies. My daughter is here with me today. We live in Jefferson County, Kentucky.

While the government response to COVID affected all my children differently, today I will focus on how the school closures delegitimized school for my youngest son, Colin. Colin always thrived in school, participated in activities and sports, was well liked by his peers and teachers, and was even told by his 4th grade math teacher, Stacey Porter, that he would probably be President someday. This was a kid who understood and appreciated the value of education and did not harbor any ill feelings toward school.

Unfortunately, school closures changed that. They brought what is arguably the most fun time in high school to an abrupt halt for Colin and many other students who were robbed of so much during that time. March 13, 2020, was a defining day in our home.

My two oldest were home from college on an extended spring break that would last until August. As word spread that school was being canceled for two weeks to slow the spread, our family could not have imagined it would be the last day my two youngest children would see the inside of a public-school classroom. Two weeks to slow the spread turned into 18 months to stunt my son's academic growth and delegitimize school for him.

Virtual learning lessons usually equated to briefly logging on to get credit for attendance and listening to a teacher talk for a few minutes to give an assignment that may or may not have been relevant. To make matters worse, instead of capitalizing on all the free time students had to read great books in English class, his teacher focused on topics like intersectionality and identity. Meanwhile, I was working with other parents locally trying to get our school board to reopen schools so our children could return to normal.

One board member responded to my school closure concerns with each of your emails is more absurd than the last. The particular email he's referring to remind the board about everyday counts campaign they launched before COVID school closures. When I emailed that Chicago public schools had found a way to reopen, another board member replied, feel free to move to Chicago.

Meanwhile, Colin was becoming more frustrated and indifferent toward school. Despite his and his friends' indifference and lack of effort, they were awarded high school diplomas. They knew they hadn't earned them since the expectations for the last 18 months were minimal, but they were ready to move past high school.

A few months after Colin's socially distance outdoor graduation ceremony, we moved him into his college dorm with his lifelong best friend. Unfortunately, but not surprisingly, the bad habits and negative attitudes about school he had developed during virtual

learning didn't translate into success at college. After three very discouraging semesters, he moved back home.

Because he is a hardworking, industrious young man, he quickly found a job to keep him busy and earn money while he thought about his future. Many of his friends' parents shared that their sons and daughters struggled with similar issues. They seem to be lost, unmoored by a sense of direction or purpose.

A friend's daughter was a part of a nursing program in the public high school when schools closed. As a result, she didn't get the training she needed. Therefore, she could not pass the anatomy and math classes required in her first semester at the community college.

Students like here incurred a greater financial burden because they had to pay for remedial college courses to cover material that their free public schools should've taught. To add salt to the wounds of many students, the leaders in my district boasted about the all-time high graduation rates in the years following school closures, even though only 23 percent of the students were proficient in reading and 21 percent performed a proficient level in math on State assessments. Public schools sent functionally illiterate and innumerate young people out into the workforce or world of higher education woefully unprepared to thrive or flourish.

Too many young people today, especially young men, do not feel prepared to take on adult responsibilities or the challenges of college life. In 2022, about one million fewer young men were in college than in 2011. Approximately one-third of the students who have enrolled in college have dropped out.

That can't be good for those individuals who spent the money, lost the time, and had their confidence tested. While everyone doesn't need to attain a college degree and plenty of noble careers out there do not require one, fewer people with college degrees will negatively impact our Nation's economy. This will not be fixed by increasing funding to the very institutions that shut their doors to millions of students nationwide and left the parents to pick up the broken pieces.

The solution was and is to allow families, not the government, to choose the best learning environment for their children. The families who had that choice during COVID are mostly free from this fallout because their schools reopened quickly. Since this is my son's story, I want to conclude with his advice.

There needs to be a better process to prevent something like this in the future. Families should have had a vote in school closures rather than the government deciding without their input. His peers felt hopeless about their future and witnessed their family's helplessness in directing their children's education. This must never happen again. Thank you.

[The prepared statement of Ms. Geoghegan follows:]



**Testimony to the United States House of Representatives
Committee on the Judiciary
Subcommittee on the Constitution and Limited Government**

**Hearing: "Liberty, Tyranny, and Accountability: Covid-19 and the
Constitution"**

**Claudine Geoghegan
Visiting Fellow, Education Freedom Center
Independent Women's Forum**

**Washington, D.C.
April 16, 2024**

If I were to summarize the effect school closures had on my youngest son, Colin, in a word, I would say it delegitimized school for him. I will give you a bit of background information so you can better understand why I say this. I am a former public and private school teacher. I left the classroom full-time after my second son was born and enjoyed using my teaching skills at home during the preschool years of all four of my children.

Colin joined me when I volunteered in his brothers' classrooms and often made himself right at home with a book or puzzle while I was helping students. He thrived once he was old enough to join his brothers on the daily bus ride. Colin participated in activities and sports, was well-liked by his peers and teachers, and was even told by his fourth-grade math teacher that he would probably be president someday. This was not a kid who harbored any ill feelings toward school.

As a mother and teacher, I recognized the unfortunate but all-too-common progression of all my boys losing a bit of enthusiasm for the school routine as they moved into middle and high school. They were observant enough to know when assignments were just busy work and lessons were irrelevant to their education. Still, we were a household that placed education as a top priority; consequently, my husband and I accepted no excuses for being lackadaisical or apathetic about schoolwork.

All three of my boys attended the same high school where my husband and I met and graduated. We thoroughly enjoyed reliving a bit of our youth as we attended

sporting events and supported traditions our alma mater continued to carry on through the decades. As Colin watched his older brothers participate in various events, he anxiously awaited the time when it would be his turn. Unfortunately, school closures brought what is arguably the most fun time in high school to an abrupt halt for him.

March 13, 2020, was a defining day in our home. My two oldest were home from college on an “extended spring break” that would last until August. As word spread that school was being canceled for two weeks to “slow the spread,” our family could not have imagined it would be the last day my two youngest children would see the inside of a public school classroom.

Two weeks to slow the spread turned into **18 months** to stunt my son’s academic growth and delegitimize school for him. Virtual learning usually equated to briefly logging on to get credit for attendance, listening to a teacher talk for a few minutes to give an assignment, and then watching movies or YouTube videos for the rest of the day. To make matters worse, instead of capitalizing on all of the free time students had to read great books in his English class, his teacher focused on intersectionality and identity.

Meanwhile, I was working locally with other parents trying to get our school board to reopen schools so our children could return to normal. One of my emails to board members in October of 2020 referred to the attendance campaign, “**Every Day Counts**,” our district launched in previous years. The response I received from one board member was, “Each of your emails is more absurd than the last.” When I emailed in December to inform them that **Chicago public schools** had found a way to reopen, another board member replied, “Feel free to move to Chicago.” My almost 17-year-old son was privy to all of this, getting more frustrated and indifferent toward school. While he was prevented from experiencing a typical senior year surrounded by friends, he saw liquor stores permitted to open as “essential” businesses.

On March 17, 2021, students were given the option to **return** to in-person classes two days per week. My son declined because he saw little value in sitting in a classroom at that point, and none of his friends were returning. The in-person days would have amounted to approximately two weeks total for students. That seemed insignificant to most seniors at that point, who were just ready to be done and move on from their high school nightmare.

Colin graduated in May of 2021 in a cold, rainy outdoor “socially distanced” ceremony on the football field. A few months later, we moved him into his college dorm with his lifelong best friend and great aspirations of a new beginning. Unfortunately, but not surprisingly, the bad habits and negative attitudes about school he had

developed during "virtual learning" didn't translate into success at college. After three very discouraging semesters, his father and I decided he needed to move back home and think about the path he wanted to take before we invested any more money into his college career. To our surprise, he agreed with our decision and even seemed a bit relieved that we had made it for him. He is a hardworking, industrious young man and quickly found a job to keep him busy and earn money while he thought about his future.

Rather than being embarrassed about our situation, I talked to his friends' parents and found that many of their sons and daughters were struggling with similar issues. We weren't concerned for their mental health or physical safety, we were concerned that they seemed to be unmoored from a sense of direction or purpose. One parent described it as "lost." The worst part was that we didn't know how to help them discover that purpose.

Currently, I volunteer at a small urban **school** that was created in response to school closures. Most of the students who came to us from public school in 2021 were at least two years behind academically, and some were even further behind than that. I recently asked my older students (13-17) how the school closures impacted their attitudes or thoughts about school. They said they no longer saw school as a necessity. By closing schools while keeping liquor stores open, the adults in charge of making the decisions taught these students that school wasn't essential. In a word, they said it seemed optional. One student now looks back on the work he was asked to do and knows that the schools weren't challenging him. He was just going through the motions. If these students were making progress before the pandemic, school closures brought that to a grinding halt and even set them back.

A friend's daughter, who is the same age as Colin, was part of a **nursing program** in the public high school she attended when schools closed. The program was designed to give students a jumpstart on career training so they could enter the workforce faster upon graduation. Instead, she found herself unable to pass the anatomy and math classes required in her first semester at the community college. She doesn't understand why the institutions responsible for the learning loss and setback received **billions** of dollars. At the same time, families and students like herself incurred a greater financial burden because they had to pay for remedial college courses. She believes at least some of those funds should have been distributed to families.

In 2020 and 2021, **Congress** approved \$190 billion in Elementary and Secondary School Emergency Relief (ESSER) stimulus money to be allotted to schools to help mitigate the effects of COVID-19. These funds were supposed to address learning loss and support extra learning time outside of the normal school day. Unfortunately, for

students like this young lady, my son, and **others**, many school districts **squandered** the money meant for bolstering learning on things like turf football fields, **ice cream trucks**, city nature centers, pool passes, and ineffective "learning platforms." Those responsible for the lack of learning received a windfall while the families and students were left with added financial burdens.

To add salt to the wounds of many students, the leaders in my district boasted about the "all-time **high graduation rates**" in the years following the school closures. At the same time, according to state assessments, 23% of students were proficient in reading, and 21% performed at the proficient level in math. The **National Assessment of Educational Progress** (NAEP) results show that 17% of 8th graders performed proficient in math, and 26% were proficient in reading. A high graduation rate with student achievement at these levels means that public schools sent functionally illiterate and innumerate young people out into the workforce or world of higher education woefully unprepared to thrive or flourish.

Unfortunately, too many young people are still wandering, indifferent about school, and searching for purpose. **Chronic absenteeism** has become a reality for millions since the pandemic. As one of my students stated, students and families have begun considering school as optional. **More than half** of young adults in the 18-24 age group say they have struggled with anxiety or depression at some point in the past few years. The loneliness and isolation during school closures, combined with entirely too much **screen time**, created the perfect storm in the lives of some young people. Sadly, for too many, their struggles led them to the devastating end of their lives. During this time, **suicide rates** increased significantly among an age group that should be optimistically planning for a bright future.

Even members of Congress admit that this age group is suffering the after-effects of school closures in a very real way. Congressman Morgan McGarvey recently filed the **Young Adult Tax Credit Act** to combat the high percentage of 18- to 24-year-olds who are living in poverty. A \$500 tax credit is a temporary fix for a permanent problem. These young people needed a high school diploma that was more than just a piece of paper. They needed the education that was supposed to come with it so they could go to college or join the workforce and take care of themselves rather than relying on the government to do that.

Too many young people, especially young men, do not feel prepared to take on the adult responsibilities that typically come during this season in life. In 2022, about **one million fewer young men are in college** than there were in 2011. Overall, college enrollment has dropped 8% from 2019. Approximately **one-third** of the students who have enrolled in college have dropped out. When **surveyed**, 45% of young people said they didn't believe they would get a good return on their investment by

pursuing a college degree. While not everyone needs to attain a college degree, and plenty of noble careers out there do not require one, fewer people with college degrees will negatively **impact** the nation's economy.

This is not going to be fixed by increasing funding to the very institutions that shut their doors to millions of students nationwide and left the parents to pick up the broken pieces of their children. The solution to this problem was and is to allow families, not the government, to choose the best learning environment for their children. The families who had that choice during COVID-19 are mostly free from this fallout because their schools stayed open or reopened much more quickly than public schools.

Fortunately for my son and most of his friends, **opportunities** presented themselves that otherwise would have gone unnoticed. Colin was recently accepted into an Aircraft Maintenance program at our local community college. He works all day and is in class until 10:30 PM each night. I haven't seen him this excited about school since his elementary years.

Since this is my son's story, I want to conclude with his words. When I asked him if he would be okay with my sharing his journey here, he said, "Sure, I think it should be brought up in Congress." **When I asked him what he thought needed to be done, he said there needed to be a better process to prevent something like this. He and his peers knew what was going on and thought their families should have had a vote in the matter of school closures rather than the government deciding without their input. They felt hopeless about their future, and they witnessed their families' helplessness to direct the education of their children.** Essentially, my son and so many in his generation want to be self-governing individuals who are free to make their own decisions in life.

Mr. Roy. Thank you, Ms. Geoghegan. Professor Goodwin.

STATEMENT OF MICHELLE BRATCHER GOODWIN

Ms. GOODWIN. Subcommittee Chair Roy, Subcommittee Ranking Member Scanlon, and distinguished Members of the House Judiciary Committee and Subcommittee on the Constitution and Limited Government, thank you very much for inviting me today. My name is Michelle Bratcher Goodwin. I am the Linda D. and Timothy J. O'Neill Professor of Constitutional Law and Global Health Policy at Georgetown University Law Center where I'm also the Co-faculty Director of the O'Neill Institute for National and Global Health Law.

COVID-19 is the greatest public health threat the United States has experienced in over a century. Not since 1918, the influenza pandemic, has the Nation experienced such a dramatic menace to its health. In its early months, reporters noted that COVID-19 in the United States by far led all other Nations in confirmed coronavirus cases.

Within barely one year, the death toll associated with COVID-19 exceeded a staggering 500,000 losses in the United States, compounded by more than 28 million confirmed cases. To place the suffering in context, more Americans died during the first three months of COVID-19 pandemic, over 100,000 by June 2020, than all American deaths suffered during the Vietnam War, the fatalities of the 9/11 terrorist attacks, the wars in Iraq and Afghanistan, as well as the deaths resulting from the 2009 H1N1 pandemic, Ebola, and Zika virus all combined. In the first three months when fatalities were roughly 100,000, COVID-19 had killed more people in the United States than what Americans had witnessed in the past 50 years of war and disease combined.

In essence, COVID-19 took barely two months to surpass deaths suffered by Americans in the 19 years of the Vietnam War. While the Vietnam War is long over as of this hearing, COVID-19 persists in the United States and throughout the world. While the range of deaths associated with this disease may be underreported, what is clear is its severity and the loss of lives.

What the staggering death toll brings to light are two inter-related matters.

First, it exposes questions related to capacity, compassion, and competency in American leadership from the Federal Government down to local officials. The failure to heed international warnings and develop effective test kits in December 2019 and January 2020 highlights serious weaknesses in pandemic preparedness and American leadership.

Hasty and imprudent political rhetoric in February and March 2020, compared COVID-19 to seasonal flu was not only inaccurate and misguided, it likely contributed to a sense of false security amongst Americans who came to believe the virus was no more infectious and no greater a threat than the seasonal flu. Sadly, this view persists among some Americans including in government.

Second, fundamental questions of constitutional law have also emerged. The coronavirus crisis brought to the forefront a national debate related to the interactions between constitutional rights,

State's police power, and federalism. Namely, what are the limits of government action during a pandemic?

One thing that we should take away from this is that mandatory vaccination is constitutional. It's something that has been constitutional in our country since the *Jacobson v. Massachusetts* decision. Even before our own Constitution dating back to 1738, we've had the upholding of quarantine and other measures to protect the public's health.

The legality of compulsory vaccination is not a matter that is in question. In 1905, the Supreme Court held that State compulsory vaccination laws are constitutional when they are necessary for public health and for public safety. The case was *Jacobson v. Massachusetts*, a case taught in first year constitutional law classes.

In the years since then, the court has affirmed the constitutionality of State compulsory vaccination laws in cases like *Zucht v. King* which upheld childhood vaccination requirements for entrance to public schools. In fact, compulsory vaccination laws have existed in the United States in some form since the 19th century. Much of that is detailed in my written testimony.

I do want to flag, however, that there are times in which the government has exceeded its authority. In 1917, the American health officials in El Paso, Texas, began a campaign known as gasoline baths to do so-called disinfection of people seeking to enter the United States. In 1927, in a case called *Buck v. Bell*, the U.S. Supreme Court upheld compulsory sterilization of poor White girls and boys who were thought to be unfit. We have seen time and time again where there has been the exceed of government authority when it has been the most vulnerable of people, most often racial minorities who have been targeted under the umbrella of preserving the public health in ways that demean them and demean the dignity of our democracy. Thank you very much.

[The prepared statement of Ms. Goodwin follows:]

Testimony of Professor Michele Bratcher Goodwin
 Linda D. and Timothy J. O'Neill Professor of Constitutional Law and Global Health Policy
 Georgetown University

Before the House Committee on the Judiciary
 Subcommittee on the Constitution and Limited Government
 Liberty, Tyranny, and Accountability: COVID-19 and the Constitution

Committee Chairman Jordan, Committee Ranking Member Nadler, Subcommittee Chairman Roy, Subcommittee Ranking Member Scanlon, and distinguished members of the House Judiciary Committee and Subcommittee on the Constitution and Limited Government, thank you for inviting me to participate in today's hearing on Liberty, Tyranny, and Accountability: Covid-19 and the Constitution.

My name is Michele Bratcher Goodwin. I am the Linda D. and Timothy J. O'Neill Professor of Constitutional Law and Global Health Policy at the Georgetown University Law Center where I am also the Co-Faculty Director of the O'Neill Institute for National and Global Health Law. I write and teach in the areas of constitutional law and tort law, and bioethics, biotechnology, and health law. My scholarship is published in the *California Law Review*, *Cornell Law Review*, *Harvard Law Review*, *Michigan Law Review*, *NYU Law Review*, *Texas Law Review* and *Yale Law Journal*, among others and in books, including the leading casebook *Biotechnology, Bioethics, and The Law*. Over the past twenty years, I have written about urgent matters of national and global health. This work has involved detailed research of domestic laws, policies, and cases, as well as international field research. I have served on committees of the National Academies of Science and Medicine on pressing health concerns.

Today, I am here to speak at this hearing, titled: *Liberty, Tyranny, and Accountability: COVID-19 and the Constitution*. This is not a lofty academic matter, but one of great urgency.

A. COVID-19 and The Impact on Americans

COVID-19 is the greatest public health threat the United States has experienced in over a century. Not since the 1918 influenza pandemic has the nation experienced such a dramatic menace to its health.¹ Not unlike recent influenzas, the 1918 influenza "was caused by an H1N1 virus with genes of avian origin."² According to the Centers for Disease Control and Prevention (CDC), the virus was first detected in the United States by military personnel in the spring of 1918 and within a year it had spread worldwide, infecting "500 million people or one-third of the world's population . . ."³ Health officials estimated that at least fifty million people worldwide perished due to the disease, with "about 675,000 [deaths] occurring in the United States."⁴

¹ See 1918 Pandemic (H1N1 Virus), CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/flu/pandemic-resources/1918-pandemic-h1n1.html> [<https://perma.cc/LV4Z-A984>] (Mar. 20, 2019) ("The 1918 influenza pandemic was the most severe pandemic in recent history.").

² *Id.*

³ *Id.*

⁴ *Id.*

In their study, *Estimation of Excess Deaths Associated with the COVID-19 Pandemic in the United States, March to May 2020*, epidemiologist Daniel Weinberger and colleagues found the number of unexplained “excess all-cause deaths was 28% higher than the official tally of COVID-19-reported deaths” during the period of their study.⁵ These data points help to clarify the potential scope and scale of the coronavirus and the suffering experienced by communities most affected. In particular, given the dramatic racial disparities in COVID-19 deaths, by giving closer examination to the death toll, we are able to expose the possibility of an undercount of deaths due to the virus, and further highlight the “mortality burden”⁶ uniquely experienced by people of color.

In its early months, reporters noted that COVID-19 in the United States “by far leads all other nations in confirmed coronavirus cases.”⁷ By August 2020, epidemiologists and statisticians estimated that roughly 1,000 Americans died per day due to COVID-19.⁸ This calculates to approximately forty-two Americans dying per hour due to the pandemic. These deaths represented only the reported cases, and the cases continued to rise. By January 7, 2021, 359,849 people had died in the United States from COVID-19, and the virus was still surging throughout the country.⁹

Within barely one year, the death toll associated with COVID-19 exceeded a staggering 500,000 losses in the United States, compounded by more than 28 million confirmed cases.¹⁰ To place this suffering in context, more Americans died during the first three months of the COVID-19 pandemic (over 100,000 by June 2020)¹¹ than all the American deaths suffered during the

⁵ See, e.g., Daniel M. Weinberger, Jenny Chen, Ted Cohen, Forrest W. Crawford, Farzad Mostashari, Don Olson, Virginia E. Pitzer, Nicholas G. Reich, Marcus Russi, Lone Simonsen, Anne Watkins & Cecile Viboud, *Estimation of Excess Deaths Associated with the COVID-19 Pandemic in the United States, March to May 2020*, 180 JAMA INTERNAL MED. 1336, 1337 (2020) (investigating if more deaths occurred in the U.S. during the first months of the coronavirus than in the same months from prior years).

⁶ Mortality burden reflects the unique, disproportionate death impacts experienced by people of color.

⁷ Jason Silverstein, *Trump on 1,000 Americans a Day Dying from COVID-19: ‘It Is What It Is’*, CBS NEWS (Aug. 4, 2020, 7:14 PM), <https://www.cbsnews.com/news/trump-covid-19-thousands-dying-daily-is-what-is> [https://perma.cc/XUR3-AQ3F].

⁸ *Id.*

⁹ *CDC Covid Data Tracker*, CTRS. FOR DISEASE CONTROL & PREVENTION (Jan. 7, 2021), https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days [https://perma.cc/CTU2-W3G5].

¹⁰ This figure was updated as of February 24, 2021. *Coronavirus in the U.S.: Latest Map and Case Count*, N.Y. TIMES (Feb. 24, 2021, 8:04 PM), <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> [https://perma.cc/Z8BC-LNAN].

¹¹ *Daily Updates of Totals by Week and State: Provisional Death Counts for Coronavirus Disease 2019 (COVID-19)*, NAT’L CTR. FOR HEALTH STAT., CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 23, 2020), <https://www.cdc.gov/nchs/nvss/vsnr/covid19/index.htm> [https://perma.cc/BLK4-346B].

Vietnam War;¹² the fatalities of the 9/11 terrorist attacks;¹³ and the wars in Iraq¹⁴ and Afghanistan;¹⁵ as well as the deaths resulting from the 2009 H1N1 pandemic,¹⁶ Ebola,¹⁷ and the Zika virus¹⁸—all combined. In the first three months, when fatalities were roughly 100,000, COVID-19 had killed more people in the United States than what Americans have witnessed in the past fifty years of war and disease combined.

In essence, COVID-19 took barely two months to surpass deaths suffered by Americans in the nineteen years of the Vietnam War. And while the Vietnam War is long over, as of this hearing, COVID-19 persists in the United States and throughout the world. While the range of deaths associated with COVID-19 may be underreported, what is clear is the severity of the disease and that many Americans suffered. As of one year ago, when Johns Hopkins stopped collecting data for its “Coronavirus Resource Center” on March 10, 2023, there were 1,123,836 U.S. deaths and 103,802,702 confirmed cases of COVID-19.¹⁹ The CDC reports that as of April 6, 2024, there have been nearly seven million hospitalizations associated with COVID-19.²⁰

¹² *America's Wars*, DEP'T OF VETERANS AFFS. (Nov. 2019), https://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf [<https://perma.cc/M59Q-T8UL>] (placing battle deaths in Vietnam at 47,434 and other deaths occurring near combat areas at 10,786).

¹³ See *Deaths in World Trade Center Terrorist Attacks—New York City, 2001*, CTRS. FOR DISEASE CONTROL & PREVENTION: MORBIDITY & MORTALITY WKLY. REP. (Sept. 11, 2002), <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm51SPa6.htm> [<https://perma.cc/H3AM-MENW>] (“As of August 16, 2002, a total of 2,726 death certificates related to the WTC attacks had been filed.”); Colin Moynihan, *9/11 Light Tribute to Take a Different Shape*, N.Y. TIMES (Aug. 13, 2020), <https://www.nytimes.com/2020/08/13/arts/design/september-11-memorial-light-canceled-coronavirus.html> [<https://perma.cc/2ALK-4KBK>] (noting that there were “2,983 victims of the Sept. 11 attacks”).

¹⁴ See, e.g., *Casualty Status*, U.S. DEP'T. OF DEF. (Aug. 31, 2020, 10:00 AM), <https://www.defense.gov/casualty.pdf> [<https://perma.cc/9PH4-6XDL>] (reporting 4,431 deaths from Operation Iraqi Freedom from March 19, 2003 to August 31, 2010); see also Philip Bump, *15 Years After the Iraq War Began, the Death Toll Is Still Murky*, WASH. POST (Mar. 20, 2018, 12:44 PM), <https://www.washingtonpost.com/news/politics/wp/2018/03/20/15-years-after-it-began-the-death-toll-from-the-iraq-war-is-still-murky/> [<https://perma.cc/NGH9-CYTW>] (reporting that although death toll figures are uncertain, “nearly 5,000 . . . U.S. service members” died). These figures do not account for the loss of non-American lives, which far exceeded the deaths of American soldiers and civilians.

¹⁵ See, e.g., *Casualty Status*, *supra* note 62 (reporting 2,219 deaths from Operation Enduring Freedom from October 7, 2001 to December 31, 2014 in Afghanistan only).

¹⁶ See *2009 H1N1 Pandemic (H1N1pdm09 Virus)*, CTRS. FOR DISEASE CONTROL & PREVENTION (June 11, 2019), <https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html> [<https://perma.cc/88WM-JCDK>] (reporting 12,469 deaths in the United States from the H1N1 virus from April 2009 to April 2010).

¹⁷ See *Ebola Facts*, INFECTIOUS DISEASE SOC'Y OF AM., <https://www.idsociety.org/public-health/ebola/ebola-resources/ebola-facts> [<https://perma.cc/EP67-CK6G>] (noting that only two out of eleven people being treated for Ebola in the United States died during the 2014 to 2016 outbreak).

¹⁸ The number of Zika virus cases in the United States have been relatively few. The CDC reports that in 2018 and 2019 were “no reports of Zika virus transmission by mosquitoes in the continental United States.” *Zika Virus*, CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 7, 2019), https://www.cdc.gov/zika/reporting/index.html?CDC_AA_refVal=https%3A%2F%2Fhttps://perma.cc/7UKP-VTL6.

¹⁹ Johns Hopkins University of Medicine, *Coronavirus Resource Center*, March 10, 2023, at <https://coronavirus.jhu.edu/region/united-states>. According to the CDC, the total number of deaths associated with COVID-19 is 1,188,278.

²⁰ Centers For Disease Control and Prevention, *COVID Data Tracker*, at <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

What this staggering death toll brings to light are two interrelated matters. First, it exposes questions related to capacity, compassion and competency in American leadership—from the federal government down to local officials. The failure to heed international warnings and develop effective test kits in December 2019 and January 2020 highlights serious weaknesses in pandemic preparedness and American leadership. Hasty and imprudent political rhetoric in February and March, comparing COVID-19 to the seasonal flu, was not only inaccurate and misguided; it likely contributed to a sense of false security among Americans, who came to believe the virus was no more infectious and no greater a threat than the seasonal flu. Sadly, this view persists among some Americans, including in government.

Second, fundamental questions of constitutional law have also emerged. The coronavirus crisis brought to the forefront a national debate related to the interaction between constitutional rights, state police powers and federalism: What are the limits of government action in the midst of a pandemic? Indeed, certain basic constitutional law questions persist for some Americans: Do governors have the authority to issue executive orders to shelter-in-place or quarantine? Can the legislature prioritize some business activity as "essential" while not granting that status to others? Is it legal to impose shelter-in-place on Sundays—a day when many Americans seek to worship? The short answer is that, for nearly three centuries, quarantine has been justified and legally upheld—even before the official founding of the United States, dating back to 1738.

In an 1824 case, *Gibbons v. Ogden*, the Supreme Court specifically referenced state authority to regulate health and erect quarantine laws. Eighty years later, in a seminal decision, the Supreme Court spoke directly to state police power to protect public health in its 1905 ruling, *Jacobson v. Massachusetts*. In that case, the Court upheld an ordinance requiring compulsory vaccination of all persons fit for inoculation. The Court found the statute to be a valid exercise of local police power to protect public health and reduce the spread of smallpox—a deadly disease.

B. The Legality of Compulsory Vaccination Laws

There is no doubt that compulsory vaccination is constitutional. In 1905, the Supreme Court held that state compulsory vaccination laws are constitutional when they are "necessary for the public health or public safety."²¹ The case was *Jacobson v. Massachusetts*, a case taught in first year constitutional law classes. In the years since then, the Court has affirmed the constitutionality of state compulsory vaccination laws in cases like *Zucht v. King*,²² which upheld childhood vaccination requirements for entrance to public schools. In fact, compulsory vaccination laws have existed in the United States in some form since the nineteenth century.²³

Indeed, the nation's political founders strongly supported the widespread delivery of vaccines.²⁴ For example, Thomas Jefferson believed that vaccines could reduce the spread of smallpox and thus save lives.²⁵ However, in the early 1800s, vaccination was a resource available only to

²¹ *Jacobson v. Massachusetts*, 197 U.S. 11, 27 (1905).

²² 260 U.S. 174, 177 (1922); see also *infra* notes 96–101 and accompanying text.

²³ James G. Hodge & Lawrence O. Gostin, *School Vaccination Requirements: Historical, Social, and Legal Perspectives*, 90 Ky. L.J. 831, 849 n.126 (2001–2002).

²⁴ James G. Hodge & Lawrence O. Gostin, *School Vaccination Requirements: Historical, Social, and Legal Perspectives*, 90 Ky. L.J. 831, 838–40, 849 n.126 (2001–2002).

²⁵ *Id.*

wealthy Americans because poor communities generally lacked economic and medical resources. Public education was not always available and access to vaccinations was at times limited.²⁶ Moreover, some Americans were mistrustful of vaccinations, which exacerbated the spread of disease. In 1809, however, Massachusetts became the first state to enact a mandatory smallpox vaccination law and government support for compulsory vaccinations expanded.²⁷

By the mid-nineteenth century, compulsory education laws proliferated in the United States. However, local government officials understood the risks of unvaccinated children spreading infections among their classmates. Namely, they grew concerned that the bringing together of school-age children in public schools created a risk of a smallpox outbreak.²⁸ In 1827, Boston led the nation as the first city to require vaccination records for children entering public schools.²⁹ In the years that followed, statewide compulsory vaccination laws for school-age children spread. Starting with Massachusetts in 1855, New York in 1862, Connecticut in 1872, Indiana in 1881, Illinois, Arkansas, Virginia, and Wisconsin in 1882, California in 1888, Iowa in 1889, and Pennsylvania in 1895³⁰—states sought to protect children and thus their families and communities by requiring that those who attended public schools be vaccinated. By 1904, eleven of then forty-five U.S. states had compulsory vaccination laws.³¹

In the years since then, the number of states with such laws has grown. By 1980, all fifty states had enacted compulsory vaccination laws that cover children entering public schools for the first time.³² Fifty states required diphtheria toxoid and polio, measles, and rubella vaccines. Forty-nine states also mandated the tetanus toxoid vaccine. Forty-six states required the mumps vaccine. Forty-four states required the pertussis vaccine and twenty-eight required the hepatitis B vaccine.³³ As of 1998, all U.S. states but four—Louisiana, Michigan, South Carolina, and West Virginia—had compulsory vaccination laws covering school-age children from kindergarten to 12th grade.³⁴ These compulsory vaccination laws share two important features: (1) their proven effectiveness in preventing and even eradicating disease and (2) the exemptions to mandatory vaccination that they provide for certain individuals.

²⁶ See *id.* at 843.

²⁷ See *id.* at 849 n.126; see also Kevin M. Malone & Alan R. Hinman, *Vaccination Mandates: The Public Health Imperative and Individual Rights*, in *LAW IN PUBLIC HEALTH PRACTICE* 262, 271 (Richard Goodman et al. eds. 2003), http://www.cdc.gov/vaccines/imz-managers/guides-pubs/downloads/vacc_mandates_chptr13.pdf [<http://perma.cc/LK83-S9UE>].

²⁸ “As a court in Pennsylvania stated in 1916: ‘It is an accepted fact, that during the common school ages, children are specially susceptible to the infectious and contagious diseases mentioned in these acts, and that this hazard is greatly increased by their being brought together from our varied conditions of society. To avoid the spread of these diseases, it has been deemed necessary by the legislature to enforce rigid quarantine and preventive measures, even to the isolation of persons, and exclusion of pupils from infected districts.’” Alfred J. Sciarino, *The Grapes of Wrath, Part II*, 8 MICH. ST. J. MED. & LAW 1, 17 (quoting *Commonwealth v. Gillen*, 65 Pa. Super. 31, 38 (1916)); see also Hodge & Gostin, *supra* note 32, at 850.

²⁹ See Hodge & Gostin, *supra* note 32, at 851.

³⁰ See *id.*

³¹ Kristine M. Severyn, *Jacobson v. Massachusetts: Impact on Informed Consent and Vaccine Policy*, 5 J. PHARMACY & LAW 249, 250 (1996).

³² Malone & Hinman, *supra* note 36, at 270.

³³ *Id.*

³⁴ *Id.*

Nevertheless, within each state's compulsory vaccination laws, legislators crafted exemptions for unique circumstances and certain individuals for different purposes.³⁵ For example, medical exemptions are provided in each state for individuals with contraindicating medical conditions that increase their risk of adverse effect to a certain vaccine or even multiple vaccines.³⁶ Some states—like Connecticut, Montana, and West Virginia—expressly distinguish between whether an exemption is temporary or permanent,³⁷ while other states—like Georgia, Kansas and New Mexico—require re-certification³⁸ of medical exemptions at different intervals. Though each state's medical exemption language differs, all states provide such an exemption.³⁹

Yet, in the current politicized climate of vaccination, it is important to restate why inoculation is important and constitutional. Many studies demonstrate the importance and value of vaccinations both in terms of preventing death and avoiding needless suffering.⁴⁰ An article in the peer-reviewed journal *Pediatrics* concluded that routine childhood immunization will prevent approximately 42,000 early deaths and twenty million cases of disease for those born in the year 2009.⁴¹ Such predictions are consistent with the CDC's reports and findings, which estimated that, between 1994 and 2014, 732,000 American children were saved from death and 322 million cases of childhood illnesses were prevented due to vaccination.⁴² Moreover, the American Academy of Pediatrics states that “[m]ost childhood vaccines are 90% to 99% effective in preventing disease.”⁴³

To the point, the Supreme Court has twice considered constitutional challenges to state laws requiring compulsory vaccination and, in both instances, rejected the challenges and upheld the laws. Most famously, in *Jacobson v. Massachusetts*, the Court upheld a Massachusetts law that required compulsory smallpox vaccinations for adults.⁴⁴ This case took place during the time when smallpox was a very real and immediate threat to the population of Massachusetts.

The Court held that laws promoting public health or safety fall under a state's police power and are under the sole discretion of the state unless the law violates the Constitution.⁴⁵ Moreover, individual rights may need to yield to the state's police power in order to preserve the public

³⁵ CENTERS FOR DISEASE CONTROL AND PREVENTION'S PUBLIC HEALTH LAW PROGRAM (PHLP): STATE SCHOOL IMMUNIZATION REQUIREMENTS AND VACCINE EXEMPTION LAWS (hereinafter SCHOOL VACCINATIONS)(2015), <http://www.cdc.gov/phlp/docs/school-vaccinations.pdf>.

³⁶ See Malone & Hinman, *supra* note 36, at 273; see also SCHOOL VACCINATIONS at Appendix 1.

³⁷ Twenty states distinguish between temporary or permanent according to the graph. See SCHOOL VACCINATIONS at 2.

³⁸ Nine states, require re-certification according to the graph. See *Id.* at 2.

³⁹ See Malone & Hinman, *supra* note 36, at 273.

⁴⁰ Vaccinations are now available for the following diseases: Haemophilus influenzae type b (Hib); Diphtheria; Hepatitis A; Hepatitis B; Influenza; Measles; Mumps; Pertussis (whooping cough); Pneumococcal disease; Polio; Rubella (German measles); Tetanus (lockjaw); Rotavirus; and Varicella (chickenpox). *Vaccines for Children - A Guide for Parents and Caregivers*, U.S. FOOD & DRUG ADMIN, <http://www.fda.gov/BiologicsBloodVaccines/ResourcesforYou/Consumers/ucm345587.htm>.

⁴¹ Fangjun Zhou, et al., *Economic Evaluation of the Routine Childhood Immunization Program in the United States, 2009*, *Pediatrics* (2014) <http://pediatrics.aappublications.org/content/early/2014/02/25/peds.2013-0698>

⁴² Bahar Gholipour, "Vaccination Has Saved 732,000 Children's Lives Since 1994, Says Report," www.huffingtonpost.com, Apr. 25, 2014

⁴³ American Academy of Pediatrics, "Vaccine Safety: The Facts," www.aap.org, 2008

⁴⁴ 197 U.S. 11, 27 (1905).

⁴⁵ *Id.* at 25.

health or safety. According to the Court, “There are manifold restraints to which every person is necessarily subjected for the common good.”⁴⁶ The Court then found that the Massachusetts legislature and the Board of Health had the discretion to enact compulsory vaccination when such vaccination is necessary for the public health or safety.⁴⁷ The Court explained that smallpox was prevalent and increasing in Cambridge, Massachusetts, and, therefore, compulsory vaccination appeared a necessity to protect the public health and safety.⁴⁸ Because the law was enacted to combat smallpox, the means prescribed by Massachusetts did have a “real and substantial relation to the protection of the public health and the public safety.”⁴⁹

The Court also held that skepticism about the efficacy of vaccinations against diseases among the public or some physicians does not mean that a state legislature cannot enact a compulsory vaccination law.⁵⁰ The Court found that the common belief among physicians and the public was that vaccinations do prevent the spread of disease and this common belief was enough to justify the legislature’s actions.

In an equally important, though less well known decision, *Zucht v. King*, the Court held that a city can impose compulsory vaccination for all children in school, even if there is no immediate threat of an epidemic like there was in *Jacobson*.⁵¹ In that case, San Antonio, Texas ordinances required that “no child or any other person shall attend a public school or other place of education without having first presented a certificate of vaccination.”⁵² Under these ordinances, “public officials excluded Rosalyn Zucht from a public school because she did not have the required certification and refused to submit to vaccination.”⁵³ Public officials also excluded her from private school.

Rosalyn’s parents then brought a suit against the officials in state court. Rosalyn claimed that “there was then no occasion for requiring vaccination; that the ordinances deprive plaintiff of her liberty without due process of law by, in effect, making vaccination compulsory; and, also, that they are void because they leave to the Board of Health discretion to determine when and under what circumstances the requirement shall be enforced without providing any rule by which that board is to be guided in its action and without providing any safeguards against partiality and oppression.”⁵⁴

The Supreme Court rejected these arguments and held that “the municipality may vest in its officials broad discretion in matters affecting the application and enforcement of a health law.”⁵⁵ The Court declared: “[T]hese ordinances confer not arbitrary power, but only that broad

⁴⁶ *Id.* at 26.

⁴⁷ *Id.* at 27.

⁴⁸ *Id.* at 28.

⁴⁹ *Id.* at 31.

⁵⁰ *Id.* at 35.

⁵¹ 260 U.S. 174 (1922).

⁵² *Id.* at 175.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

discretion required for the protection of the public health.”⁵⁶ Therefore, the Court held that a state can constitutionally impose a compulsory vaccination requirement for school children.

Finally, state courts have reached similar conclusions, including in *Wright v. De Witt School Dist.*, the Arkansas Supreme Court held that it is within the state’s police power to require school children to be vaccinated and that such a requirement does not “violate the constitutional rights of anyone, on religious grounds or otherwise.”⁵⁷ In *Brown v. Stone*, the Mississippi Supreme Court held that a religious exemption in the Mississippi state compulsory vaccination law for school children was unconstitutional because it only allowed exemption for members of recognized denominations to obtain exemption.⁵⁸ The court concluded that because a state compulsory vaccination law could stand on its own without a religious exemption, the law was constitutionally valid without the exemption.

C. Conclusion

COVID-19 has been devastating in the United States and throughout the world. It has contributed to death and permanent illness for far too many. Even as the pandemic has subsided, Americans should be prepared for future outbreaks of similar nature. For government, this also means being prepared, protecting the public health and shielding the most vulnerable. As a constitutional matter, the law is clear, dating back more than a century, that states may enact policies that protect the public health from the spread of disease, including compulsory vaccination laws.

⁵⁶ *Id.*

⁵⁷ 385 S.W.2d 644 (Ark. 1965). *See also Cude v. State*, 237 Ark. 927, 932, 377 S.W.2d 816, 819 (Ark. 1964) (“According to the great weight of authority, it is within the police power of the State to require that school children be vaccinated against smallpox, and that such requirement does not violate the constitutional rights of anyone, on religious grounds or otherwise.”).

⁵⁸ 378 So. 2d 218, 223 (Miss. 1979).

Mr. ROY. Thank you, Professor Goodwin. We will not proceed under the five-minute rule with questions. The Chair—I will yield myself the five minutes on questions. So, Dr. Ladapo, about 100 million Americans were placed under essentially Federal mandates with respect to vaccines. Some of those have been struck down, correct?

Dr. LADAPO. That's correct.

Mr. ROY. Nevertheless, there was still a whole lot of pressure for people to be vaccinated and to get the vaccine or lose their job. Is that correct?

Dr. LADAPO. Tremendous pressure. Many people, in fact, did lose their jobs.

Mr. ROY. Can you expound on the extent to which both whether whatever happened in the grand jury or in your own observation what has led you to believe the mRNA vaccine should be taking a second look and shouldn't be out there and your concerns about the health issues the million cases that have been reported in the VAERS system, et cetera? Can you expound on your concerns about the vaccines?

Dr. LADAPO. Sure. Thank you for that question, Chair. It's hard to be an honest person or have any relationship with honesty and not acknowledge that over the last few years negative information, negative scientific findings, negative impressions about the mRNA COVID-19 vaccines have been to at least some extent suppressed. Most people, I think, with some relationship to honesty would agree that they have actually been quite strongly suppressed often.

However, there are a number of scientists in this country who have been vocal about the problems with the mRNA COVID-19 vaccines. It's noteworthy to view the fact that never in our history have there been so many physicians and other scientists who have been outspoken. It's unusual for scientists. Scientists usually pursue their science for the benefit of their curiosity and research or for the benefit of human health. Scientists are usually not political figures.

Mr. ROY. Do you share my concern that a mere 11 COVID countermeasure injury claims have been paid out through the compensation fund?

Dr. LADAPO. Absolutely.

Mr. ROY. Is that an astoundingly low number given the millions of Americans that have been effectively forced or strongly encouraged or coerced to take the vaccine?

Dr. LADAPO. I think it's obvious, and it would be hard for anyone with, again, any relationship to honesty and facts to deny that.

Mr. ROY. Do you believe that has been somewhat encouraged by the extent to which there is liability protection for vaccine manufacturers that dates back to 1986 and that we should at least revisit the nature of liability protection for liability—I mean, for pharmaceutical companies?

Dr. LADAPO. Actually personally, I completely agree with that. I think liability protection for any medical product is something that really shouldn't exist. It's particularly egregious when it's a product that's being mandated, whatever that medication might be.

Mr. ROY. To be clear, though, you like me are pro-vaccine, right, but tested vaccines and so forth. For example, my father had polio.

I am grateful that we have a polio vaccine. They should be thoroughly tested, thoroughly reviewed, not under emergency use authorization, not forced on the American people, and not under the rubric or umbrella of liability protections that potentially endanger the American people. Would you agree with that sentiment?

Dr. LADAPO. Totally. I think it's important that whatever the medication is, it receives a fair evaluation and not a biased evaluation. Unfortunately, vaccines in general in the United States but particularly COVID-19 vaccines have not received unbiased scrutiny.

Mr. ROY. Ms. Dhillon, could you comment a little bit further on—you mentioned something. You don't need to repeat the ones in your opening statement, but some of the egregious violations of people's First Amendment rights because churches were shut down or the extent to which in your experience lockdowns forced on the American people a massive restriction of their ability to assemble under the Constitution or carry out their First Amendment rights. Use the microphone, Ms. Dhillon.

Ms. DHILLON. Yes, sir. Thank you for the question, Chair. I'll give you one example. In our third case that's now set major precedent in the U.S. Supreme Court on religious liberties, *Tandon v. Newsom*, the case involved members of a very small congregation who wanted to do Bible study in a private home.

Under our Governor's restrictions, this was illegal. This was a violation of his Executive Orders. At the same time, those three people could've met in the aisle of a Costco and had a prayer meeting there without violating any rules.

This is clearly irrational, and it is frankly unconstitutional because I don't have a constitutional right to go to a big box store and buy supersized bags of toilet paper. I do have a constitutional right to worship with other fellow Americans. The Supreme Court recognized that.

Yet, another example of this irrationality is the closing of the beaches of Orange County in retaliation for Orange County's attempts to pass some reasonable business opening measures. I see my—

Mr. ROY. Finish the question.

Ms. DHILLON. One more, I would add is the fact that Patio World was forced to close and couldn't sell outdoor furniture because it was a small retailer. Costco could sell the same products. Costco had better lobbyists than Patio World. These are the irrationalities that we all tolerated and nodded importantly that this was necessary to protect the public. Clearly nonsense.

Mr. ROY. Thank you, Ms. Dhillon. I'll now recognize—

Ms. SCANLON. I would just seek unanimous consent. I'd like to have unanimous consent to enter into the record the CDC and FDA's March 2023 response to the Florida Department of Health's misleading statements about the COVID-19 vaccine. The letter sets the facts straight on the safety and effectiveness of the mRNA COVID-19 vaccines while noting the dangers of perpetuating misinformation about vaccine safety, including unnecessary death, severe illness, and hospitalization.

Mr. ROY. Without objection.

Ms. SCANLON. Thank you.

Mr. ROY. I will now recognize the Ranking Member of the Full Committee, Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chair. Professor Goodwin, in my opening statement, I argue that in response to the COVID-19 pandemic, public health officials at the local, State, and Federal levels acting in good faith, doing the best they could under tremendously difficult circumstances to respond to a novel disease that in the early days of the pandemic was killing almost 1,000 Americans a day before a vaccine was developed. Do you agree with this characterization?

Ms. GOODWIN. It's an accurate characterization. It's a characterization that is confirmed by leading medical organizations and scientists that were studying COVID-19 and its impacts at that time.

Mr. NADLER. Can you remind us of the conditions that public health officials were operating under at the beginning of the pandemic?

Ms. GOODWIN. They were operating under extreme difficulties during that time given the number of deaths that were taking place at that time, given the number of individuals that were being hospitalized at that time. The grieving of family members whose loved ones were dying, and they were working as quickly and as effectively as they possibly could. It's also worth noting that they were operating under threat as well. That was something incredibly unique which I think we cannot forget in these times the level of violence that was threatened at public health officials which we've not seen in the last 50, 100, or 200 years in this country.

Mr. NADLER. Thank you. Professor Goodwin, while the Constitution secures our rights even in an emergency, it also empowers government to secure and protect the public, especially in response to public health emergencies. Can you explain how these two principles work together?

Ms. GOODWIN. Well, these principles work because the government has *parens patriae* authority. That means that in times where there are national security threats, when there are threats to the public health and safety, government can act to preserve lives. We've seen this before.

This predates the 1905 *Jacobson v. Massachusetts* decision. That case before the U.S. Supreme Court confirmed that States have the authority, the responsibility, in fact, one could say to step in and engage in measures that will protect the public's health and safety. This is not anything that is new.

As I mentioned before, it actually even predates that decision. It's something that actually goes back millennia. If you think about it, this idea of trying to protect people when there is a concern for public health outbreak.

This is something that was important to international trade. It was important to trade coming into the United States that we safeguard our harbors, that we safeguard people from being able to come off the ships into the United States. There is a robust history of this, and I offer citations in my written testimony.

Mr. NADLER. Thank you, Professor Goodwin. Longstanding Supreme Court precedent grants broad discretion to government officials and especially those at the State and local levels to take measures to protect public health even when individual liberties

might be burdened by such steps. Can you elaborate on the balance that government officials must strike when responding to an emergency?

Ms. GOODWIN. This is a really important question because there are times in which a government may, in fact, exceed its authority. I mentioned some of those instances. There is a balance in trying to protect and preserve the public's health. It does not mean that individual's civil liberties or their constitutional rights go away.

Our constitutional rights are not always absolute, even that involving the First Amendment which is acknowledged by our U.S. Supreme Court. I do take note and have identified instances in which our government has gone too far. I will give you an example that I think we would all be repulsed by.

In 1967, the United States Supreme Court struck down Virginia laws that banned interracial marriage. Now, that might not seem like a public health matter. The State of Virginia had passed laws that forbade interracial marriage based on this idea that somehow White people would be polluted and their offspring would be polluted and that it would be a public health crisis if White people were to marry people who were non-White. You can see that in the record of the case called *Loving v. Virginia*.

Mr. NADLER. Yes, Professor Goodwin, my last question is we've heard from some of the other witnesses the terrible tyranny of government ordering people not to go to church and closing schools. This was unnecessary and terrible. Could you comment on that, please?

Ms. GOODWIN. The effort to try to preserve and protect everyone includes people who practice in their faith. It includes children who want to go to school. The interest of a government in making sure that children do not die during a time of a global pandemic is something that would seem to be logical in that we should all embrace.

It was mentioned the importance of vaccination. Vaccinations have done an incredible job in saving individual's lives, saving children's lives. If a vaccine is not available as it wasn't at the early part of COVID, the best the government tried to do was to protect children by having them least exposed to the virus.

Mr. NADLER. Thank you. I yield back.

Mr. ROY. I thank the Ranking Member. I'll now recognize the gentleman from California, Mr. McClinton.

Mr. MCCLINTOCK. Thank you, Mr. Chair. I want to thank you especially for convening this Subcommittee to finally begin sifting through the damage that the lockdown left caused to our society by suspending the most fundamental constitutional rights we hold as Americans.

There is a reason the founders created a constitution that sets limits on the powers that the government can wield. As Ronald Reagan once observed, the Constitution is not the government's document telling the people what we can and cannot do. The Constitution is the people's document, telling our government those things that we will allow it to do.

The fact is, we never allowed it to close millions of businesses, lock people in their homes indefinitely, censor dissenters, forbid peaceable assemblies, shut down churches, and yet in the jurisdic-

tions that the left controlled this is exactly what they did. They were spectacularly wrong.

We knew from the beginning that young people were virtually unaffected by this disease, and we knew that the elderly were at extreme risk. So, what did these lockdown leftists do? They closed the schools and forced infected patients into nursing homes.

We knew from the beginning that obesity was a major contributing factor to the severity of the disease, and what did these leftists do? They closed the gyms and left the liquor stores open. We knew from the beginning that outdoor transmissions were very rare, and that 80 percent of the infections occurred in people's homes. So, what did these leftists do? They closed the parks, beaches, and forced people into their homes.

Sweden never closed its schools, never closed its businesses, and never required masks or vaccines. They trusted their citizens to make these decisions for themselves. The United States, unfortunately, imposed all these mandates in the States controlled by the Democrats, and here is the result.

The United States has suffered 3,600 deaths per million from COVID. Sweden suffered 2,600 deaths per million. So, let me put it another way. If we had followed Sweden's policies and had Sweden's results, 340,000 more Americans would be alive today, and that doesn't include the millions of additional excess deaths that these policies caused from suicides, drug and alcohol-related deaths, deaths caused by delayed health screenings, and deferred health treatments. It is heartbreaking and sickening to think about the butcher's bill from all this folly.

Ms. Goodwin is dead wrong. These policies didn't save lives. They cost lives, hundreds of thousands of lives. The foolish people responsible for this carnage have yet to be held accountable. I understand why they don't want to answer for the decisions that they advocated, imposed, defended, enforced, and still defend today. It is time we acknowledge the damage that they did and take steps to assure that they can never do it again.

Our Constitution was supposed to protect us from such people, and this time it didn't. So, the question I have, and I direct it to Ms. Dhillon, who has been very active on this legal front, how do we prevent this from ever happening again?

Ms. DHILLON. Thank you for the question, Congressman McClellan. I think the biggest thing that Congress could do right now is to overrule by legislation the outdated precedent *Jacobson v. Massachusetts*. I hear people in this hearing praising it. At the time, *Jacobson v. Massachusetts* was the law, Black people couldn't eat at the same places as White people. People like me from Punjab weren't allowed to buy property in the United States.

We have had a lot of outdated laws and dark times in our country, and that precedent is one of them. So, when I hear passionate advocates for abortion cited as a constitutional right, it is legally premised on tiered scrutiny under the Fourteenth Amendment, which is scrutiny developed by progressive courts to protect our constitutional rights. That is all I am asking for is that well-established, tiered scrutiny be applied today, in 2024, to the problems of 2024, not the problems of—

Mr. MCCLINTOCK. My time is very limited, but I would be very, very interested in seeing your suggestions in writing on this subject. I think that Congress, looking back on this now, can see the folly.

I want to direct the same question to Dr. Ladapo really quickly. What is the most important thing we can do to prevent this from ever happening again?

Dr. LADAPO. Thank you for that question. As you know, I didn't go to law school. I went to medical school. My answer would be based more on my understanding of people and my relationship with people. I think that has to do with really helping people taking more of their power as human beings, their right to sovereignty, and their right to control what is put into their bodies, which is an absolute right from God.

If more people really understood that within themselves, it would be harder for our sometimes tyrannically inclined leaders to lead them in different directions, which we saw very loudly and clearly and too much heartbreak during the pandemic.

Mr. ROY. I thank the gentleman from California.

I now will recognize the gentlelady from Vermont, Ms. Balint.

Ms. BALINT. Thank you, Mr. Chair.

Dr. —is it Ladapo? Is that how you pronounce—Ladapo?

Dr. LADAPO. Sure. It is all good. Either way.

Ms. BALINT. No. How do you pronounce your name?

Dr. LADAPO. Ladapo. It is—

Ms. BALINT. Ladapo. I would like to get it right.

Dr. LADAPO. OK, ma'am.

Ms. BALINT. Are you a specialist in infectious diseases?

Dr. LADAPO. I am board-certified in internal medicine, and internal medicine doctors take care of a wide variety of patients, especially in infectious disease.

Ms. BALINT. Understood. Are you a specialist? I asked a very specific question. Are you a specialist in infectious diseases?

Dr. LADAPO. So, I am board-certified in internal medicine, and I take care of patients with infectious diseases.

Ms. BALINT. OK. The answer I guess is no. Which is OK. We are moving on. Are you a specialist in epidemiology?

Dr. LADAPO. I have Ph.D. training in epidemiology.

Ms. BALINT. I see where you are going. OK. So, you are not a specialist in epidemiology.

Dr. LADAPO. I have Ph.D. training in epidemiology and biostatistics and health economics.

Ms. BALINT. Are you a vaccine researcher?

Dr. LADAPO. I am not a vaccine researcher.

Ms. BALINT. OK. I am curious why you altered key findings in a State-driven study about COVID-19 in your State of Florida. Why did you alter the results of a State-driven survey?

If I could, Mr. Chair, enter into the record an April 24, 2023, *Politico* article, "Florida Surgeon General Altered Key Findings in Study on COVID-19 Vaccine."

Why did you alter the information in that study?

Dr. LADAPO. Thank you for your question. That is factually incorrect. I did not alter any findings in any study, and I have a record

of multiple NIH grants as a professor at UCLA and a professor at Florida. Those are not easy to get.

The study you are talking about is a study that was very unpopular because we had a finding that actually was in sync with what you might expect from myocarditis.

Ms. BALINT. So is it—Dr. Ladapo?

Dr. LADAPO. It is just that we found that there was an increased risk of myocarditis and cardiac death in young people.

Ms. BALINT. So, when other people in your home State had said on the record to the press that you altered the study, are you saying that is inaccurate?

Dr. LADAPO. I am saying we have a study that showed that young men were at increased risk of—

Ms. BALINT. Did you alter the study?

Dr. LADAPO. I have already answered that question, ma'am. I said absolutely not.

Ms. BALINT. Did you—

Dr. LADAPO. I have never altered any study. We had a finding of increased cardiac risk that translated into excess deaths in young men, in particular. That was a very unpopular finding, but it is very consistent with the finding that myocarditis is especially increased in young men. The study was performed by epidemiologists at the Florida Department of Health, not by me. I oversaw the study, and that was the finding, and I personally believe that this finding is accurate.

Ms. BALINT. I have another question. You had said in multiple op-eds—*USA Today*, March 26, 2020; *Wall Street Journal*, April 9, 2020—that you spent time taking care of patients with COVID-19 at UCLA's flagship hospital, and yet your colleagues at that institution said that was not true.

Did you in fact, while you were on staff at UCLA's flagship hospital—were you the person charged with treating COVID-19 patients?

Dr. LADAPO. I have taken care of at UCLA hospital as the attending physician many patients with COVID-19.

Ms. BALINT. Thank you, Mr. Ladapo.

Ms. Goodwin, would you agree that longstanding Supreme Court precedent grants broad discretion to government officials and especially those at the State and local levels to make measures to protect public health, even when individual liberties might be burdened by such steps?

Ms. GOODWIN. I would agree.

Ms. BALINT. Do you think in the instance of COVID-19, when we were dealing with a pandemic that we had never seen in our lifetime, do you feel like the steps that were taken were in line with Supreme Court precedent?

Ms. GOODWIN. Based on the evidence that I shared that within the first three months we saw more deaths than the 19 years of the Vietnam War, then I would say yes.

Ms. BALINT. What is disturbing to me about this hearing is that there is some idea that folks who were in positions of power were somehow trying to manipulate the public for some nefarious means.

I was the majority leader in Vermont, the Vermont Senate, working closely with a Republican Governor in Vermont, meeting in Rules Committee, which is bipartisan in Vermont, to make decisions in a bipartisan manner to try to protect the health and safety of Vermonters.

I am very sympathetic to the position Ms. Geoghegan—

Ms. GEOGHEGAN. Geoghegan.

Ms. BALINT. Geoghegan. I understand. I had two kids in school as well. I am very sympathetic to how challenging it was. It was very challenging.

Mr. ROY. The gentlelady's time has expired.

Ms. BALINT. I will yield back.

Mr. ROY. I now recognize the gentleman from North Carolina, Mr. Bishop.

Mr. BISHOP. I will yield my first two minutes to Mr. Massie.

Mr. MASSIE. Mr. Ladapo, the gentlelady from Vermont just questioned your credentials. Isn't it true you have a Ph.D. and an M.D. from Harvard?

Dr. LADAPO. Yes, that is correct. Apparently not enough.

Mr. MASSIE. I guess not.

[Laughter.]

Mr. MASSIE. I am going to say that the Pfizer CEO is a large animal veterinarian, OK? Then the person who actually approved the vaccines at the FDA is a hematologist/oncologist, who ran off the two top vaccine scientists at the FDA, Marion Gruber and Phil Krause, because they said that they would not skip steps to approve the vaccine.

Then they also had hesitation about the boosters. They said not everybody is going to need a booster, especially not eight months after they have received the vaccine. They were the vaccine experts working at the FDA who were removed of their responsibilities by a guy who didn't replace them with vaccine experts.

How do I know this? I was in a transcribed interview for seven hours with this gentleman from the FDA yesterday. What we also found out is that the FDA, whose role is to regulate the manufacturers, to make sure that what they say is true, that the claims can be verified, the FDA itself was going out and making one-minute videos saying things that not only did the vaccine manufacturers not claim—for instance, that their vaccines could stop or slow the spread—but the vaccine manufacturers never asked for approval to be able to say, and that the vaccine manufacturers would have gone to jail, the FDA would have probably arrested somebody if they had made the claims that the FDA itself was making. So, we will find out more about that later.

Let's talk very quickly, Ms. Dhillon, about the PREP Act, or Mr. Ladapo. Is that something that Congress could remedy?

Ms. DHILLON. Well, the PREP Act effectively protects the big drug companies from the defective products that they make. I find it, as a civil rights lawyer, very problematic that this type of protection is granted freely by the government without even requiring anything on the part of the drug manufacturers. I know we want to promote industry, but I think it is time to reexamine the PREP Act and roll it back.

Mr. MASSIE. I think it is—

Mr. BISHOP. Well, let me—

Mr. MASSIE. —medical malpractice, martial law, and I will yield back.

Mr. BISHOP. I think Mr. Massie is picking up—I am going to pick up right there. There was a case decided by the North Carolina Court of Appeals back in March in which a student athlete—minor—went for a compelled COVID test and was administered a COVID vaccine without his parents' permission and without his consent. They just said, "Give it to him."

He sued, and it was the PREP Act that the Court of Appeals just said they were constrained to hold, completely deprive the parents of any claim for relief. Now, they didn't have Federal constitutional claims there.

I note that in the Ninth Circuit, Ms. Dhillon, in February, in *Maney v. Brown*, the PREP Act was cited, and it said that not only did Congress immunize and eliminate almost any claim that statutory or tort claim, but it also eliminated any claim under Section 1983, any constitutional claim.

So, it seems to me that there is—that with the PREP Act that Congress has so sweepingly deprived Americans of their fundamental constitutional rights that the only conceivable claim I can think of would be an *ex parte Young* prospective injunctive claim, and you would have to know they are going to do something, right? You can't have any claim at all if you have been damaged by the violation of a constitutional right based on a vaccine administration.

Ms. DHILLON. I would agree with that. I was discussing this with a civil rights lawyer yesterday, and the problems go beyond this. They include that under restrictions of the *Bibbins* decisions in the U.S. Supreme Court there is no sort of fundamental constitutional claim that can be brought absent some legislative enablement.

Mr. BISHOP. Right.

Ms. DHILLON. So, I think Congress really needs to look at this problem of preemption as a significant one that erodes States' rights. In this case, there is a competing fundamental constitutional right, the right of parents to control their children's education, which has been guaranteed time and again by the Constitution and is effectively abridged in the case that you just mentioned—

Mr. BISHOP. Right.

Ms. DHILLON. —involving the forced vaccination of a child against the parents' permission.

Mr. BISHOP. Absolutely. I have got one more thing to try to squeeze in, and that is talk about this WHO treaty, this W-H-O treaty. What is the design there? The biggest thing that concerns me is that as of now, if we had another crisis emerge, it almost looks like the same events would be repeated. Some are out there I think trying to make sure that government—that the factors limiting government, like litigation under the Constitution, and so forth, will be even less effective by ceding power to international bodies like the WHO. Can you speak to that treaty we hear so much about?

Ms. DHILLON. Absolutely. So, we had a mere iota here or there of some fundamental liberties being recognized by the Federal

courts. Under this WHO treaty, we would effectively be ceding all such discretion to international bodies. We have seen how that has worked out in real life in many other spheres of our lives.

This is a country based on Federalist principles, so generally speaking, States should be able to pass laws that protect rights. Judges should apply modern, not ancient, constitutional principles dating back to bad eras of our country, and instead we are going in the opposite direction with considering treaties that would cede that to countries that share none of our egalitarian values.

Mr. BISHOP. My time has expired.

Mr. ROY. I thank the gentleman from North Carolina.

We are going to continue our side of the aisle. If the gentleman from California is ready, I will recognize him.

Mr. KILEY. Thank you, Mr. Chair. At this point, there is really no room for reasonable debate that the extreme and extended lockdown and school closure policies were a historic mistake. In light of this, you see two basic tactics for those who are responsible for these policies.

The first is to say, well, we just didn't know at the time. So, here is a quote from perhaps the individual who did the most damage during COVID of anyone in the country, if not the world, and that is the Governor of California, Gavin Newsom, who recently said on *Meet the Press*,

I think we would have done everything differently. I think all of us, in terms of our collective wisdom, we have evolved. We didn't know what we didn't know. We are experts in hindsight.

So, Dr. Ladapo, you are the Surgeon General of Florida. My question for you is, how did you and the Governor of Florida manage to time travel into the future and gain access to knowledge and wisdom that is only available to the likes of the Governor of California in retrospect?

Dr. LADAPO. Right. Thank you for your question. What was different with the policies that the Governor enthusiastically endorsed, and, frankly, had company in every State just about with the exception of a few, including Governor DeSantis, was that those were actually not classic public health principles. These are published studies and published papers about how to approach pandemics and public health crises.

One of those principles is to, as much as possible, help people maintain their normal routines. Old published papers state very clearly that the benefits, if any, of things like forcing people to stay home are unlikely to be realized. This is not new knowledge. This is old stuff. Unfortunately, none of it was followed when the COVID-19 pandemic started.

Mr. KILEY. Well, thank you for your commonsense and science-based policies. Millions of people, particularly kids in Florida, are much better off because of it.

Now, the first tactic is to simply say, "Well, we didn't know at the time." The second tactic is simply to deny that these events occurred altogether. We have seen that actually in the testimony of several Biden Administration officials in this Congress. You had the Secretary of Education, Miguel Cardona, despite being an enthusiastic advocate for child vaccine mandates, deny in testimony before the Education Committee that he had supported that.

You had the Secretary of Health and Human Services, Xavier Becerra, from my own State of California testify, quote, "We never forced anyone to do anything," even though he oversaw the heinous two-year-old mask mandate for Head Start.

Perhaps most incredibly, you had Douglas Parker, the head of OSHA, also from California, who was responsible for the Biden Administration's attempt to institute a vaccine mandate on 70 million Americans who flatly denied in testimony before our Committee that this had occurred.

So, it is this attempt, sort of like the memory hole that they have in 1984, to simply pretend that these events never occurred, that it was all a bad dream.

So, Ms. Dhillon, you lived through what I lived through in California. You fought back as valiantly as anyone in our State against these abuses. For the sake of sort of preserving our historic memory of what life actually was like in California during this period, could you just give us a few snapshots of sort of some of the worst abuses that we all had to endure?

Ms. DHILLON. Well, thank you, Congressman Kiley. By the way, you were also a fellow warrior in that battle and went to court to challenge our Governor. I appreciate that as a fellow lawyer.

To me, the absurdity that certain people could cross county lines during the pandemic, but our Governor forbade the rest of us from crossing county lines unless we had an essential purpose, is one of those crazy issues.

The fact that you needed a vaccine passport to eat in restaurants well into the pandemic when in fact Governor Newsom with glee ate in the French Laundry restaurant that was cutoff from the rest of us. The fact that Governor Newsom and other wealthy California elites were able to educate their own children in their backyards in pods and relegated the most vulnerable members of our society—intercity children, children for whom English is a second language in Los Angeles County—to destroyed careers in education, to a lifetime of less earning and less liberty, really, is an outrage, and everyone just simply wants to say, well, mistakes were made. We did the best we could at the same time.

In fact, there were different rules for the elites in California and different rules for the rest of us.

The fact that judges pointed to *Jacobson* and said,

Ms. Dhillon, we are not talking about deferential or irrational basis scrutiny. No scrutiny is due to the government's action in shutting us down.

So, my fear as a civil rights lawyer is that with the snap of a finger or the stroke of a pen the very same civil liberties catastrophe could happen to us again, unless Congress takes action to right that wrong.

Mr. KILEY. Thank you. I yield back.

Mr. ROY. I will now recognize the Ranking Member, the gentlelady from Pennsylvania, Ms. Scanlon.

Ms. SCANLON. Thank you.

Professor Goodwin, I do appreciate the dispassionate and accurate review of constitutional law that you have provided us with the respect to public health authority, and particularly vaccine mandates, because today we have heard some pretty astonishing attacks on that authority and suggestions that Congress should

overrule centuries of common law and Supreme Court holdings with respect to what kind of actions the government can take in the face of a public health emergency.

We just heard advocacy for ending vaccine requirements for students attending public schools. Could you comment on those suggestions?

Ms. GOODWIN. Let me refer to something that I have submitted in my statements, that the CDC reports and finds that between 1994–2014, 700,000 American children were safe from death, and over 322 million cases of childhood illnesses were prevented due to vaccination.

The American Academy of Pediatrics states that most childhood vaccines are 90–99 percent effective in preventing diseases. I think it has been so long that we have lived with children being able to go outside and play, being able to run, being able to have a fulfilling life, that we ignore what it was like before we had vaccines, what it was like for children who were struck with polio, what the threats were for their families, the fear, the concern.

We have been able to have a flourishing life in the United States because of vaccines. They do work, they are safe, they are efficacious, and that doesn't mean that there aren't sometimes adverse results.

The same could be said with seatbelts. We understand the importance of there being seatbelts. Does that mean that there are times in which a life might not be saved due to seatbelts? Sometimes that is the case. We know overwhelmingly millions of Americans have been saved by seatbelts and regulations that people use them.

Ms. SCANLON. Yes. I think it kind of brings us back to one of the things I spoke about in my opening remarks, which is that freedoms have consequences. So, if you want to exercise a freedom not to get a vaccination, then that may impact your ability to decide where you are going to work or what educational opportunities your children will have or whether you can attend church or other things when we are in the midst of a public health crisis.

We have heard some really extreme examples. Yes. In my community, there were restrictions on public gatherings, but people adapted. We still have more people attending the virtual church ceremony at my church than attending in person. People had services outside. Schools adapted to online learning and implemented mask mandates. So, these weren't complete restrictions on people's lives, and it is a little bit disingenuous to suggest that there weren't workarounds.

Was there something you wanted to add?

Ms. GOODWIN. Yes. Well, Americans adapted because they were compassionate, they cared about their neighbors, they cared about their family members, and for that reason they did adapt. There were people—many of us—who suffered something during that time. My daughter was educated in Europe during that time.

It was a time in which I had to see her by looking at a screen to be with my daughter because the restrictions also included travel. I cared about her health. I cared about her safety. I wanted her to be safe. So that was an adaptation, and many people make them and we have been able to come to a space where we could have a

hearing such as this where it looks like almost everyone in this room is unmasked.

Ms. SCANLON. OK. You did mention the fact that sometimes public health imperatives, or lack of imperatives, are visited most harshly on our most vulnerable people. One of the concerns during the COVID crisis was that people who were particularly vulnerable to that virus could die if their neighbors didn't observe mask mandates or vaccination requirements. Isn't that the baseline purpose of public health requirements?

Ms. GOODWIN. That remains the case today. There remain individuals who are vulnerable, who are immunologically vulnerable, and who have to guard their health. One of the things that we learned during COVID is that families that had members who were antivaccination, who did not believe in COVID, experienced the deaths of those relatives. There were families that learned from that kind of rhetoric.

At the end of the day, what we want to do is to be able to preserve and protect as much life as possible, and at the same time it is important that we understand civil liberty, civil rights, and how they are balanced out. We could have that conversation, and I think one example is with Kaci Hickox, and we could talk about in the Maine case.

Ms. SCANLON. Thank you.

Mr. ROY. I thank the Ranking Member.

I will now recognize Mr. Fry, the gentleman from South Carolina.

Mr. FRY. Thank you, Mr. Chair, for having this hearing today. I think it is really important. We have examined a lot of ways in which COVID-19 was used against the American people. The bureaucratic processes were put in place to restrict the freedom of movement and freedoms in general for the American people.

I want to highlight something that I think is very essential to the preservation of our republic, and that is the right to vote. During COVID-19, processes by unelected bureaucrats were put into place to restrict the right of people to vote freely, that things were changed contrary to a State legislature, that Secretaries of State were allowed to do things within their State to change the way in which people voted. Of course, a lot of that has been challenged. Despite—and, quite frankly, when you look at what was changed, this was despite public health officials saying that in-person voting was completely safe.

So, Ms. Dhillon, I want to turn to you. To what extent did COVID-19 serve to change the election processes in this country in the lead-up to the election?

Ms. DHILLON. Well, thank you for the question, Congressman. COVID-19 was used as an excuse by mainly Democrat lawmakers to one-way ratchet down the election integrity that we enjoy as Americans. For example, you just referred to the way that voting should be safe. Well, if masks worked, and social distancing worked, and we were all required to observe those measures, why couldn't we have voted in person using those measures just like we all went to the grocery stores and did our other business that way?

It is a fact that in combination with the fact that we have unclean voter rolls in the United States, combine that with all-mail

voting, and you suddenly have a system where there are millions of unaccounted ballots floating around and not tied to voters who are entitled to vote.

Unfortunately, many States right and left, red and blue, used those COVID restrictions—used the COVID restrictions as a cover to change those laws, and now that COVID is effectively over, as it was pointed out. None of us are wearing masks here today, which by the way the paper masks don't work anyway. Why haven't we returned to those previously well-respected, documented ways of safe and secure voting?

The net result is that many Americans have lost confidence in the accuracy of our elections and don't want to vote anymore because they don't believe their votes are going to be accurately counted. This is a significant problem in voter confidence.

Mr. FRY. Ms. Dhillon, do you think that the motivation, then, in the lead-up to the election was about public health and public safety? Or was it more about changing the way in which Americans vote?

Ms. DHILLON. Well, I think in most instances many of the restrictions were a well-intentioned but wrong attempt to protect public safety, but also an exercise and a flex of power. In the case of the voting requirements, I think it was entirely for purposes of loosening one man, one vote, voter ID, and clean voter rolls leading to secure elections.

Mr. FRY. What do you think are the long-term effects of those changes on American elections?

Ms. DHILLON. Well, as a volunteer political figure in my State and nationally, what I have heard from thousands of Americans is that they believe as a result of the crazy rules or suspension of rules we saw in 2020, including citizens not being allowed to exercise their constitutional right to observe the counting of ballots, counting taking place outside the views of cameras, no security that we are normally entitled to, ballots showing up, suspension of the enforcement of laws, including laws regarding ballot harvesting, regarding drop boxes, and so forth, that many Americans don't think their vote counts anymore. That is a very big problem for our country.

At the same time, the bigger problem of course is that the elections are not necessarily accurate when you don't have one man, one vote, when you have literally tens of thousands of ballots delivered from California to other States and some people voting those ballots.

Mr. FRY. Ms. Dhillon, how do you think Congress can work to (1) prevent that from ever happening again? (2) To be part of the solution to roll back some of those policies, because, again, I agree with you, and in fact some cases—*Trump v. Booker* in Pennsylvania, some courts have come in and stepped in and said that these Secretaries of State, that these boards of elections, have stepped too far.

So, to what extent can Congress lend to fix this problem to make sure that it never happens again, and that we enhance that right to vote for all Americans?

Ms. DHILLON. Well, for the most part, sir, I actually believe that Congress should stay out of it, and H.R. 1, other rules like that, should be rejected by right-thinking people. To the extent that Con-

gress participates in Federal elections and funds them, they should insist that the money goes to States that honor laws.

We have a couple of Federal laws on the books, Help America Vote Act and other restrictions. I think that we need to make sure that States should not spam the entire populace with ballots that aren't attached to legitimate voters like we see in California. In fact, Los Angeles County in 2017 was found to have over one million people on the voter rolls who were not entitled to vote. They were dead, duplicates, moved, et cetera. This is wrong.

Mr. FRY. Thank you for that.

Mr. Chair, I yield back.

Mr. ROY. The gentlelady—

Ms. SCANLON. Yes. Since we have moved from vaccine conspiracies to voting conspiracies, I just want to have unanimous consent to introduce an article entitled, "Trump Politicized Mail-In Voting in 2020, but it Came to Pennsylvania with Strong Republican Support."

Mr. ROY. Without objection.

Ms. SCANLON. Thank you.

Mr. ROY. I recognize the gentleman from Texas, Mr. Hunt.

Mr. HUNT. Thank you, Mr. Chair. My colleagues on the left keep telling me about how Donald Trump is a fascist and how they think he is the next Mussolini. What we experienced during the pandemic from Democratic Governors and local leaders with their hypocritical and unscientific policies is the closest thing you will ever see to fascism in the history of this country.

They told us to stay in our homes. They told us not to go to church. They told us not to attend funerals and only to leave our homes for what they deemed to be essential travel. When we rightly questioned the efficacy of their decrees, they told us to trust the science.

Well, I am about to show you what real fascism looks like. I am about to show you what their science really looks like.

During the pandemic something struck me. People weren't allowed to use jogging or biking trails even in my hometown of Houston, Texas. Speaking of Houston, our Democrat mayor ordered around 500 basketball nets removed from public courts because, God forbid, anyone have any fun outside to get essential vitamins and fresh air.

Skate parks were filled with sand in California, so people couldn't play outside and, again, get fresh air. In Malibu, paddleboarders were arrested for the crime of paddleboarding alone in the middle of the ocean.

However, one group of people were exempt from lockdowns from mandates, and apparently from the virus itself. Now, I am of the opinion that this group of people should have their blood tested because who knows? Maybe they had the cure before we had the vaccine. I think you know what group I am talking about. That is right. I am talking about the righteous George Floyd protestors.

According to one *Politico* article, these protestors risked their health and their life for, quote, "the health of our Nation." Do you remember those same health professionals telling us to stay home or else you are going to kill grandma?

One thousand of the health professionals signed a letter saying, “Don’t shut down protests using coronavirus concerns as an excuse.” Interesting. As an excuse. People lost their jobs and their livelihood in this country because they chose not to take the vaccine. People weren’t allowed into restaurants because they didn’t show their vaccine papers. Their vaccine card.

Our schools were shut down and our children were sent home. The result: Youth suicide rates increased dramatically, and children lost years of education that they will never get back.

Dr. Ladapo, thank you for being here, sir. Yes or no, in your professional medical experience and Harvard education, as the Surgeon General of Florida, are Democrats and liberals immune to COVID-19?

[Laughter.]

Dr. LADAPO. No, sir. To the best of my knowledge.

Mr. HUNT. A followup question to that. You set Florida’s response to COVID-19, and how would you explain bodies not piling up in Los Angeles after the George Floyd protests?

Dr. LADAPO. For one, there was very, very, very little transmission outdoors. That was a major part. Most of the protestors, from what I saw, were young people that probably also contributed, but there was almost no transmission outdoors. It broke my heart when they pulled the basketball hoops in the playgrounds that I was taking my kids to in Los Angeles. I could have—I will stop it there, but it broke my heart.

Mr. HUNT. Thank you. Thank you for your response. It looks like the vast majority of liberal policy is rules for thee and not for me. Apparently, that also applies to COVID lockdowns and mandates. It was OK to make exceptions for what the left believed was their righteous cause.

The left said it was safe for 100,000 people to protest—100,000 people—in the middle of a pandemic, but they were giving you grief for letting people sit on the beach or a paddleboard in the middle of the ocean. Why? Because in the case of the George Floyd protest, it was a righteous cause in their opinion.

By the way, it wasn’t just protest. It was rioting. It was looting. It was attacking and burning a police station in Minneapolis. It was rioting in front of the White House to such an extent that President Trump had to be ushered into a bunker. All of this was acceptable because it was deemed righteous by the left.

Speaking of righteous causes, let’s take a look at Black Panther. I am sorry. Kunta Kinte. I am sorry. Nancy Pelosi. Wakanda Forever. This is the absurdity of the COVID-19 lockdowns, liberal mandates, and of course even a little cultural appropriation. This is very ridiculous. We must never allow something like this to ever happen again in this country. It is why we have a constitution in the first place, to protect us from the exact type of government overreach that we saw during the pandemic.

No matter which side of the political aisle that you find yourself, you should always be on the side of freedom and preserving our rights via the Constitution. That is why many of us walked away from the pandemic and the protests that followed, asking the question, “Were the COVID restrictions really about public safety, or were they about winning an election?” You decide.

Thank you for being here.

Mr. ROY. I thank the gentleman from Texas.

I will now recognize the gentleman from North Dakota.

Mr. ARMSTRONG. Thank you, Mr. Chair. I was going to ask a bunch of questions about strict scrutiny, rational basis, and all those things, but eventually this all goes away. I have at least a little bit of different take.

I had two kids in two different school systems during COVID. Ladapo, does COVID spread differently when you have to take half the kids out of a classroom and then let them all go to football practice together the same night?

Dr. LADAPO. No, sir. It doesn't.

Mr. ARMSTRONG. You can't wear a mask under a football helmet. If you take your mask off in school you will at worst get asked to put it on by a teacher very—in a different way and, more importantly, they could lose government—State funding, local funding, if they do that. Does a mask work better in a classroom than on a football field?

Dr. LADAPO. It turns out it works about the same in both settings.

Mr. ARMSTRONG. OK. Is there a difference between Menards being open and a locally owned business?

Dr. LADAPO. To the owners, yes, but probably not to the virus.

Mr. ARMSTRONG. Is there some super-secret ventilation system I am not aware of at Menards that local businesses are incapable of having?

Dr. LADAPO. I actually couldn't comment on that, but I probably would assume not.

Mr. ARMSTRONG. When a bar—when the clock turns 11 p.m. at a bar, does COVID become more contagious?

Dr. LADAPO. In some precincts. No, I am kidding. No, it doesn't. It doesn't become more contagious.

Mr. ARMSTRONG. These are all the ridiculous things that happened in my State, and I don't blame the teacher. I actually don't blame the public health officials. I blame politicians on the right side of the aisle, the left side of the aisle, local officials, State officials, Federal officials, who all hid under their desks and abdicated their responsibility to people who had never been elected to anything.

If you care about vaccines, which I do, then you should care about the fact that we were told COVID vaccine would give you immunity to COVID. Then we were told it won't give you immunity to COVID, but it will keep you out of the hospital. Then we were told that you have to take boosters 1, 2, 5, and 17, and then you still have to socially distance and wear masks but not at football practice.

People aren't stupid. When they get lied to constantly, and they get told something and nobody ever comes out and says things—masks don't help stop COVID. Well, what we found out is we didn't have enough masks. So, we were being lied to.

Then once we had enough masks, we wanted to make everybody wear masks. People in long-term nursing care facilities died alone because their families couldn't come in there, and the facility that ran it had no choice because their Federal dollars were tied to it.

These are all the real things that happened. So, why we need to pass laws? So, it never happens again. I don't care about a Supreme Court case from 40 years ago, 50 years ago, or 70 years ago. I care about the fact that people need to be protected because civil liberties only matter when they matter.

When you have the head health official on *CNN* saying, "Who cares about civil liberties at a time like this?" then you need your elected officials to stand up and say, "We do. We do." Because that is the only time they matter.

All the best free speech cases in front of the U.S. Supreme Court are with undeniably bad people. All the best Fourth Amendment cases in front of the U.S. Supreme Court, it is not a schoolteacher sitting next to the defense attorney when those cases are decided. It is because constitutional rights and civil liberties have to matter all the time, and they have to matter at our worst moments in time. Otherwise, they don't matter ever.

So, as we walk through this—and I appreciate you all being here, and I appreciate from each side of this—we can talk about strict scrutiny or rational basis or dealing with another case, but the world failed at COVID. It wasn't the teacher and it wasn't the restaurant owner and it wasn't the small business owner. It was the people that got elected to represent people in times of crisis that hid under their desk and let somebody whose only job was medical make decisions that affected far more things than medical decisions.

Also, I just think we didn't learn a whole lot about risk. With that—and there is a difference between the front end of COVID and after about six weeks, and we made the most ridiculous decisions on behalf of our citizens, and we allowed them to happen. People looked at it and they knew they were ridiculous.

You know why people don't trust vaccines as much anymore? Because they got lied to about vaccines for two years straight. If we care about smallpox, and if we care about all those things, we should be held to account for that as a government.

With that, I yield back.

Mr. ROY. I very much thank the gentleman from North Dakota.

I will recognize the gentlelady from Wyoming.

Ms. HAGEMAN. Thank you and thank you for being here today. Call me a bit of a skeptic when I hear the Democrats talk about that we have to do these things just to save one life. Just one life. It is imperative that we destroy our Constitution and take away the constitutional rights of 330 million people just to save one life, when the Democrat party right now is more radical on abortion than at any time in the history of the world.

Their position on abortion and a woman's right to kill her baby is the most extreme position that they have ever taken. So, I am just a little bit skeptical when they talk about how critically important it was to force people to use masks or to be vaccinated just to save that one life when they have taken the position on abortion that they have.

Ms. Geoghegan?

Ms. GEOGHEGAN. Geoghegan.

Ms. HAGEMAN. Geoghegan. As a parent and former teacher, can you describe the harm that the closure of schools and remote learning inflicted on your children?

Ms. GEOGHEGAN. Yes. Thank you for the question. Well, as I said in my oral testimony, and went into greater detail in my written testimony, that mostly for my youngest son, because he was a junior when schools closed, and then his entire senior year was virtual, the best word I can use to describe that is it just delegitimized school for him. I know it is not just him; it is many of his peers.

I have talked to lots of parents. I was involved with parents in my community trying to get schools to reopen, and it is the same thing that—and you can see that with the chronic absenteeism that we are now dealing with. Not only did it delegitimize school for the students, but it delegitimized it for the parents as well, because, let's be honest, the parents are the ones that need to prompt their children to get to school every day, and they are not seeing the need to do that quite as much.

I was just told that I think 60 percent of the students here—of the high school students in D.C. are chronically absent, which is—that is a big problem. So, that is—

Ms. HAGEMAN. A lot of that stems from the policy decisions that were made during COVID.

Ms. GEOGHEGAN. Absolutely.

Ms. HAGEMAN. OK. Did you know that the declines in reading and math achievement during the pandemic were among the largest declines observed in a single assessment cycle of the National Assessment of Educational Progress program?

Ms. GEOGHEGAN. Yes. I am very aware of that.

Ms. HAGEMAN. Can you describe how students with special educational needs may have been particularly affected by school closures, mask mandates, and other COVID-19 measures?

Ms. GEOGHEGAN. So, those stories are particularly heart-breaking, because the students with special needs were especially hurt by those policies. The parents who really depended on the special education teachers who are tremendous at what they do, they were disconnected from them.

I actually have a special education degree. It is very challenging to provide special education via a screen. In many cases, it is nearly impossible.

Ms. HAGEMAN. Are you aware that studies have shown that wearing a face mask in school has led to an increase in anxiety and depression and a decrease in communication and socialization skills development among our students?

Ms. GEOGHEGAN. I am aware of that, and I witness that on a very regular basis. I volunteer in a school that was actually started because their schools were closed. This is an urban school. I walked in—and we were never masked in that school, and the students in that school who were just failing in their public schools are now thriving. They were never masked. They are very sociable. They communicate. In fact, one has even testified in Frankfurt, Kentucky, in front of the Education Committee.

So, I can see the vast difference between the students who were masked and shut out and the students who were allowed to be in person, unmasked, and fully children.

Ms. HAGEMAN. That is an excellent observation to make. As a civil rights attorney, I think one of the things that was so stunning to me was how readily our elected officials, and even our unelected officials, were willing to go down the road of absolutely ignoring every aspect of the Bill of Rights by claiming that this was an emergency.

While I think for the first couple of peaks—weeks people could understand we didn't quite know what COVID-19 was, we didn't know how it was going to affect us, we didn't know what it was going to do, pretty quickly we figured it out. Pretty quickly we figured it out. Then, at that point, what we figured out and what we learned even more is that there are an awful lot of totalitarians that live among us, and they want to control every aspect of our lives.

We see it in so many areas. We see it with the global warming hysteria. We see it with this pandemic hysteria. We see it with their effort to try to turn over the decisionmaking authority of the United States to the WHO and the U.N.

I want to thank all of you for coming here today, being willing to testify, being willing to make sure that the historical record is accurate, because we can't prevent something from this from happening in the future unless we are prepared for it.

So, thank you for being here, thank you for being in the fight, and thank you for working to protect our civil liberties, unlike so many on the other side who are unwilling to do that.

Thank you.

Mr. ROY. I thank the gentlelady from Wyoming.

I certainly want to thank all the witnesses.

If you noticed, we were scurrying around. We have got votes that have been called, so we are going to be running over to the floor to catch our votes, which are about to close out over there.

This concludes today's hearing. We thank the witnesses for appearing before the Committee today.

Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

I also want to make clear, it was Ms. Balint had made a consent request, she started asking a question, and I didn't say "without objection." Without objection her consent request is in the record.

Ms. BALINT. Thank you.

Mr. ROY. So, with that, the hearing is adjourned.

[Whereupon, at 4:29 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on the Constitution and Limited Government can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116919>.

